



ENACTMENT NEWS

House Bill 7

Probate Omnibus & Private Judging Reform

Effective August 17, 2021

On May 17, 2021, Governor DeWine signed House Bill 7 (Rep. Grendell and Rep. Stewart) into law. The bill contains numerous changes to estate planning and probate law and revises the process of private judging. Four of the bill's provisions were enacted at the request of the Ohio Judicial Conference: Guardianship Nonprofit Appointment Authority, Name Change Modernization, Private Judging Reform and the authority for mental health nurses to testify in civil commitment cases. Other provisions were proposed by the Ohio State Bar Association.

Guardianship Nonprofit Corporation Appointment

H.B. 7 enacts authority for probate courts to appoint nonprofit corporations domiciled in and organized under the laws of Ohio as guardian of the person so long as the nonprofit corporation is not the residential caregiver, health care provider or employer of the incompetent (R.C. 2111.10).

Name Change Modernization

The bill revises Chapter 2717 to permit a person to file an application in the probate court of the county in which the person resides to resolve any discrepancies in the official identity document and to confirm the person's name on the identity document to the person's current legal name. The bill eliminates hearing and publication requirements in current law to grant probate courts more discretion to determine the best way to administer each action on a case-by-case basis. The bill also reduces the current one-year residency timeframe down to sixty-days. These provisions addressed problems Ohio citizens had been having when seeking federal REAL ID compliant identification documents. The REAL ID deadline has been extended to May 3, 2023.

Private Judging Reform

The bill modifies R.C. 2701.10 to reform private judging by allowing the elected judge to have discretion over whether to order the private judge referral, requiring a private judging referral to indicate a procedure for terminating the agreement with the private judge and clarifying that jurisdiction is automatically returned to the elected judge upon conclusion of the referred action. The elected judge must address the private judging referral within fourteen days of filing.

Mental Health Nurses

The bill modifies R.C. 5122.15 to permit specially trained and certified mental health nurse practitioners to testify and provide the respondent's diagnosis and prognosis during civil commitment hearings at both the initial phase and at extension hearings. Current law requires that either psychiatrists or psychologists provide these opinions. Under the bill, mental health nurses would provide a third option for probate courts.

Filing of Itemized Account of Fees with County Auditor

The bill amends R.C. 2101.15 to allow the probate courts' annual filing of itemized account of fees with the county auditor to be completed no later than January 15th of each year. Current law requires the filing to be completed on January 1st.

Cemetery Endowment Care Trusts

The bill amends R.C. 1721.21 regarding the financial management of Cemetery Endowment Care Trusts.

Surviving Spouse Automobile Allowance

The bill amends R.C. 2106.13 to clarify that the spousal share of the allowance for support would be reduced only by the value of the automobile with the least value.

Anatomical Gift Act

The bill modifies R.C. 2108.05 to 2108.05, 2108.23, 2108.24, 2108.34 and 2133.07 to eliminate the following as a manner of making an anatomical gift: (a) specifying in the donor's will an intent to make such a gift, or (b) specifying an intent to make such gift in the donor's declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment.

Guardianship Estate Planning

The bill amends R.C. 2111.50 allowing (but not requiring) a guardian to seek probate court approval to utilize estate planning procedures to protect, preserve and administer the ward's estate for the ward's beneficiaries.

Ohio Trust Code

The bill modifies the Ohio Trust Code and Ohio Legacy Trust Act (R.C. 5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5816.10 and 5816.14) to clarify that the change of a future or successor trustee named in a trust agreement, whether by a court order or by a private settlement agreement, is not prohibited.

The Ohio House of Representatives passed the bill by a vote of 98-0 on March 3, 2021, and the Senate passed the bill by a vote of 32-0 on May 5, 2021.