**South Carolina General Assembly**

125th Session, 2023-2024

**S. 850**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Malloy

Companion/Similar bill(s): 845, 869, 4559

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Introduced in the Senate on January 9, 2024

Currently residing in the Senate

Summary: Probate Judges

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/30/2023 Senate Prefiled

11/30/2023 Senate Referred to Committee on **Judiciary**

1/9/2024 Senate Introduced and read first time ([Senate Journal‑page 57](h:\sj\20240109.docx))

1/9/2024 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 57](h:\sj\20240109.docx))

1/19/2024 Senate Referred to Subcommittee: M.Johnson (ch), Sabb,
Talley, Reichenbach, Devine

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**VERSIONS OF THIS BILL**

[11/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/850_20231130.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 62‑3‑108, RELATING TO PROBATE, TESTACY, AND APPOINTMENT PROCEEDINGS AND ULTIMATE TIME LIMIT, SO AS TO PROVIDE THAT APPOINTMENT PROCEEDINGS MAY BE MAINTAINED IN RELATION TO THE ESTATE OF AN INDIVIDUAL PURSUANT TO SECTION 804 OF THE “HONORING OUR PACT ACT OF 2022”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 62‑3‑108 of the S.C. Code is amended to read:

Section 62‑3‑108. (A)(1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than ten years after the decedent's death.

(2) Notwithstanding any other provision of this section:

(a) if a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment, or testacy proceedings may be maintained at any time upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding and if that previous proceeding was commenced within the time limits of this section;

(b) appropriate probate, appointment, or testacy proceedings may be maintained in relation to the estate of an absent, disappeared, or missing person for whose estate a conservator has been appointed, at any time within three years after the conservator becomes able to establish the death of the protected person; and

(c) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful may be commenced within eight months from informal probate or one year from the decedent's death, whichever is later.; and

(d) appropriate appointment proceedings may be maintained in relation to the estate of an individual for the sole purpose of allowing a claim to be made pursuant to Section 804 of the ‘‘Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022,’’ United States Public Law 117‑168, as amended, regardless of the date of that individual’s death.

(B) If no informal probate and no formal testacy proceedings are commenced within ten years after the decedent's death, and no proceedings under subsection (A)(2)(b) are commenced within the applicable period of three yearstime, it is incontestable that the decedent left no will and that the decedent's estate passes by intestate succession. These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In proceedings commenced under subsection (A)(2)(a) or (A)(2)(b), the date on which a testacy or appointment proceeding is properly commenced is deemed to be the date of the decedent's death for purposes of other limitations provisions of this Code which relate to the date of death.

SECTION 2. This act takes effect upon approval by the Governor.

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