

**As Reported by the Senate Judiciary--Civil Justice Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Am. H. B. No. 265**

**Representatives Seitz, T. Patton, Fende, Wagoner, McGregor, Fessler,  
D. Evans, C. Evans, Gilb, Core, Harwood, Walcher, Cassell, Martin, Buehrer,  
Willamowski, Barrett, Collier, Oelslager, Daniels, Brown, Raga, Schneider,  
Combs, Hartnett, Reidelbach, Gibbs, Sayre, Latta, Dolan, DeGeeter, Blessing,  
Miller, Coley, Allen, Book, Bubp, Hughes, Seaver, Setzer, J. Stewart, Taylor,  
Webster**

—

**A B I L L**

To amend section 2107.27 and to enact section 2107.24 1  
of the Revised Code to provide a procedure for a 2  
probate court to treat a document as a will 3  
notwithstanding its noncompliance with the 4  
statutory formalities for executing wills. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 2107.27 be amended and section 6  
2107.24 of the Revised Code be enacted to read as follows: 7

**Sec. 2107.24.** (A) If a document that is executed that 8  
purports to be a will is not executed in compliance with the 9  
requirements of section 2107.03 of the Revised Code, that document 10  
shall be treated as if it had been executed as a will in 11  
compliance with the requirements of that section if a probate 12  
court, after holding a hearing, finds that the proponent of the 13  
document as a purported will has established, by clear and 14  
convincing evidence, all of the following: 15

(1) The decedent prepared the document or caused the document to be prepared. 16  
17

(2) The decedent signed the document and intended the document to constitute the decedent's will. 18  
19

(3) Two or more witnesses saw the decedent sign the document under division (A)(2) of this section. 20  
21

(B) If the probate court holds a hearing pursuant to division (A) of this section and finds that the proponent of the document as a purported will has established by clear and convincing evidence the requirements under divisions (A)(1), (2), and (3) of this section, the executor may file an action in the probate court to recover court costs and attorney's fees from the attorney, if any, responsible for the execution of the document. 22  
23  
24  
25  
26  
27  
28

**Sec. 2107.27.** (A) When application is made to the probate court to admit to probate a will that has been lost, spoliated, or destroyed as provided in section 2107.26 of the Revised Code or a document that is treated as a will as provided in section 2107.24 of the Revised Code, the party seeking to prove the will shall give a written notice by certified mail to the surviving spouse of the testator, to all persons who would be entitled to inherit from the testator under Chapter 2105. of the Revised Code if the testator had died intestate, to all legatees and devisees that are named in the will, and to all legatees and devisees that are named in the most recent will prior to the lost, spoliated, or destroyed will that is known to the applicant or in the most recent will prior to the document that is treated as a will if the most recent will is known to the applicant. 29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

(B) In the cases described in division (A) of this section, the proponents and opponents of the will shall cause the witnesses to the will, and any other witnesses that have relevant and 43  
44  
45

material knowledge about the will, to appear before the court to  
testify. If any witnesses reside out of its jurisdiction, or  
reside within its jurisdiction but are infirm or unable to attend,  
the probate court may order their testimony to be taken and  
reduced to writing by some competent person. The testimony shall  
be filed in the records of the probate court pertaining to the  
testator's estate.

46  
47  
48  
49  
50  
51  
52

(C) If upon such proof the court finds that the requirements  
of section 2107.24 or 2107.26 of the Revised Code, whichever is  
applicable, have been met, the probate court shall find and  
establish the contents of the will as near as can be ascertained.  
The contents of the will established under section 2107.26 of the  
Revised Code shall be as effectual for all purposes as if the  
original will had been admitted to probate and record. The  
contents of the will established under section 2107.24 of the  
Revised Code shall be as effectual for all purposes as if the  
document treated as a will had satisfied all of the requirements  
of section 2107.03 of the Revised Code and had been admitted to  
probate and record.

53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64

**Section 2.** That existing section 2107.27 of the Revised Code  
is hereby repealed.

65  
66

**Section 3.** Section 2107.27 of the Revised Code, as amended by  
this act, and section 2107.24 of the Revised Code, as enacted by  
this act, apply to estates of decedents who die on or after the  
effective date of this act.

67  
68  
69  
70