



Sub. H.B. 564
127th General Assembly
(As Reported by H. Judiciary)

Reps. Stebelton, Huffman, Blessing

BILL SUMMARY

- Increases the fees charged to counties for services rendered by the Probate Court.
- Changes the amounts of the fees charged to private parties for services rendered by the Probate Court from amounts fixed by statute to amounts established by rule of the Probate Court.
- Increases the maximum amount of additional fees that may be charged to fund computerization of the Probate Court and the Probate Court clerk's office.
- Increases the amounts from Probate Court fees that must be deposited into the county Indigent Guardianship Fund.
- Increases the maximum amount a Probate Court may require as an advance deposit in probate proceedings.
- Exempts decedents' estate proceedings from the additional filing fee charged in civil actions in the Court of Common Pleas to support legal aid societies and the office of the State Public Defender.

CONTENT AND OPERATION

Fees charged to private parties for Probate Court services

Basic fees

The bill changes the amounts of fees charged to private parties for services rendered by the Probate Court from amounts fixed by statute to amounts established by rule of the Probate Court. The following table describes the service

for which each fee is charged and the amount of each fee under existing law. In the table, changes made by the bill in the description of a particular service are noted in italics, and the asterisks pertain to fees for computerization (see "*Additional fees for computerization*," below). (R.C. 2101.16(A).)

Service	Existing Law
* Account, in addition to advertising charges	12
* Waivers and proof of notice of hearing on account, per page, <i>minimum one dollar</i> (bill removes minimum)	1
Account of distribution, in addition to advertising charges (deleted by bill)	7
* Petition for adoption <i>of child</i> (bill removes "of child")	50
* Petition to alter or cancel contract for sale or purchase of real estate	20
<i>Application and order</i> (changed by bill to <i>entry or order</i>) not otherwise provided for	5
* Hearing in appropriation suit, per day	20
Application for registration of birth	7
Application to correct birth record	5
Application for new or additional bond	5
Application for release of surety or reduction of bond	5
Receipt for securities deposited in lieu of bond	5
Certified copy of journal entry, record, or proceeding, per page, <i>minimum fee one dollar</i> (bill removes minimum)	1
Application for citation and issuing citation	5
* Petition for change of name	20
* Application of administrator or executor for allowance of administrator's or executor's own claim	10
* Application to compromise or settle claim	10
* Authority to present claim	10
Appointment of commissioner	5
Application for compensation for extraordinary services and attorney's fees for fiduciary	5

Service	Existing Law
* Application to procure adjudication of competency	20
* Application to complete contract	10
* Citation for concealment of assets	10
* Petition for construction of will	20
* Application to continue decedent's business	10
* Monthly reports of operation of decedent's business	5
* Petition for declaratory judgment	20
Deposit of will	5
* Designation of heir	20
Application, assent, and order for distribution in kind	5
Application for an order of distribution under R.C. 2109.36	7
* Docketing and indexing proceedings, including the filing and noting of all necessary documents, <i>maximum fee, \$15</i> (bill eliminates <i>maximum fee, \$15</i>)	15
* Contest of appointment or exceptions to any proceeding named in R.C. 2101.16	10
* Proceedings relating to election of surviving partner to purchase assets of partnership	10
Election of surviving spouse under will	5
* Appointment of fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the Probate Court	35
* Application to record foreign will	10
Additional record of foreign will, per page	1
<i>Forms when supplied by</i> (bill changes to <i>forms per case when made available by</i>) Probate Court, maximum	10
* Petition to determine heirship	20
* Injunction proceedings	20
* Petition to improve real estate	20

Service	Existing Law
* Inventory <i>with appraisement/without appraisement</i> (bill eliminates distinction)	10/7
* Application (bill adds <i>and entry</i>) for investment or expenditure of funds	10
* Application to invest in real estate	10
* Petition to lease for oil, gas, coal, or other mineral	20
* Petition to lease or lease and improve real estate	20
* Marriage license	10
* Certified abstract of marriage	2
* Disposal of estate under \$10,000 of minor or mentally ill person, etc.	10
* Petition to mortgage or mortgage and repair or improve real estate	20
Report of newly discovered assets	7
* Proceedings by nonresident executor or administrator to bar creditors' claims	20
* Power of attorney of bonding company or revocation of power	10
* Petition to establish presumption of death	20
* Probating will	15
* Proof of notice to beneficiaries of probating will	5
* Application of surviving spouse to purchase personal property	10
* Petition of surviving spouse to purchase real estate at appraised value	20
Application and order to record receipts in addition to advertising charges	5
Additional record of receipts in addition to advertising charges, per page	1
Record in excess of <i>1,500 words</i> (changed by bill to <i>five pages</i>) in any proceeding in the Probate Court, per page	1

