GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H **D**

HOUSE BILL 377
PROPOSED COMMITTEE SUBSTITUTE H377-PCS40304-CI-12

Short Title: Changes to Estates and Trusts Statutes. (Public)

Sponsors:

Referred to:

March 13, 2025

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA UNIFORM ELECTRONIC WILLS ACT; TO MAKE UPDATES TO THE ELECTIVE SHARE STATUTES; TO UPDATE STATUTES RELATING TO TRUST ADMINISTRATION; AND TO MAKE REVISIONS TO THE YEAR'S ALLOWANCE STATUTES, AS RECOMMENDED BY THE ESTATE PLANNING AND FIDUCIARY LAW SECTION OF THE NORTH CAROLINA BAR ASSOCIATION.

The General Assembly of North Carolina enacts:

PART I. NC UNIFORM ELECTRONIC WILLS ACT

SECTION 1.1. Chapter 31 of the General Statutes is amended by adding a new Article to read:

"Article 11.

"North Carolina Uniform Electronic Wills Act.

"**§ 31-71. Short title.**

This Article may be cited as the "North Carolina Uniform Electronic Wills Act."

"**§ 31-72. Definitions.**

In this Article, the following definitions apply:

(1) Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) Reserved for future codification purposes.

(3) Electronic will. – A will executed electronically in compliance with G.S. 31-74(a) or an attested written will that has been stored in electronic form in compliance with G.S. 31-79.

(4) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(5) Sign. – With present intent to authenticate or adopt a record, to do either of the following:

a. To execute or adopt a tangible symbol.

b. To affix to or logically associate with the record an electronic symbol or process.

(6) State. – Consists of the following:

a. A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

b. An Indian tribe or band or Alaskan native village that is recognized by federal law or formally acknowledged by an entity listed in sub-subdivision a. of this subdivision.

"**§ 31-73. Law applicable to electronic will; principles of equity.**

An electronic will is a will for all purposes of the law of this State. The law of this State applicable to wills and principles of equity applies to an electronic will, except as modified by this Article.

"**§ 31-74. Execution of electronic will.**

(a) An electronic will shall be executed in accordance with all of the following:

(1) Recorded in electronic form and readable as text at the time of signing.

(2) Signed by the testator.

(3) Attested by at least two competent witnesses as provided by G.S. 31-3.3.

(b) The validity of a will executed electronically but not in compliance with subsection (a) of this section is governed by G.S. 31-46.

"**§ 31-75. Revocation.**

(a) An electronic will may revoke all or part of a previous will.

(b) All or part of an electronic will may be revoked in either of the following ways:

(1) In the manner provided by G.S. 31-5.1(1).

(2) By a physical act, if it is established by a preponderance of the evidence that the testator, with the intent of revoking all or part of the electronic will, performed the act or directed another individual who performed the act in the testator's physical presence.

"**§ 31-76. Electronic will attested and made self-proved at time of execution.**

(a) An electronic will may be self-proved by acknowledgment of the testator and affidavits of the witnesses as provided by G.S. 31-11.6, so long as the acknowledgment of the testator and the affidavits of the witnesses are made simultaneously with the execution of the electronic will.

(b) A signature physically or electronically affixed to an acknowledgment or affidavit that is affixed to or logically associated with an electronic will is deemed a signature of the electronic will.

"**§ 31-77. Certification of paper copy.**

(a) An individual may create a certified paper copy of an electronic will by certifying that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will. The certification shall be in the form of an affidavit sworn to or affirmed before an officer authorized to administer oaths. If the electronic will is made self-proved, the certified paper copy of the will shall include the affidavits. The certified paper copy of the electronic will may be created at any time after the electronic will is executed.

(b) A certified paper copy of an electronic will, but not the electronic will itself, may be probated under G.S. 28A-2A-8(a1).

"**§ 31-78. Uniformity of application and construction.**

In applying and construing this Article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Electronic Wills Act.

