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## **OLR Bill Analysis**

### **SB 959**

#### ***AN ACT CONCERNING PROBATE COURT OPERATIONS.***

#### **SUMMARY**

This bill makes changes to various laws governing probate court operations and related matters.

The bill makes the following changes related to probate court filing fees:

1. expands the list of trust-related motions, petitions, and applications that are subject to a filing fee, in conformity with 2019 changes to the state's trust law;
2. waives or reduces certain probate fees when the state is obligated to pay funeral and burial expenses for State Administered General Assistance (SAGA) beneficiaries or certain indigent persons; and
3. extends the scope of certain other probate fee-related provisions to apply to filing fees for various matters.

The bill specifically allows probate courts to (1) accept fee payment by electronic funds transfer and (2) charge related service fees (which cannot exceed the processing fee, including the discount rate) (§ 8). Under existing law, similar provisions apply to fees paid by credit, charge, or debit cards.

The bill adds appeals of a quarantine or isolation order to the list of appeals that are subject to specified procedures.

It specifies that certain estate settlement procedures apply following the death of an adult with intellectual disability for whom a guardian has been appointed.

The bill adds certain reviews of Department of Children and Families (DCF) voluntary admissions and related matters to the types of probate court transfers that must occur through electronic means.

It also makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2021

### **§ 1 — TRUST-RELATED FILING FEES**

Existing law establishes a \$250 filing fee for several trust-related matters in probate court (among other matters). For example, this includes motions, petitions, or applications to construe, divide, reform, or terminate a trust. The bill additionally requires this filing fee for motions, petitions, or applications to (1) validate, combine, or modify a trust or (2) assume jurisdiction over an out-of-state trust.

These changes align with changes to the state's probate laws under PA 19-137.

### **§§ 2-4 — FEE WAIVERS RELATED TO SAGA BENEFICIARIES OR INDIGENT PERSONS**

Existing law waives the \$150 filing fee for petitions for custody of a deceased person's remains in cases where the state, by law, must pay funeral and burial expenses for Temporary Family Assistance (TFA) or State Supplement Program (SSP) beneficiaries.

Existing law also provides that in cases where the Department of Administrative Services (DAS) represents an estate, the estate settlement fee is the lesser of (1) the standard fee (which is based on the estate's value) or (2) the amount that DAS collected after paying the funeral and burial expenses because the person was a TFA or SSP beneficiary.

The bill extends these provisions to cases where the state pays the funeral and burial expenses for (1) SAGA beneficiaries or (2) individuals who die without a sufficient estate and with no legally liable relative able to pay for a proper funeral and burial.

### **§§ 5-7 — EXTENSION OF OTHER FEE-RELATED PROVISIONS**

Under existing law, certain fee waivers or other rules apply to estate settlement, fiduciary accounting, and miscellaneous probate fees (e.g., certain copy fees), but they do not apply to other fees to file various motions, petitions, or applications in probate court. These other fees encompass filings in a range of matters, such as guardianship, termination of parental rights, adoption, conservatorship, and powers of attorney. They also apply to matters such as requests for court continuances and mediation.

The bill specifically extends the following fee waivers and rules to all such probate fees, as applicable:

1. the required fee waiver for adoption proceedings involving special needs children;
2. court authority to postpone fees, if the court determines that to require the fee with the filing would cause undue delay or hardship;
3. the exemption of probate fees from the sales tax;
4. the requirement for probate courts, if a state agency is an applicant or otherwise liable for probate fees, to accept the matter without the filing fee and bill the agency for payment; and
5. the requirement for the Probate Court Administrator to cause a refund of overpayments to be paid out of the Probate Court Administration Fund.

#### **§§ 9-11 — APPEALS OF QUARANTINE AND ISOLATION ORDERS**

Under existing law, if the Department of Public Health commissioner orders someone into quarantine or isolation during a public health emergency, the person may file a probate court appeal of that order. Anyone aggrieved by the probate court's decision can appeal to Superior Court (CGS § 19a-131b).

As is already the case for certain other appeals of probate court

decisions, the bill:

1. requires hearings on these appeals within 90 days after the appeal is filed, unless the probate court or Superior Court has granted a stay;
2. prohibits the Superior Court from referring the appeal to a special assignment probate judge;
3. requires the probate court, within specified deadlines, to transcribe any portion of the proceeding's recording that has not been transcribed;
4. requires the appeal to be heard by the court without a jury (the appeal may also be referred to a state referee);
5. prohibits the Superior Court from substituting its judgment for the probate court's on the weight of evidence on a question of fact; and
6. requires the Superior Court to affirm the probate court's decision unless it finds that the person's substantial rights were prejudiced because the probate judge's findings, inferences, or decisions met certain criteria (e.g., exceeded statutory authority, were based on illegal procedures, or were arbitrary or capricious).

## **§ 12 — ESTATES OF ADULTS WITH GUARDIANS**

The bill expands certain procedures for guardians or conservators when closing out small estates to also apply to guardians of adults with intellectual disability.

Generally, under these procedures, the guardian or conservator may pay for the protected person's unpaid lifetime expenses, funeral and burial expenses, and administration expenses for closing the account if all these expenses equal or exceed the protected person's estate. The guardian or conservator may then take credit for these payments in the final accounting.

**§ 14 — TRANSFER OF DCF VOLUNTARY ADMISSION CASES**

By law, the probate court must review cases of children voluntarily placed with DCF for services. In some cases, the probate court also must review their permanency plans. Additionally, a party aggrieved by a termination of voluntary admission may request a probate court hearing.

In these cases, if a probate court grants a party's motion to transfer the matter to another district, the bill requires the electronic transfer of the case from one probate court to another. Specifically, when a court issues an order to transfer a file, it must transmit a digital image of each document, using the document management system maintained by the Office of the Probate Court Administrator. Upon receipt of the electronic documents, the receiving court assumes jurisdiction over the matter. Similar provisions already apply to various other probate matters.

The bill replaces current provisions which require the transferring court to copy, certify, and deliver all documents to the receiving court.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 36    Nay 0    (03/29/2021)