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SENATE BILL NO. 865

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 20, 2015)

(Patron Prior to Substitute—Senator Chafin)

*A BILL to amend and reenact § 64.2-502 of the Code of Virginia, relating to administration of intestate estate; person convicted of fraud, misrepresentation, robbery, etc.***Be it enacted by the General Assembly of Virginia:****1. That § 64.2-502 of the Code of Virginia is amended and reenacted as follows:****§ 64.2-502. Grant of administration of intestate estate.**

A. The court or the clerk who would have jurisdiction as to the probate of a will, if there were a will, has jurisdiction to hear and determine the right of administration of the estate in the case of a person dying intestate. Administration shall be granted as follows:

1. During the first 30 days following the decedent's death, the court or the clerk may grant administration to a sole distributee, or his designee, or in the absence of a sole distributee, to any distributee, or his designee, who presents written waivers of the right to qualify from all other competent distributees.

2. After 30 days have passed since the decedent's death, the court or the clerk may grant administration to the first distributee, or his designee, who applies, provided, that if, during the first 30 days following the decedent's death, more than one distributee notifies the court or the clerk of an intent to qualify after the 30-day period has elapsed, the court or the clerk shall not grant administration to any distributee, or his designee, until the court or the clerk has given all such distributees an opportunity to be heard.

3. After 45 days have passed since the decedent's death, the court or the clerk may grant administration to any nonprofit charitable organization that operated as a conservator or guardian for the decedent at the time of his death if such organization certifies that it has made a diligent search to find an address for any sole distributee and has sent notice by certified mail to the last known address of any such distributee of its intention to apply for administration at least 30 days before such application, or, that it has not been able to find any address for such distributee. However, if, during the first 45 days following the decedent's death, any distributee notifies the court or the clerk of an intent to qualify after the 45-day period has elapsed, the court or the clerk shall not grant administration to any such organization until the court or the clerk has given all such distributees an opportunity to be heard. Qualification of such nonprofit charitable organization is not subject to challenge on account of the failure to make the certification required by this subdivision.

4. After 60 days have passed since the decedent's death, the court or the clerk may grant administration to one or more of the creditors or to any other person, provided such creditor or person other than a distributee certifies that he has made a diligent search to find an address for any sole distributee and has sent notice by certified mail to the last known address of any such distributee of his intention to apply for administration at least 30 days before such application, or that he has not been able to find any address for such distributee. Qualification of a creditor or person other than a distributee is not subject to challenge on account of the failure to make the certification required by this subdivision.

B. When granting administration, if the court determines that it is in the best interests of a decedent's estate, the court may depart from the provisions of this section at any time and grant administration to such person as the court deems appropriate.

C. The court or clerk may admit to probate a will of the decedent after a grant of administration. If administration has been granted to a creditor or person other than a distributee, the court or clerk may grant administration to a distributee who applies for administration and who has not previously been refused administration after reasonable notice has been given to such creditor or other person previously granted administration. Admission of a will to probate or the grant of administration pursuant to this subsection terminates any previous grant of administration.

D. The court or clerk shall not grant administration to any person unless satisfied that he is suitable and competent to perform the duties of his office. ~~Administration shall not be granted to any person~~ *The clerk shall require such person to sign under oath that such person is not under a disability as defined in § 8.01-2 or, regardless of whether his civil rights have been restored, has not been convicted of a felony offense of (i) fraud or misrepresentation or (ii) robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, perjury, bribery, treason, or racketeering. However, if the person convicted of such felony offense is the sole distributee of the estate, then the court or clerk may grant administration to such person if he is otherwise suitable and competent to perform the duties of his*

60 *office.*

61 E. If any beneficiary of the estate objects, a spouse or parent who has been barred from all interest
62 in the estate because of desertion or abandonment as provided under § 64.2-308 may not serve as an
63 administrator of the estate of the deceased spouse or child.