"**§ 31-79. Conversion of attested written will to electronic will.**

(a) At any time during the life of the testator, the testator, or another person at the testator's direction, may convert an attested written will to an electronic will by storing the attested written will as an electronic record. The electronic record shall include a certification, signed by the person who has converted the attested written will to an electronic will, in the form of an affidavit sworn to or affirmed before an officer authorized to administer oaths, that the electronic form of the attested written will is a complete, true, and accurate copy of the attested written will. If the person converting the attested written will to an electronic will is not the

testator, the certification shall also contain a statement that the testator expressly authorized the conversion of the attested written will to an electronic will.

(b) If the attested written will is lost or destroyed after being converted to an electronic will, the loss or destruction shall not be deemed a revocation of the attested written will, nor shall it be deemed a presumption of revocation of the attested written will."

SECTION 1.2. G.S. 28A-2A-8 reads as rewritten:

"**§ 28A-2A-8. Manner of probate of attested written ~~will.~~will or certified paper copy of electronic will.**

(a) An attested written will, executed as provided by G.S. 31-3.3, may be probated in ~~the following manner:~~any of the following ways:

(1) Upon the testimony of at least two of the attesting ~~witnesses; or~~witnesses.

(2) If the testimony of only one attesting witness is available, then with all of the following:

a. ~~Upon the~~ The testimony of ~~such witness, and~~the witness.

b. ~~Upon proof~~ Proof of the handwriting of at least one of the attesting witnesses who is dead or whose testimony is otherwise ~~unavailable, and~~unavailable.

c. ~~Upon proof~~ Proof of the handwriting of the testator, unless ~~he~~ the testator signed by ~~his mark, and~~the testator's mark.

d. ~~Upon proof~~ Proof of ~~such~~ other circumstances ~~as will~~ that satisfy the clerk of the superior court as to the genuineness and due execution of the ~~will; or~~will.

(3) If the testimony of none of the attesting witnesses is available, then with both of the following:

a. ~~Upon proof~~ Proof of the handwriting of at least two of the attesting witnesses whose testimony is ~~unavailable, and~~unavailable.

b. ~~Upon compliance~~ Compliance with ~~paragraphs~~ sub-subdivisions c. and d. of ~~subsection (a)(2) of this section; or~~subdivision (a)(2) of this section.

(4) Upon a showing that the will has been made self-proved in accordance with ~~the provisions of~~ G.S. 31-11.6.

(a1) A certified paper copy of an electronic will created under G.S. 31-77(a) may be probated in any of the following ways:

(1) Upon the testimony of at least two of the attesting witnesses.

(2) If the testimony of only one attesting witness is available, then with both of the following:

a. The testimony of the witness.

b. Proof of other circumstances that satisfy the clerk of the superior court as to the genuineness and due execution of the will.

(3) If the testimony of none of the attesting witnesses is available, then upon compliance with sub-subdivision b. of subdivision (2) of this subsection.

(4) Upon a showing that the will has been made self-proved in accordance with G.S. 31-76.

(b) Due execution of a will may be established, ~~where~~ if the evidence required by ~~subsection (a)~~ subsections (a) and (a1) of this section is unavoidably lacking or inadequate, by testimony of other competent witnesses as to the requisite facts.

(c) The testimony of a witness is unavailable within the meaning of this section when the witness is dead, out of the State, not to be found within the State, incompetent, physically unable to ~~testify~~ testify, or refuses to testify."

SECTION 1.3. G.S. 28A-2B-1 reads as rewritten:

"**§ 28A-2B-1. Establishment before death that a will or codicil is valid.**

(a) Any petitioner who is a resident of North Carolina and who has executed a will or codicil may file a petition seeking a judicial declaration that the will or codicil is valid.

