Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 302** DATE: **April 16, 2008**

STATUS: **As Reported by Senate Committee on Civil Justice** SPONSOR: **Sen. Goodman**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Method of making a will**

State Fiscal Highlights

- ***State revenue and expenditures.*** It does not appear that the bill will have any discernible direct effect on the revenues or expenditures of the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties (Probate Courts)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential, perhaps minimal at most, savings effect	Potential, perhaps minimal at most, savings effect	Potential, perhaps minimal at most, savings effect

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***County expenditures.*** If, as assumed for the purposes of this fiscal analysis, the bill were to reduce the number of contested wills or expedite the decision subsequent to filing of such an action, then presumably a potential savings effect is created, as the affected probate court will expend less time and effort on these matters. If one were able to quantify this potential savings, it appears unlikely to be significant in terms of dollars and cents, and is probably best viewed as permitting a probate court to more efficiently and effectively perform other duties and responsibilities.

Detailed Fiscal Analysis

Exiting law and the bill

For the purposes of this fiscal analysis, relative to the method by which a will is signed and witnessed, the bill most notably:

- Requires that a will be attested and subscribed by witnesses in the conscious presence, rather than in the direct presence, of the testator.
- Provides that a decedent who signs a document that is a purported will sign the purported will in the conscious presence of the witnesses.

Under current law, the testator of a will, the party for whom it applies, must sign the completed will and this must occur in the direct presence of two or more competent witnesses who saw the testator sign the document. The bill changes this standard to allow the testator to sign a will in the "conscious presence" of the witnesses, rather than in a direct line of sight. Thus, subsequent to the bill's enactment, in those cases where the circumstances, such as a contagious illness, make it very difficult or impossible for the witnesses to see the testator sign the will, a valid will could be created so long as the witnesses are within the range of the testator's senses, and can, for example, hear the testator acknowledge their signature on the will.

Local fiscal effects

As a result of the bill, it will arguably be somewhat easier in certain circumstances to have a valid will signed, thereby making it more difficult for parties to challenge a will coming under the subject matter jurisdiction of any given probate court. This may result in fewer wills being challenged in a probate court, or provide for a more timely dismissal of those cases where a challenge is undertaken.

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