

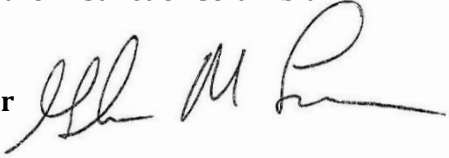
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee
Chief Financial Officer 

DATE: September 13, 2022

SUBJECT: Fiscal Impact Statement – Uniform Power of Attorney Act of 2022

REFERENCE: Bill 24-121, Committee Print as provided to the Office of Revenue
Analysis on August 24, 2022

Conclusion

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill.

Background

Power of attorney is a document or other record that grants authority to an agent to act in the place of a principal. Agents may enter into legal agreements for principals when they are not present, including making decisions on behalf of the principal when the principal is incapacitated and is unable to act for themselves. Power of attorney law can vary wildly from state to state causing confusion among principals, agents, and third parties that deal with principals and agents. The bill updates¹ the District's power of attorney statutes to include protections against fraud, abuse, and financial exploitation and standardizes the District's power of attorney statutes to mirror laws enacted by 29 states² (including Maryland and Virginia). Specially, the bill expands existing protections and standardizes the law by:

- Establishing mandatory and default fiduciary duties for the agent;
- Establishing liability for agent misconduct;
- Establishing who has standing to petition a court to review a power of attorney or an agent's conduct;

¹ By amending Title 21 of the District of Columbia Official Code.

² As of September 6, 2022.

- Requiring a power of attorney include express language to grant certain powers that have a high potential to dissipate the principal's property or alter the principal's estate plan;
- Mandating that an agent act in good faith and within the scope of the principal's estate plan;
- Permitting the principal to include in the power of attorney an exoneration clause for the benefit of the agent;
- Establishing a hierarchy of persons to whom an agent may resign if the principal is incapacitated;
- Providing broad protection for the good faith acceptance or refusal of an acknowledged power of attorney;
- Establishing penalties for unreasonable refusal of an acknowledged power of attorney; and
- Establishing a statutory power of attorney form that may be used to establish a power of attorney.

Financial Plan Impact

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill. Expanding protections for power of attorney principals and agents does not have an impact on the District's budget and financial plan.