(b) The petition shall be filed with the clerk of superior court and the matter shall proceed as a contested estate proceeding governed by Article 2 of Chapter 28A of the General Statutes. At the hearing before the clerk of superior court, the petitioner shall produce the original will or codicil or, if electronic, a certified paper copy of it and any other evidence necessary to establish that the will or codicil would be admitted to probate if the petitioner were deceased.

If an interested party contests the validity of the will or codicil, that person shall file a written challenge to the will or codicil before the hearing or make an objection to the validity of the will or codicil at the hearing. Upon the filing of a challenge or the raising of an issue contesting the validity of the will or codicil, the clerk shall transfer the cause to the superior court. The matter shall be heard as if it were a caveat proceeding, and the court shall make a determination as to the validity of the will or codicil and enter judgment accordingly.

If no interested party contests the validity of the will or codicil and if the clerk of superior court determines that the will or codicil would be admitted to probate if the petitioner were deceased, the clerk of superior court shall enter an order adjudging the will or codicil to be valid.

(c) Failure to use the procedure authorized by this Article ~~shall~~ does not have any evidentiary or procedural effect on any future probate proceedings.

(d) For purposes of this Article only, a "petitioner" is a person who requests a judicial declaration that confirms the validity of that person's will or codicil."

SECTION 1.4. G.S. 28A-2B-3 reads as rewritten:

"**§ 28A-2B-3. Contents of petition for will validity.**

(a) Petition. – A petition requesting an order declaring that a petitioner's will or codicil is valid shall be verified and shall contain the following information:

…

(5) A statement identifying the ~~petitioner,~~ petitioner and all persons believed by the petitioner to have an interest in the proceeding, including, for any interested parties who are minors, information regarding the minor's appropriate representative.

(b) The petitioner shall file a copy of the will or codicil with the ~~petition and~~ petition. At the hearing provided in G.S. 28A-2B-1(b), the petitioner shall tender the original will or codicil ~~at the hearing as provided in G.S. 28A-2B-1(b).~~ or, if electronic, a certified paper copy of it. If an order is entered declaring the will or codicil to be valid, the court shall affix a certificate of validity to the will or codicil."

SECTION 1.5. G.S. 31-3.1 reads as rewritten:

"**§ 31-3.1. Will invalid unless statutory requirements complied with.**

No will is valid unless it complies with the requirements ~~prescribed therefor by this Article.~~of this Chapter."

SECTION 1.6. G.S. 31-3.2 reads as rewritten:

"**§ 31-3.2. Kinds of wills.**

(a) Personal property and real property may be devised by any of the following:

(1) An attested written will ~~which~~ that complies with the requirements of ~~G.S. 31-3.3, or~~G.S. 31-3.3.

(2) A holographic will ~~which~~ that complies with the requirements of G.S. 31-3.4.

(3) An electronic will that complies with the requirements of G.S. 31-74(a).

(b) Personal property may also be devised by a nuncupative will ~~which~~ that complies with the requirements of G.S. 31-3.5."

SECTION 1.7. G.S. 31-11 reads as rewritten:

"**§ 31-11. Depositories in offices of clerks of superior court where living persons may file wills.**

The clerk of the superior court in each county of North Carolina shall be required to keep a receptacle or depository in which any person who desires to do so may file ~~that person's will for safekeeping; and the~~ for safekeeping that person's original will or, if electronic, a certified paper copy of it. The clerk shall, upon written request of the testator, or the ~~duly authorized~~ agent ~~or attorney~~ for the testator, permit ~~said~~ the will ~~or testament~~ to be withdrawn from ~~said~~ the depository or receptacle at any time prior to the death of the ~~testator: Provided, that the~~ testator. The contents of ~~said~~ the will shall not be made public or open to the inspection of anyone other than the testator or the testator's ~~duly authorized~~ agent until ~~such time as the said will shall be offered for probate.~~the death of the testator."