Service	Existing Law
Release of estate by mortgagee or other lienholder	5
* Relieving an estate from administration under R.C. 2113.03 or granting an order for a summary release from administration under R.C. 2113.031	60
* Application for removal of fiduciary	10
* Requalification of executor or administrator	10
Resignation of fiduciary	5
* Sale bill, public sale of personal property	10
* Application for sale of personal property and report	10
* Petition for sale of real estate	25
* <i>Petition</i> (changed by bill to <i>application and entry</i>) to terminate guardianship	10
Application, entry, and certificate for transfer of real estate	7
Application to invest unclaimed money	7
* Motion to vacate approval of account or order of distribution	10
Writ of execution	5
Writ of possession	5
* Application and settlement of claim for wrongful death	20
Petition to review year's allowance	7
Filing and review of guardian's report	5

The bill requires the probate judge, by rule, to establish the fee for each service and permits that judge to modify any fee previously established. Both existing law and the bill require that a specific dollar amount of certain fees be deposited into designated funds (see "***Distribution of Probate Court fees***," below). The bill requires that for each of those fees, the fee must be at least the amount that must be deposited into the specified fund. At least 30 days before adopting a rule establishing or modifying fees, the probate judge must publish a notice in a newspaper of general circulation in the county in which the Probate Court is located setting forth the proposed rule. (R.C. 2102.16(A).)

The bill provides that until a Probate Court adopts a rule establishing fees, the fees that are set forth in existing law will remain in effect (Section 3).

Additional fees for computerization

Under existing law, the probate judge may determine that, for the efficient operation of the Probate Court, additional funds are need to computerize the court, make available computerized legal research services, or both. For those purposes, the probate judge may require an additional fee of up to \$3 for the services marked with an asterisk in the above chart and other specified fees. The bill increases the maximum amount of the additional fees to \$5. Existing law also authorizes the probate judge to charge an additional fee of up to \$10 for the same services to computerize the office of the Probate Court clerk. The bill increases the maximum amount of the additional fees to \$15. (R.C. 2101.162(A)(1) and (B)(1).)

Distribution of Probate Court fees

Existing law requires the county treasurer to deposit into the county Indigent Guardianship Fund \$30 of the \$35 fee charged for the appointment of a fiduciary and \$20 of the \$60 fee charged for relieving an estate from administration or granting a summary release from administration. The bill changes these amounts to \$50 of the fee and \$30 of the fee, respectively. The bill also requires the county treasurer to deposit into the fund \$15 of the fee charged for docketing and indexing proceedings and \$10 of the fee charged for a marriage license. (R.C. 2101.16(C) and 2111.51.)

Under existing law, \$30 of the \$50 fee charged for a petition for adoption must be deposited into the Putative Father Registry Fund. The bill keeps the required deposit at \$30 but removes the reference to \$50 since the amount of the fee will be set by the Probate Court (R.C. 2101.16(G)(1)).

Advance deposit for costs

Existing law authorizes the Probate Court, by rule, to require an advance deposit for costs not exceeding \$125 when an person applies for an appointment as executor or administrator or when a will is presented for probate. The bill increases the maximum amount of the advance deposit to \$250 plus the cost of publication. (R.C. 2101.16(E).)

Fees charged to the county for Probate Court services

The bill increases the fees charged to a county for services rendered by the Probate Court in different types of proceedings as follows (R.C. 2101.17):

Service	Existing Law	Bill
For each hearing to determine if a person is a mentally ill individual subject to hospitalization when the person is committed to a state hospital or to relatives	12	40
When the person is discharged	7	25
For order of return of a mentally ill person to a state hospital or removal therefrom	2	10
For proceedings for committing a person to an institution for the mentally retarded	10	35
For habeas corpus proceedings when a person is confined under color of proceedings in a criminal case and is discharged	10	35
When acting as a juvenile judge, for each case filed against a delinquency (changed to <i>delinquent</i> by bill), dependent, unruly, or neglected child, or a juvenile traffic offender	5	20
For proceedings to take a child from parents or other persons having control thereof	5	20

Additional filing fee in the probate division

Existing law requires a Court of Common Pleas to collect an additional filing fee of \$26 in each new civil action or proceeding to help fund legal aid societies and the State Public Defender's Office except in specified types of cases. The exceptions include most proceedings in the Probate Division of the Court of Common Pleas, but specifically does not except name change, guardianship, adoption, and "decedents' estate proceedings." The bill changes "decedents' estate proceedings" to "full administration of decedents' estate proceedings," so that the additional filing fee does not apply to decedents' estate proceedings that are less than full administration. (R.C. 2303.201(C).)

Conforming change

The bill changes a cross-reference to conform to the renumbering of divisions in the list of fees charged to private parties in Probate Court (R.C. 2113.031(C)(3)(c)).

HISTORY

ACTION

DATE

Introduced

05-19-08

Reported, H. Judiciary

12-11-08

H0564-RH-127.doc/jc

