Ohio Legislative Service Commission

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 126 of the 130th G.A. **Date**: May 28, 2013

Status: As Reported by House Judiciary **Sponsor**: Reps. Kunze and Stinziano

Local Impact Statement Procedure Required: No

Contents: Durable power of attorney for health care

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- Potential, at most minimal, annual cost for county probate courts associated with: (1) handling any durable powers of attorney for health care that may be filed with the court for safekeeping, and (2) possible hearings to resolve disputes pertaining to authorities granted to parties by the power of attorney.

Detailed Fiscal Analysis

The bill makes several changes to the law governing the creation of a durable power of attorney for health care. These appear to be changes that will predominately affect the behavior of the parties involved in the creation and administration of a durable power of attorney. However, there are two provisions, discussed in more detail below, which collectively may generate, at most, minimal annual costs for county probate courts.

Filing costs. The bill states that a durable power of attorney for health care containing the nomination of a person to be the guardian of the person and/or estate of the principal may be filed with the probate court for safekeeping. In some, if not all counties, there may be additional costs associated with establishing and maintaining a system or process for the court to handle such new filings. The bill is silent on whether the court may charge a filing fee to offset these costs.

Hearing costs. The bill provides that, if a guardian is appointed for the principal, a durable power of attorney is not terminated, and the authority of the attorney in fact continues unless the probate court limits, suspends, or terminates the power of attorney upon determining it is in the best interest of the principal. There is the possibility that, if the guardian disputes and challenges the authority of the attorney in fact, the dispute may need to be resolved in a hearing before the probate court. Such disputes are not expected to be great in number. Thus, for any given court, the cost of any additional time and effort expended by its personnel on these disputes will be no more than minimal and likely to be absorbed within existing budgetary resources.

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