SECTION 1.8. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Uniform Electronic Wills Act and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 1.9. Section 1.7 of this act applies to electronic wills executed on or after January 1, 2026, and it further applies to attested written wills converted to electronic wills on or after January 1, 2026, regardless of the date of execution of the attested written will. Section 1.7 of this act otherwise applies immediately to all wills deposited with the clerk at any time prior to January 1, 2026. The remainder of this Part becomes effective January 1, 2026, and applies to electronic wills executed on or after that date, and it further applies to attested written wills converted to electronic wills on or after that date, regardless of the date of execution of the attested written will.

PART II. UPDATES TO ELECTIVE SHARE STATUTES

SECTION 2.1. G.S. 30-3.3A reads as rewritten:

"**§ 30-3.3A. Valuation of property.**

…

(e) Partial or Contingent Interest Property. – The valuation of partial and contingent property interests, outright or in trust, which are limited to commence or terminate upon the death of one or more persons, upon the expiration of a period of time, or upon the occurrence of one or more contingencies, shall be determined by computations based upon the mortality and annuity tables set forth in G.S. 8-46 and G.S. 8-47, and by using a presumed rate of return of six percent (6%) of the value of the underlying property in which those interests are limited, unless upon good cause shown by one of the parties, the clerk determines that the use of such tables or rate of return is not appropriate, then the value of such interests shall be determined under subsection (f) of this section. However, in valuing partial and contingent interests passing to the surviving spouse, the following special rules apply:

(1) The value of the beneficial interest of a spouse shall be the entire fair market value of any property held in trust if the decedent was the settlor of the trust, if the trust is held for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, ~~and~~ if the terms of the trust substantially meet the following ~~requirements:~~requirements in form and content:

a. ~~During~~ At all times during the lifetime of the surviving spouse, the trust is controlled by (i) one or more nonadverse ~~trustees.~~trustees, including successor trustees, (ii) the surviving spouse as trustee, or (iii) one or more nonadverse trustees and the surviving spouse as co-trustees, including successor trustees.

b. The trustee shall distribute to or for the benefit of the surviving spouse either (i) the entire net income of the trust at least annually or (ii) the income of the trust in such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse.

c. The trustee shall distribute to or for the benefit of the surviving spouse out of the principal of the trust such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse.

~~d. In exercising discretion, the trustee~~

(1a) Notwithstanding any requirements in subdivision (1) of this subsection to the contrary, the terms of the trust may ~~be authorized~~ authorize or ~~required~~ require the trustee, in exercising discretion, to take into consideration all other ~~income assets~~ income, assets, and other means of support available to the surviving spouse.

(1b) A trust fails to meet the requirements of sub-subdivisions b. and c. of subdivision (1) of this subsection if the terms of the trust do not state the requirement that the trustee shall distribute the income and principal as provided in those sub-subdivisions using the terms "shall," "is required to," or other equivalent term or terms directing the trustee to distribute the income and principal. Nothing in this subdivision shall affect the ability of the trustee to exercise the discretion provided in sub-subdivisions b. and c. of subdivision (1) of this subsection with respect to the timing and amount of distributions necessary for the health, maintenance, and support of the surviving spouse.

(2) To the extent that the partial or contingent interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortality and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest that will terminate upon the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage.

…."

SECTION 2.2. G.S. 30-3.4 reads as rewritten:

"**§ 30-3.4. Procedure for determining the elective share.**

(a) Exercisable Only During Lifetime. – The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, by the surviving spouse's agent if the surviving spouse's power of attorney expressly authorizes the agent to do so or to generally engage in estate, trusts, and other beneficial interests, or, with approval of court, by the guardian of the surviving spouse's estate or general guardian. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.

(b) Time Limitations. – A claim for an elective share must be made within six months after the issuance of letters testamentary or letters of administration in connection with the will or intestate proceeding with respect to which the surviving spouse claims the elective share by ~~(i)~~ filing a verified petition with the clerk of superior court of the county in which the primary administration of the decedent's estate ~~lies,and (ii) mailing or delivering a copy of that petition to the personal representative of the decedent's estate.~~ lies. A surviving spouse's incapacity shall not toll the six-month period of limitations.

