



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** Am. Sub. S.B. 124 of the 129th G.A. **Date:** September 30, 2011

**Status:** As Passed by the House **Sponsor:** Sen. Bacon

**Local Impact Statement Procedure Required:** No

**Contents:** Probate court modernization

### State Fiscal Highlights

- No direct fiscal effect on the state.

### Local Fiscal Highlights

#### LOCAL GOVERNMENT

#### FY 2012 – FUTURE YEARS

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#### Courts of Common Pleas – Probate Division

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Revenues

Minimal annual effect on fee collections

Expenditures

Minimal one-time transitional costs; long-term savings effect

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

- **Expenditures.** The bill's numerous procedural changes to the manner in which a probate court conducts certain business will update the law to mirror current practice, streamline operations, and simplify the legal process. The one-time transitional costs will be minimal at most. The long-term effect will be an improvement in court efficiency by reducing unnecessary filings.
- **Revenues.** The bill also increases a will filing fee and eliminates an improper or incomplete fiduciary filing fee. These fee changes will have no more than a minimal net annual effect on revenue generation.

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## Detailed Fiscal Analysis

### Overview

The purpose of the bill is to modernize the Probate Code. Most notably, the bill, in order of magnitude:

- Makes numerous substantive changes to existing statutory language (summarized in the LSC bill analysis);
- Increases the fee for receiving, keeping, and giving a certificate of deposit for a will from \$1 to \$5; and
- Removes the requirement for the probate court to impose a \$2.50 cost per improper or incomplete filing in matters of estates, guardianships, or trusts.

### Transitional costs

The bill enacts numerous changes to the manner in which a probate court conducts certain business. Court personnel contacted by LSC fiscal staff indicated that the onetime cost of implementing these changes would vary by county depending on the level of automation already utilized by the court. Courts utilizing a high degree of automation would face lower transitional costs, while courts with less automation would face slightly higher costs. The transitional costs are mostly comprised of existing IT (information technology) staff time for reprogramming automated processes to allow a new or different action to occur in a probate court proceeding or the modification of existing staff procedures for probate court proceedings. Regardless of the level of automation a court may possess, the transitional costs from current law to the implementation of the procedures outlined in the bill are expected to be minimal at most.

### Fee changes

The bill increases the fee for depositing a will with the probate court and eliminates the fee for improper or incomplete filings by a fiduciary. According to court personnel contacted by LSC fiscal staff, the fee increase from \$1 to \$5 for depositing a will is needed to help defray the cost of safely storing the document. However, even at the increased rate it is not expected to fully cover the cost of providing the service for all probate courts around the state. Additionally, this service is not widely utilized, and in recent years, has been declining as more individuals are able to safely store their documents through other providers, such as safety deposit boxes.

The elimination of the \$2.50 fee for an improper or incomplete filing by a fiduciary is also not expected to have a more than negligible fiscal impact. According to court personnel contacted by LSC fiscal staff, collecting this fee is difficult for a variety of reasons and therefore, though a court may be entitled to assess the fee, it often goes unassessed or uncollected. Together, the increase in one fee and elimination of another

are expected to have no more than a minimal net effect on annual revenue generation. The precise direction and magnitude of these changes will vary accordingly by court.

### **Procedural and administrative changes to probate law**

The bill addresses gender specific references and outdated terminology found throughout probate law. The more substantive changes in the bill are designed to update the law to mirror current or best practices, streamline the operation of the probate court, and simplify the legal process. These changes are designed to allow the court to operate more efficiently than under current law. LSC fiscal staff contacted court personnel, including judges and clerks, to discuss the numerous substantive changes contained in the bill. (See the LSC bill analysis for details.) None of the parties contacted by LSC commented on any provision having a negative fiscal effect on the operation of the court, except to say that, the overall effect will be to improve court efficiency by reducing unnecessary filings.