

## Session 112 - (1997-1998)

**S\*0641 (Rat #0203, Act #0152 of 1997) General Bill, By Holland and Bryan**

**Similar (H 3971)**

A BILL TO AMEND SECTION 62-1-100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EFFECTIVE DATE OF THE PROBATE CODE, SO AS TO CLARIFY THAT SUBSTANTIVE RIGHTS IN AN ESTATE ARE DETERMINED BY THE LAW IN EFFECT AT THE DATE OF DEATH; TO AMEND SECTION 62-1-201, AS AMENDED, RELATING TO THE DEFINITION OF "MINOR", SO AS TO EXCLUDE THOSE PERSONS UNDER THE AGE OF EIGHTEEN WHO ARE EITHER MARRIED OR EMANCIPATED; TO AMEND SECTION 62-1-302, AS AMENDED, RELATING TO SUBJECT MATTER JURISDICTION OF THE PROBATE COURT, SO AS TO PROVIDE THE PROBATE COURT EXCLUSIVE ORIGINAL JURISDICTION OVER ACCOUNTS AND DISPUTES ARISING UNDER THE UNIFORM GIFTS TO MINORS ACT; TO AMEND SECTION 62-1-308, RELATING TO APPEALS, SO AS TO PROVIDE FOR ALLOWING PARTIES NOT IN DEFAULT TO APPEAL DIRECTLY TO THE SOUTH CAROLINA SUPREME COURT; TO AMEND SECTION 62-1-403, RELATING TO THE REPRESENTATIVE CAPACITY OF PARENTS, SO AS TO ADD "UNBORN CHILD"; TO AMEND SECTION 62-2-109, AS AMENDED, RELATING TO THE MEANING OF "CHILD", SO AS TO CLARIFY WHEN AND HOW PATERNITY MAY BE ESTABLISHED; TO AMEND SECTION 62-2-302, AS AMENDED, RELATING TO PRETERMITTED CHILDREN, SO AS TO SUBSTITUTE "SPOUSE" FOR "PARENT OF THE OMITTED CHILD"; TO AMEND SECTION 62-2-501, RELATING TO WHO MAY MAKE A WILL, SO AS TO PROHIBIT MINORS, AS DEFINED IN SECTION 62-1-201 FROM MAKING A WILL; TO AMEND SECTION 62-2-802, RELATING TO THE DEFINITION OF "SURVIVING SPOUSE", SO AS TO NOT INCLUDE A COMMON LAW SPOUSE UNLESS HE OR SHE HAS BEEN ESTABLISHED AS SUCH BY AN ADJUDICATION COMMENCED WITHIN A SPECIFIED PERIOD; TO AMEND SECTION 62-2-803, RELATING TO THE EFFECTS OF HOMICIDE ON INTESTATE SUCCESSION, SO AS TO PROVIDE THAT A KILLER WHO DIES WITHIN ONE HUNDRED AND TWENTY HOURS OF THE DECEDENT IS CONSIDERED TO HAVE PREDECEASED THE DECEDENT; TO AMEND SECTION 62-3-203, AS AMENDED, RELATING TO THE PRIORITY AMONG PERSONS SEEKING APPOINTMENT AS A PERSONAL REPRESENTATIVE, SO AS TO REALIGN LANGUAGE CONVEYING THE PRIORITY OF A NOMINATOR TO THE NOMINEE WITH THE QUALIFICATION THAT PERSONS NOMINATED BY THE DECEDENT SHALL HAVE THE HIGHEST PRIORITY; TO AMEND SECTION 62-3-603, AS AMENDED, RELATING TO BOND REQUIRED OF PERSONAL REPRESENTATIVES, SO AS TO CLARIFY WHEN BOND IS REQUIRED; TO AMEND SECTION 62-3-610, AS AMENDED, RELATING TO THE TERMINATION OF APPOINTMENT OF A PERSONAL REPRESENTATIVE, SO AS TO CLARIFY THE PROCESS FOR RESIGNATION OF A PERSONAL REPRESENTATIVE; TO AMEND SECTION 62-3-614, RELATING TO THE APPOINTMENT OF A SPECIAL ADMINISTRATOR, SO AS TO PROVIDE FOR INFORMAL APPOINTMENT UPON THE APPLICATION OF A CREDITOR OF THE DECEDENT'S ESTATE; TO AMEND SECTION 62-3-719, AS AMENDED, RELATING TO THE COMPENSATION OF A PERSONAL REPRESENTATIVE, SO AS TO CLARIFY THAT COMPENSATION IS BASED UPON THE VALUE OF THE PROBATE ESTATE; TO AMEND SECTION 62-3-914, AS AMENDED, RELATING TO THE DISPOSITION OF UNCLAIMED ASSETS, SO AS TO DELETE THE TIME REQUIREMENT FOR FIRST NOTICE AND TO PROVIDE THAT UNCLAIMED DEVICES OF ONE HUNDRED DOLLARS OR LESS MAY BE TRANSFERRED TO THE SOUTH CAROLINA STATE TREASURER; TO AMEND SECTION 62-3-1001, AS AMENDED, RELATING TO PETITION FOR SETTLEMENT, SO AS TO CLARIFY THAT THE PROPOSAL FOR DISTRIBUTION PERTAINS ONLY TO ASSETS NOT YET DISTRIBUTED; TO AMEND SECTION 62-3-1101, RELATING TO THE EFFECT OF APPROVAL OF AGREEMENTS INVOLVING TRUSTS, INALIENABLE INTERESTS, OR INTERESTS OF THIRD PERSONS, SO AS TO CLARIFY THAT SETTLEMENTS PURSUANT TO THIS SECTION NEED NOT COMPLY WITH SECTION 62-5-433; TO AMEND SECTION 62-5-103, AS AMENDED, RELATING TO PAYMENT OR DELIVERY TO A MINOR OR INCAPACITATED PERSON, SO AS TO CLARIFY FOR WHAT PURPOSES SUMS RECEIVED ON BEHALF OF THE MINOR OR INCAPACITATED PERSON MAY BE USED; TO AMEND SECTION 62-5-104, AS AMENDED, RELATING TO THE DELEGATION OF A GUARDIAN'S POWERS, SO AS TO PROVIDE FOR THE POWERS TO BE DELEGATED TO ANOTHER PERSON FOR A PERIOD NOT TO EXCEED THIRTY DAYS; TO AMEND SECTION 62-5-310, AS AMENDED, RELATING TO TEMPORARY GUARDIANS, SO AS TO REQUIRE A HEARING TO REVIEW THE APPOINTMENT OF A TEMPORARY GUARDIAN WITHIN THIRTY DAYS OF THAT APPOINTMENT; TO AMEND SECTION 62-5-405, RELATING TO NOTICE OF APPOINTMENT OF A CONSERVATOR, SO AS TO REQUIRE THAT THE PERSON TO BE PROTECTED BE SERVED PERSONALLY WITH NOTICE AT LEAST TWENTY DAYS BEFORE THE HEARING; TO AMEND SECTION 62-5-424, AS AMENDED, RELATING TO THE POWERS OF THE CONSERVATOR, SO AS TO PROVIDE FOR LIMITED POWERS OF THE CONSERVATOR TO THOSE SET FORTH IN THE SECTION AND TO PROVIDE THAT A CONSERVATOR, WITH COURT APPROVAL, MAY ENCUMBER ASSETS FOR PERIODS WITHIN OR BEYOND HIS TERM OF CONSERVATORSHIP; TO AMEND SECTION 62-5-425, RELATING TO DISTRIBUTIVE DUTIES AND POWERS OF THE