…

(e1) Procedure. – ~~An elective share proceeding shall be an estate proceeding and shall be conducted in accordance with the procedures of Article 2 of Chapter 28A of the General Statutes.~~ The verified petition shall be filed by the clerk upon payment of the costs assessed in G.S. 7A-307. An elective share proceeding shall be an estate proceeding and shall be conducted

in accordance with the procedures of Article 2 of Chapter 28A of the General Statutes, except as modified or supplemented by the following:

(1) Upon the filing of the verified petition, the petition shall be served upon the personal representative in accordance with G.S. 1A-1, Rule 4 of the Rules of Civil Procedure, without issuance of a summons. The petition shall also be served on all responsible persons as those persons become known to the petitioner in accordance with G.S. 1A-1, Rule 4 of the Rules of Civil Procedure, without issuance of a summons. The failure to serve the petition for elective share on the personal representative or any other person within the six-month period described in subsection (b) of this section shall not render the claim for elective share as being untimely filed.

(2) After service under subdivision (1) of this subsection, the petitioner, the personal representative, or any other party may cause notice of a hearing before the clerk to be served upon all parties in accordance with G.S. 1A-1, Rule 5 of the Rules of Civil Procedure. At the hearing, the clerk may set deadlines as to the gathering and sharing of information concerning total net assets and may determine any other relevant procedural matters.

(3) Within 30 days following the entry of an order resulting from the hearing described in subdivision (2) of this subsection, any party who was present at the hearing may file a responsive pleading to the petition; provided, however, that failure to respond to any averment or claim in the petition shall not be deemed an admission of that averment or claim. An extension of time to file a responsive pleading to the petition may be granted as provided by G.S. 1A-1, Rule 6 of the Rules of Civil Procedure.

…."

SECTION 2.3. This Part becomes effective January 1, 2026, and applies to claims for elective share filed on or after that date.

PART III. TRUST ADMINISTRATION/CONTEST UPDATES

SECTION 3.1. G.S. 36C-6-604 reads as rewritten:

"**§ 36C-6-604. Limitation on action contesting validity of revocable trust; distribution of trust property.**

(a) A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier ~~of:~~of the following:

(1) Three years after the settlor's ~~death; or~~death.

(2) 120 days after the trustee sent the person a copy of the trust instrument and written notice pursuant to G.S. 1A-1, Rule 4 of the Rules of Civil Procedure, informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

(b) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to administer the trust and distribute the trust property in accordance with the terms of the ~~trust. The trustee is~~ trust and shall not be subject to liability for doing ~~so unless:~~so, except that the trustee shall not distribute trust property to any beneficiary in contravention of the rights of any person who may be affected by the outcome of a pending or possible judicial proceeding if, at the time the distribution is made, any of the following apply:

(1) The trustee knows of a pending judicial proceeding contesting the validity of all or part of the terms of the ~~trust;~~ trust or contesting the identity of the beneficiaries eligible to receive distributions therefrom.

(2) A potential contestant has notified the trustee in writing of a possible judicial proceeding to contest the ~~trust,~~ validity of all or part of the terms of the trust or to contest the identity of the beneficiaries eligible to receive distribution

therefrom, and a judicial proceeding is commenced within 60 days after the contestant sent the notification.

(b1) Any distribution in contravention of the provisions of subsection (b) of this section shall constitute a breach of trust by the trustee. Upon motion of a party and after notice to interested parties, a court, on good cause shown, may make an exception to the provisions of subsection (b) of this section and authorize the trustee to distribute trust assets to a beneficiary, subject to any conditions the court, in the court's discretion, may impose, including the posting of a bond by the beneficiary.

