

A BILL

25-538

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 15 of the District of Columbia Official Code to provide absolute fee waivers for relevant personal representatives; to amend Title 19 of the District of Columbia Official Code to raise the exempt property allowance to \$20,000, to eliminate the exempt property allowance for disinherited adult children, and to raise the Homestead allowance for survivors to \$30,000; to amend Title 20 of the District of Columbia Official Code to expand the definition of a small estate to include estates valued up to \$80,000, to replace the term “standard probate” with “formal probate,” to allow for a hybrid process for issuing letters of appointment, to reduce the publication requirement for Notice of Probate from 3 consecutive weeks to 2, to raise the family allowance to \$30,000, to permit transfer by affidavit for small estates, and to increase allowable reimbursement rates for funeral expenses; and to amend Title 47 of the District of Columbia Official Code to extend the Homestead Deduction and Senior Tax Credit to one year; and to amend the applicability section of the Secure DC Omnibus Amendment Act of 2024.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Strengthening Probate Administration Amendment Act of 2024”.

Sec. 2. Section 15-712 of the District of Columbia Official Code is amended by adding a new subsection (i) to read as follows:

“(i) The Probate Division of the Superior Court of the District of Columbia shall not require the payment of court costs on behalf of a decedent’s estate:

“(1) At any time during which a litigant for whom the Court granted a waiver of fees and costs or security is serving as the personal representative of the decedent’s estate; or

“(2) After the closure of an estate.”.

Sec. 3. Title 19 of the District of Columbia Code is amended as follows:

33 (a) Section 19-101.02 is amended by striking the phrase “\$15,000” both times it appears
34 and inserting the phrase “\$30,000” in its place.

35 (b) Section 19-101.03 is amended to read as follows:

36 “§19-101.03. Exempt property.

37 “(a) In addition to the homestead allowance, the decedent’s surviving spouse or surviving
38 domestic partner is entitled from the estate to a value, not exceeding \$20,000 in excess of any
39 security interests therein, in household furniture, automobiles, furnishings, appliances, and
40 personal effects.

41 “(b)(1) If there is no surviving spouse or surviving domestic partner, the decedent’s
42 surviving children are entitled jointly to the same value.

43 “(2) If a written last will and testament does not bequeath anything to the decedent’s
44 surviving children, or does not express an intention to benefit the decedent’s surviving children,
45 then the exempt property allowance shall be eliminated for the decedent’s surviving children.

46 “(c) If encumbered chattels are selected and the value in excess of security interests, plus
47 that of other exempt property, is less than \$20,000, or if there is not \$20,000 worth of exempt
48 property in the estate, the spouse, domestic partner, or children are entitled to other assets of the
49 estate, if any, except for real property, to the extent necessary to make up the \$20,000 value.

50 “(d) Rights to exempt property have priority over all claims against the estate, except the
51 homestead allowance, the family allowance, and as provided in § 20-906.

52 “(e) These rights are in addition to any benefit or share passing to the surviving spouse,
53 surviving domestic partner, or surviving children by the decedent’s will, unless otherwise provided
54 by intestate succession or by way of elective share.”.

55 (c) Section 19-101.05(a) is amended by striking the phrase “\$15,000” and inserting the
56 phrase “\$30,000” in its place.

57 Sec. 4. Title 20 of the District of Columbia Code is amended as follows.

58 (a) Section 20-101(r) is amended by striking the phrase “Standard probate” and inserting
59 the phrase “Formal probate” in its place.

60 (b) Section 20-103 is amended by adding a new subsection (f) to read as follows:

61 “(f) **Waiver of notice.** — A person may waive the right to any notice or may consent to
62 any matter. The waiver or consent shall set forth the specific matter that is the subject of the waiver
63 or consent, be signed, and be filed with the Court and served on the personal representative. A
64 person may revoke a waiver or consent at any time by filing a revocation with the Court and serving
65 it on the personal representative. The revocation shall have prospective effect only.”.

66 (c) Section 20-301 is amended by striking the phrase “standard probate proceeding” and
67 inserting the phrase “formal probate proceeding” in its place.

68 (d) Section 20-303 is amended by a new subsection (c-1) to read as follows:

69 “(c-1) **Appointment by Nomination.** — Subject to subsections (a) and (b) of this section,
70 the heirs of an intestate decedent or the legatees of a testate decedent may nominate by writing a
71 person to act as personal representative. A person may renounce his or her right to nominate, to be

72 nominated, or to be appointed by filing an appropriate writing with the Court. The Register of
73 Wills may prescribe the form by which such nomination shall occur.”.

