



Ohio Legislative Service Commission

Synopsis of House Committee Amendments*

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Sub. S.B. 117

129th General Assembly
(H. Judiciary and Ethics)

The Committee removed the emergency clause and made the following changes to the Ohio Trust Code provisions and the provisions dealing with the treatment for alcohol and other drug abuse in the Senate-passed version of the bill:

Ohio Trust Code

(1) It modified existing law pertaining to private settlement agreements by providing the following: (a) the parties to the agreement must be any two or more, instead of all, of the parties specified in current law or their representatives, (b) the agreement may include modifying the trust terms if the modification is not inconsistent with any *material*, instead of dominant, purpose of the trust, (c) the agreement is final and binding on the parties to the agreement or *the persons represented by such parties* and their heirs, successors, and assigns but *has no effect on any trustee, settlor, beneficiary, or creditor who is not a party to the agreement or is not represented by a party to the agreement*, and (d) the existing statute governing that type of agreement does not prohibit some or all of the persons who could enter into an agreement under that statute from entering into agreements that are governed by other law, including the common law.

(2) It modified existing law, which permits the termination of a noncharitable irrevocable trust if its continuance is not necessary to achieve the trust's material purpose or the modification of a noncharitable irrevocable trust if it is not inconsistent with the trust's material purpose, by providing that in determining what constitutes a material purpose of a trust, a court may but is not required to consider extrinsic evidence indicating a settlor's intent at the time the instrument was executed.

(3) It expanded the immunity from liability of a trustee to a beneficiary for breach of trust if the beneficiary's representative under the law's representation provisions consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless the consent, release, or ratification of the representative was induced by improper conduct

* This synopsis does not address amendments that may have been adopted on the House Floor.

of the trustee or, at the time of the consent, release, or ratification, the representative did not know of the beneficiary's rights or of the material facts relating to the breach.

Treatment for alcohol and other drug abuse

(1) It provided that if, after reviewing the petition's allegations and examining the petitioner under oath, it appears to the probate court that there is probable cause to believe the respondent *may reasonably benefit from treatment* (instead of "should be ordered to undergo treatment"), the court must do specified acts, including scheduling a hearing to be held within seven days to determine if there is *clear and convincing evidence* (instead of "probable cause to believe") that the respondent *may reasonably benefit from treatment*.

(2) It permitted, instead of required, the probate court to order the treatment after considering the qualified health professionals' recommendations for treatment if upon completion of the hearing the court *finds by clear and convincing evidence* (new language) that the respondent *may reasonably benefit from treatment*.