(c) A beneficiary of a trust that is determined to have been ~~invalid~~ invalid, or whose interest in a trust has been determined to be invalid, is liable to return any distribution received. If the beneficiary refuses to return the distribution after being ordered by the court, the beneficiary shall be liable for all costs incurred for recovery of the distribution, including attorneys' fees."

SECTION 3.2. This Part becomes effective January 1, 2026, and applies to settlors dying on or after that date.

PART IV. REVISIONS TO YEAR'S ALLOWANCE STATUTES

SECTION 4.1. G.S. 30-15 reads as rewritten:

"**§ 30-15. When spouse entitled to allowance.**

(a) Every surviving spouse of a decedent, whether or not the surviving spouse has petitioned for an elective share, shall be entitled to receive an allowance having the value of sixty thousand dollars ($60,000) for the surviving spouse's support for one year after the death of the deceased spouse unless the spouse is barred from seeking an allowance under G.S. 31A-1 or another applicable law. The spouse's allowance shall be in addition to the spouse's share of the decedent's estate if the decedent died intestate but shall be charged against the spouse's share of the decedent's estate if the decedent died testate.

(b) The right of a surviving spouse to file a claim for an allowance must be exercised during the lifetime of the surviving spouse by (i) the surviving spouse, (ii) the surviving spouse's agent under a durable power of attorney, or (iii), with approval of the court, by the guardian of the surviving spouse's estate or general guardian. A claim for an allowance must be made by filing a verified petition with the clerk of court of the county in which venue would be proper under G.S. 28A-3-1. There is no time limitation on bringing a claim for an allowance except that, if a personal representative has been appointed for the decedent's estate, the claim must be made within six months after the issuance of letters testamentary or letters of administration. In addition, if a personal representative has been appointed for the decedent's estate, a copy of the verified petition must be personally delivered or sent by first-class mail by the petitioner to the personal representative.

(c) If the surviving spouse dies after the petition is filed but before the claim for an allowance has been fully satisfied, any deficiency judgment existing at the time of the surviving spouse's death shall not expire.

(d) The spouse's allowance shall be exempt from any lien by judgment or execution against the property of the decedent or any other claim made against or owed by the decedent's estate. The spouse's allowance takes priority over any child's allowance under ~~G.S. 30-17.~~G.S. 30-17, except as set forth in subsection (e) of this section.

(e) If a surviving spouse entitled to an allowance fails to file a petition for an allowance within six months after the date of death of the decedent and an eligible person files a petition for a child's allowance in accordance with G.S. 30-17 before the spouse files a petition for an allowance, then the spouse's priority to receive the allowance prior to the child named in the petition is waived and the clerk may proceed to assign the full child's allowance to the eligible child named in the petition. If a petition for the spousal allowance is filed jointly with a petition for a child's allowance, then the spouse retains the right to receive the allowance prior to the child named in the petition. The waiver described in this subsection shall not affect the spouse's right

to an allowance, only the spouse's priority to receive an allowance over any child's allowance under G.S. 30-17.

(f) A proceeding for a spouse's allowance shall be an estate proceeding governed by the provisions of Article 2 of Chapter 28 of the General Statutes."

SECTION 4.2. G.S. 30-17 reads as rewritten:

"**§ 30-17. When children entitled to an allowance.**

(a) Every child of a decedent who is under the age of 21 years at the time of the decedent's death, including an adopted child or a child in utero, and every child who is under the age of 21 years at the time of the decedent's death with whom the decedent stood in loco parentis at the time of death, shall be entitled to receive an allowance having a value of ten thousand dollars ($10,000) for the child's support for one year after the death of the decedent. The allowance shall be in addition to the child's share of the decedent's estate regardless of whether the decedent died testate or intestate.