74 (e) Section 20-304(e) is amended by striking the phrase “standard probate” both times it
75 appears and inserting the phrase “formal probate” in its place.

76 (f) Section 20-311 is amended to read as follows:

77 “§ 20-311. Nature of proceeding.

78 “(a) Upon request for abbreviated probate contained in a petition for probate, the Register
79 of Wills:

80 “(1) May admit a will to probate; and

81 “(2) Shall appoint one or more personal representatives based on the statements
82 contained in the petition for probate.

83 “(b) The Register of Wills may require additional verified proof, which shall be filed in the
84 proceeding.

85 “(c) The finality of abbreviated probate shall be governed by § 20-331.”.

86 (g) The subchapter heading for Subchapter III of Chapter 3 is amended by striking the
87 phrase “Standard Probate” and inserting the phrase “Formal Probate” in its place.

88 (h) Section 20-321 is amended by striking the phrase “standard probate” wherever it
89 appears and inserting the phrase “formal probate” in its place.

90 (i) The lead-in language of section 20-322 is amended by striking the phrase “standard
91 probate” and inserting the phrase “formal probate” in its place.

92 (j) Section 20-323 is amended as follows:

93 (1) The section heading is amended by striking the phrase “standard probate” and
94 inserting the phrase “formal probate” in its place.

95 (2) Subsection (a) is amended to read as follows:

96 **“(a) When given.** – A person filing a petition for formal probate shall promptly give notice
97 to all known interested persons. In addition, the petitioner shall publish a notice once a week for 2
98 successive weeks in a legal periodical of general circulation in the District or in any other
99 publication the Court may provide by Rule.”.

100 (k) Section 20-324 is amended as follows:

101 (1) The lead-in language is amended by striking the phrase “standard probate” and
102 inserting the phrase “formal probate” in its place.

103 (2) Paragraph (2) is amended by striking the phrase “standard probate” and
104 inserting the phrase “formal probate” in its place.

105 (l) Section 20-331 is amended as follows:

106 (1) The section heading is amended by striking the phrase “standard probate” and
107 inserting the phrase “formal probate” in its place.

108 (2) Subsection (a) is amended by striking the phrase “standard probate” and
109 inserting the phrase “formal probate” in its place.

110 (3) Subsection (b) is amended by striking the phrase “standard probate” and
111 inserting the phrase “formal probate” in its place.

112 (m) Section 20-343(a) is amended by striking the phrase “3 successive weeks a notice in a
113 newspaper of general circulation in the District of Columbia and” and inserting the phrase “2

114 successive weeks a notice in a legal periodical of general circulation in the District or” in its place.

115 (n) Section 20-351 is amended by striking the phrase “\$40,000” and inserting the phrase
116 “\$80,000” in its place.

117 (o) A new subchapter VII of Chapter 3 is added to read as follows:

118 “Subchapter VII. Transfers by affidavit.

119 “§ 20-360. Definitions.

120 “For the purposes of this subchapter, the term:

121 “(1) “Designated successor” means one who shall have a fiduciary duty to
122 safeguard and promptly pay or deliver the small asset as required by District law.

123 “(2) “Person” means any individual, corporation, business trust, fiduciary, estate,
124 trust, partnership, limited liability company, association, joint venture, government, governmental
125 subdivision, agency, or instrumentality, public corporation, or any other legal or commercial
126 entity.

127 “(3) “Small asset” means any indebtedness owed to or any asset belonging or
128 presently distributable to the decedent, other than real property. The term “small asset” includes
129 any bank account, savings institution account, credit union account, brokerage account, security,
130 deposit, tax refund, overpayment, item of tangible personal property, or an instrument evidencing
131 a debt, obligation, stock, or chose in action.

132 “(4) “Successor” means any person, other than a creditor, who is entitled under the
133 decedent's will or the laws of intestacy to part or all of a small asset.

134 “§ 20-361. Payment or delivery of small asset by affidavit.