CONSERVATOR, SO AS TO CLARIFY THAT ONLY MAJORITY OR EMANCIPATION RESULTING FROM A PROCEEDING BEGUN PRIOR TO THE BEGINNING OF THE CONSERVATORSHIP, AND NOT MARRIAGE, ENDS A CONSERVATORSHIP; TO AMEND SECTION 62-5-428, RELATING TO CLAIMS AGAINST PROTECTED PERSONS, SO AS TO PROVIDE THAT ANY CLAIM DENIED BY THE CONSERVATOR REMAINS BARRED UNLESS THE CLAIMANT FILES A PETITION WITH THE COURT WITHIN THIRTY DAYS OF RECEIPT OF THE NOTICE OF THE DISALLOWANCE; TO AMEND SECTION 62-5-501, AS AMENDED, RELATING TO POWERS OF ATTORNEY NOT AFFECTED BY DISABILITY, SO AS TO DELETE THE COURT'S REQUIREMENT OF AN INVENTORY AND SURETY BOND; TO AMEND SECTION 62-7-705, RELATING TO THE RESIGNATION OF A TRUSTEE, SO AS TO PROVIDE FOR RESIGNATION ONLY UPON SPECIFIED CONDITIONS; TO AMEND SECTION 20-1-550, RELATING TO SERVICE UPON A NONRESIDENT OR ABSENT DEFENDANT IN AN ACTION TO ANNUL A MARRIAGE, SO AS TO ELIMINATE THE DUTY OF THE PLAINTIFF TO FORWARD NOTICE TO THE PROBATE COURT; TO AMEND SECTION 20-7-150, RELATING TO DEFINITIONS UNDER THE UNIFORM GIFTS TO MINORS ACT, SO AS TO CLARIFY THE DEFINITIONS OF "COURT" AND "MINOR"; AND TO REPEAL SECTION 14-23-650, RELATING TO THE DESCRIPTION OF DEvised LANDS.-AMENDED TITLE

04/10/97	Senate	Introduced and read first time SJ-10
04/10/97	Senate	Referred to Committee on Judiciary SJ-10
04/23/97	Senate	Committee report: Favorable Judiciary SJ-12
04/24/97	Senate	Read second time SJ-34
04/29/97	Senate	Read third time and sent to House SJ-19
04/29/97	House	Introduced and read first time HJ-66
04/29/97	House	Referred to Committee on Judiciary HJ-69
05/21/97	House	Recalled from Committee on Judiciary HJ-35
05/27/97	House	Debate adjourned until Wednesday, May 28, 1997 HJ-20
05/28/97	House	Amended HJ-13
05/28/97	House	Read second time HJ-35
05/29/97	House	Read third time and returned to Senate with amendments HJ-12
06/03/97	Senate	Concurred in House amendment and enrolled SJ-76
06/09/97		Ratified R 203
06/11/97		Signed By Governor
06/11/97		Effective date 06/11/97
07/28/97		Copies available
07/28/97		Act No. 152