(b) The right of a child to file a claim for an allowance must be exercised during the lifetime of the child by the person with priority to file on behalf of the child as provided in subsection (c) of this section. A claim for an allowance must be made by filing a verified petition with the clerk of court of the county in which venue would be proper under G.S. 28A-3-1. There is no time limitation on bringing a claim for an allowance except that, if a personal representative has been appointed for the decedent's estate, the claim must be made within six months after the issuance of letters testamentary or letters of administration. In addition, if a personal representative has been appointed for the decedent's estate, a copy of the verified petition must be personally delivered or sent by first-class mail by the petitioner to the personal representative.

(c) The person entitled to file a petition on behalf of the child for a child's allowance shall be in the following order of priority:

(1) The child, if the child is at least 18 years old or an emancipated minor at the time of the filing of the petition.

~~(1)~~(2) The general guardian or guardian of the estate of the child, if any.

~~(2)~~(3) The surviving parent of the child if the child resides with the surviving parent.

~~(3)~~(4) The person with whom the child resides.

If the clerk of court determines that no person entitled to file a petition pursuant to this subsection is a fit or suitable individual, the clerk, upon the clerk's own motion, may appoint another individual if the clerk determines that individual better represents the best interests of the child as the representative.

(d) The child's allowance shall be exempt from any lien by judgment or execution against the property of the decedent or any other claim made against or owed by the decedent's estate except that the spouse's allowance under G.S. 30-15 shall take priority over any child's allowance. A child's allowance shall only be awarded after the full spouse's allowance under G.S. 30-15 has been awarded.

(e) A proceeding for a child's allowance shall be an estate proceeding governed by the provisions of Article 2 of Chapter 28 of the General Statutes."

SECTION 4.3. G.S. 30-20 reads as rewritten:

"**§ 30-20. Procedure for assignment; order of clerk.**

(a) The clerk of court shall first ascertain if the surviving spouse is entitled to an allowance according to the provisions of this Article, and, if so, enter an order setting forth the personal property of the estate to be awarded to the surviving spouse. Once the spouse's allowance has been awarded, the clerk of court shall next ascertain if any children of the decedent are entitled to an allowance according to the provisions of this Article, and, if so, enter an order setting forth the personal property of the estate to be awarded for the child's allowance. If a personal representative has been appointed for the decedent's estate, the clerk of court shall provide a copy of any order awarding an allowance to the personal representative of the decedent's estate.

(b) If the personal property of the estate is insufficient to satisfy the allowances awarded, the clerk of the superior court shall enter judgment against the decedent's estate for the amount of the deficiency. If a personal representative has been appointed for the decedent's estate, the deficiency shall be satisfied by the personal representative when a sufficiency of such assets shall come into the possession of the personal representative.

~~(c) The clerk of court may, on the clerk's own motion, determine that a hearing is necessary to determine whether a year's allowance should be awarded pursuant to the provisions of this Article and, if so, what personal property should be awarded. If the clerk of court makes such a determination, the clerk shall direct the petitioner to commence a contested estate proceeding pursuant to G.S. 30-23 in order to determine the year's allowance.~~"

SECTION 4.4. G.S. 30-23.1 reads as rewritten:

"**§ 30-23.1. Contested proceeding regarding allowance.**

(a) If no contested estate proceeding ~~under G.S. 30-20(c)~~ was commenced by the petitioner or by order of the clerk joining respondents to the proceeding to determine an award of an allowance under this Article, any person with standing, including the personal representative of the decedent's estate, may bring a proceeding to challenge the award of a spousal allowance or a child's allowance, including, but not limited to, a proceeding to challenge the validity of an award of a year's allowance, a proceeding to challenge the amount of a year's allowance awarded, and a proceeding to challenge the assets awarded as part of a year's allowance. If a contested estate proceeding was commenced ~~under G.S. 30-20(c),~~ by the petitioner or by order of the clerk joining the respondents to the proceeding to determine an award of an allowance under this Article, then any person with standing, including the personal representative of the decedent's estate, who was not a party to the contested estate proceeding may bring a proceeding in accordance with this section.