ENGROSSED ORIGINAL

135 “(a) Any person having possession of a small asset shall pay or deliver the small asset to
136 the designated successor of the decedent upon being presented an affidavit made by all of the
137 known successors stating:

138 “(1) The value of the decedent's entire probate estate, less liens and encumbrances,
139 as of the date of the decedent's death, wherever located, exceeds the estate’s known liabilities but
140 does not exceed \$40,000, and that such estate does not include an interest in real property;

141 “(2) At least 60 days have elapsed since the decedent's death as shown in a certified
142 copy of the decedent’s death certificate attached to the affidavit;

143 “(3) No application for the appointment of a personal representative is pending or
144 has been granted in any jurisdiction;

145 “(4) The decedent's will, if any, was duly admitted to probate;

146 “(5) The funeral expenses of the decedent have been paid;

147 “(6) The names and addresses of all successors, to the extent known, and the
148 amount, proportion, or percentage of the small asset to which each successor is entitled;

149 “(7) The name of each successor designated to receive payment or delivery of the
150 small asset on behalf of any other successor, the grounds for such representation, and that each
151 designated successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small
152 asset as required by District law; and

153 “(8) The person named as successor to the small asset under the affidavit swears or
154 affirms that all statements in the affidavit are true and material, under penalty of perjury pursuant
155 to § 22-2402.

156 “(b) The designated successor may discharge his fiduciary duty to promptly pay or deliver
157 the small asset to a successor who is, or is reasonably believed to be, incapacitated or under a legal
158 disability, by paying or delivering the asset directly to the incapacitated or disabled successor or
159 applying it for such successor's benefit, or by:

160 “(1) Paying it to the guardian or conservator of such successor’s property or, if no
161 such guardian or conservator exists, the guardian of such successor’s person;

162 “(2) Paying it to such successor's custodian under Chapter 3 of Title 21 or custodial
163 trustee under Chapter 11 of Title 19, and, for that purpose, creating a custodianship or custodial
164 trust;

165 “(3) If the designated successor does not know of a conservator, guardian,
166 custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical
167 care or custody of such successor to be expended on such successor's behalf; or

168 “(4) Managing it as a separate fund on such successor's behalf, subject to such
169 successor's continuing right to withdraw the asset.

170 “(c) A transfer agent of any security, upon the surrender of the certificates, if any,
171 evidencing the security, shall change the registered ownership on the books of a corporation from
172 the decedent to the designated successor upon the presentation of an affidavit as provided in
173 subsection (a) of this section.

174 “(d) The Department of Motor Vehicles shall transfer title of a motor vehicle from the
175 decedent to the designated successor upon the presentation of an affidavit as provided in subsection
176 (a) of this section and payment of any necessary fees.

177 “(e)(1) Upon the presentation of an affidavit as provided in subsection (a) of this section,
178 the designated successor may endorse or negotiate any small asset that is a check, draft, or other
179 negotiable instrument that is payable to the decedent or the decedent's estate.

180 “(2) Notwithstanding the provisions of §§ 28:3-403, 28:3-417, and 28:3-420, a
181 financial institution accepting such check, draft, or other negotiable instrument presented for
182 deposit in such manner is discharged from all claims for the amount accepted.

183 “(f) For purposes of subsection (a) of this section, a distributee shall have the same rights
184 as a personal representative under Chapter 25 of Title 21 to access a digital asset of the decedent.

185 “§ 20-362. Effect of affidavit.

186 “(a)(1) Any person paying or delivering a small asset pursuant to § 20-361 shall be
187 discharged and released to the same extent as if that person dealt with the personal representative
188 of the decedent.

189 “(2) Such person shall not be required to see the application of the small asset or to
190 inquire into the truth of any statement in any affidavit.

191 “(b) If any person to whom such an affidavit is presented refuses to pay or deliver any
192 small asset, the small asset may be recovered, or its payment or delivery compelled, and damages
193 may be recovered, on proof of rightful claim in a proceeding brought for that purpose by or on
194 behalf of the person entitled thereto.

195 “(c)(1) If a person or entity holding property of a decedent refuses to honor an affidavit
196 without reasonable cause, such person or entity shall be liable for all costs, including reasonable
197 attorney fees and costs, incurred by or on behalf of the persons entitled to such property.

198 “(2) The person to whom an affidavit was delivered shall bear the burden of proving
199 reasonable cause by a preponderance of the evidence.

200 “(d) Any person to whom payment or delivery of a small asset has been made shall be
201 answerable and accountable therefor to any personal representative of the decedent's estate or to
202 any other successor having an equal or superior right.”.

203 (p) Section 20-527 is amended by striking the phrase “standard probate” wherever it
204 appears and inserting the phrase “formal probate” in its place.

205 (q) Section 20-701(b) is amended by striking the phrase “standard probate” both times it
206 appears and inserting the phrase “formal probate” in its place.

207 (r) Section 20-704 is amended by striking the phrase “publish a notice of the appointment
208 in a newspaper of general circulation in the District of Columbia and any other publication the
209 Court may order or provide by Rule once a week for 3 successive weeks” and inserting the phrase
210 “publish a notice of the appointment in a legal periodical of general circulation in the District or
211 any other publication as the Court may provide by Rule once a week for 2 successive weeks” in
212 its place.

213 (s) Section 20-741(16) is amended by striking the phrase “\$5,000” and inserting the phrase
214 “\$15,000” in its place.

215 (t) Section 20-906(a)(2) is amended by striking the phrase “\$1,500” and inserting the
216 phrase “\$5,000” in its place.

217 (u) Section 20-907 is amended by striking the phrase “\$1,500 according to the condition
218 and circumstances of the decedent, but in no event shall such allowance exceed \$5,000” and

219 inserting the phrase “\$5,000 according to the condition and circumstances of the decedent, but in
220 no event shall such allowance exceed \$15,000” in its place.

221 Sec. 5. Title 47 of the District of Columbia Official Code is amended as follows:

222 (a) Section 47-850.02(b) is amended as follows:

223 (1) Paragraph (1) is amended by striking the phrase “30 days” and inserting the
224 phrase “12 months” in its place.

225 (2) A new paragraph (7) is added to read as follows:

226 “(7) Notwithstanding paragraphs (1)-(3) of this subsection, if a real property no
227 longer qualifies as a homestead as a result of the death of the owner, the following provisions shall
228 apply:

229 “(A) The applicant, or current owner if there is no applicant, shall notify the
230 Mayor of the date of the change in eligibility within 365 days after the owner’s death;

231 “(B) The homestead shall continue to the end of the second half year
232 following the half year of the death of the owner or 12 months after the death of the owner,
233 whichever is latest;

234 “(C) Notwithstanding subparagraph (A) of this paragraph, the applicant
235 shall not be required to notify the Mayor of the change in eligibility if the real property is
236 transferred and continued to qualify as a homestead within 365 days before the property was
237 transferred by deed to the new owner; and

238 “(D) If the tax is paid within 365 days of the corresponding bill, timely
239 notification of the change in eligibility shall preclude assessment of penalty and interest.”.

240 (b) Section 47-863(f) is amended by adding a new paragraph (7) to read as follows:

241 “(7) Notwithstanding paragraphs (1)-(3) of this subsection, if a real property no
242 longer qualifies as a homestead as a result of the death of the owner, the following provisions shall
243 apply:

244 “(A) The applicant, or current owner if there is no applicant, shall notify the
245 Mayor of the date of the change in eligibility within 365 days after the owner’s death;

246 “(B) The deduction shall continue to the end of the second half year
247 following the half year of the death of the owner or 12 months after the death of the owner,
248 whichever is latest;

249 “(C) Notwithstanding subparagraph (A) of this paragraph, the applicant
250 shall not be required to notify the Mayor of the change in eligibility if the real property is
251 transferred and continued to qualify for the deduction within 365 days before the property was
252 transferred by deed to the new owner; and

253 “(D) If the tax is paid within 365 days of the corresponding bill, timely
254 notification of the change in eligibility shall preclude assessment of penalty and interest.”.

255 Sec. 6. Section 45(a)(1) of the Secure DC Omnibus Amendment Act of 2024, effective
256 June 8, 2024 (D.C. Law 25-175; 71 DCR 2732), is amended to read as follows:

257 “(a)(1) The second subsection designated (b) in section 2, and sections 5, 9, 14,
258 amendatory subsection (b-11) in section 28(b)(3), section 32, 33, amendatory section 7 in section
259 37, and section 44 shall apply upon the date of inclusion of their fiscal effect in an approved budget
260 and financial plan.”.

261 Sec. 7. Applicability

262 (a) Section 5 shall apply upon the date of inclusion of their fiscal effect in an approved
263 budget and financial plan.

264 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in
265 an approved budget and financial plan and provide notice to the Budget Director of the Council of
266 the certification.

267 (c)(1) The Budget Director shall cause the notice of the certification to be published in the
268 District of Columbia Register.

269 (2) The date of publication of the notice of the certification shall not affect the
270 applicability of the provisions identified in subsection (a) of this section.

271 Sec. 8. Fiscal impact statement.

272 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
273 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
274 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

275 Sec. 9. Effective date.

276 This act shall take effect following approval by the Mayor (or in the event of veto by the
277 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
278 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
279 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).