(b) Any proceeding to challenge the award of the allowance brought pursuant to this section shall be conducted as an estate proceeding in accordance with the provisions of Article 2 of Chapter 28A of the General Statutes and must be brought within one year of the date the order awarding the year's allowance was entered."

SECTION 4.5. G.S. 28A-25-6 reads as rewritten:

"**§ 28A-25-6. Payment to clerk of money owed decedent.**

(a) As an alternative to the small estate settlement procedures of this Article, any person indebted to a decedent may satisfy such indebtedness by paying the amount of the debt to the clerk of the superior court of the county of the domicile of the decedent if all of the following conditions are met:

(1) No administrator has been appointed.

(2) Except as otherwise provided in G.S. 90-210.64(d), the amount owed by such person does not exceed five thousand dollars ($5,000).

(3) Except as otherwise provided in G.S. 90-210.64(d), the sum tendered to the clerk would not make the aggregate sum which has come into the clerk's hands belonging to the decedent exceed five thousand dollars ($5,000).

(b) Such payments may not be made to the clerk if the total amount paid or tendered with respect to any one decedent would exceed five thousand dollars ($5,000), even though disbursements have been made so that the aggregate amount in the clerk's hands at any one time would not exceed five thousand dollars ($5,000).

(c) If the sum tendered pursuant to this section would make the aggregate sum coming into the clerk's hands with respect to any one decedent exceed five thousand dollars ($5,000) the clerk shall appoint an administrator, or the sum may be administered under the preceding sections of this Article.

(d) If it appears to the clerk after making a preliminary survey that disbursements pursuant to this section would not exhaust funds received pursuant to this section, the clerk may,

in the clerk's discretion, appoint an administrator, or the funds may be administered under the preceding sections of this Article.

(e) The receipt from the clerk of the superior court of a payment purporting to be made pursuant to this section is a full release to the debtor for the payment so made.

(f) If no administrator has been appointed, the clerk of superior court shall, upon motion of the clerk or upon the application of an interested party, disburse the money received under this section for the following purposes and in the following order:

(1) To pay the surviving spouse's year's allowance and children's year's allowance assigned in accordance with ~~law.~~law, except that if (i) it has been greater than six months since the date of death of the decedent and (ii) there has been no petition filed and assignment of a spouse's or child's year's allowance, the clerk may disburse the money received under this section in accordance with the other provisions of this subsection.

(2), (3) Repealed by Session Laws 1981, c. 383, s. 3.

(4) All other claims shall be disbursed according to the order set out in G.S. 28A-19-6.

Notwithstanding the foregoing provisions of this subsection, the clerk shall pay, out of funds provided the deceased pursuant to G.S. 111-18 and Part 3 of Article 2 of Chapter 108A of the General ~~Statutes of North Carolina,~~ Statutes, any lawful claims for care provided by an adult care home to the deceased, incurred not more than 90 days prior to the deceased's death. After the death of ~~a spouse who died intestate~~ the decedent and after the disbursements have been made in accordance with this subsection, the balance in the clerk's hands belonging to the estate of the decedent shall be paid to the surviving spouse, and if there is no surviving spouse, the clerk shall pay it to the heirs or beneficiaries in proportion to their respective interests.

(g) The clerk shall not be required to publish notice to creditors.

(h) Whenever an administrator is appointed after a clerk of superior court has received any money pursuant to this section, the clerk shall pay to the administrator all funds which have not been disbursed. The clerk shall receive no commissions for payments made to the administrator, and the administrator shall receive no commissions for receiving such payments."

SECTION 4.6. Section 4.5 of this act is effective when it becomes law. The remainder of this Part becomes effective January 1, 2026, and applies to petitions filed on or after that date.

PART V. EFFECTIVE DATE

SECTION 5.1. Except as otherwise provided in this act, this act is effective when it becomes law.