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Substitute Bill Comparative Synopsis

Sub. H.B. 464

133rd General Assembly

House Civil Justice

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_133_1434-8)
Nonprofit corporation as guardian of person of incompetent	
No provision.	Permits a nonprofit corporation domiciled in Ohio, organized under Ohio law and entitled to tax exempt status under the Internal Revenue Code (IRC) subsection 501(a) to be appointed as a guardian of the person of an “incompetent” upon being certified by the probate court to receive such an appointment (<i>R.C. 2111.10(B)(2)</i>).

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No provision.	Requires the probate court to certify such nonprofit corporation and an individual acting as a guardian on behalf of the corporation upon meeting the requirements for serving as guardian in the Rules of Superintendence for the Courts of Ohio and the rules of the probate court of the county exercising jurisdiction over the incompetent, and provides that a nonprofit corporation appointed as guardian of the person of an incompetent cannot be the incompetent's residential caregiver, health care provider, or employer (<i>R.C. 2111.10(B)(2)</i>).
Anatomical Gift Act changes	
No provision.	Eliminates 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 (<i>R.C. 2108.05(A)(2) and (3)</i>).
No provision.	Removes from existing law the provisions that provide that an amendment of an anatomical gift made in a will is by the manner provided for amendment of wills and that a revocation of an anatomical gift made in a will is by the manner provided for revocation of wills and other statutory methods (<i>R.C. 2108.06(A)(6) and (B)(7)</i>).
No provision.	Eliminates the provision for indicating a refusal to make a gift of the body or part in the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death (<i>R.C. 2108.07(A)(2)</i>).
No provision.	Removes from current law the provisions dealing with the effects of a conflict between an anatomical gift and a "declaration" governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment (<i>R.C. 2108.24(A) to (G)</i>).

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No provision.	<p>Eliminates the provision regarding the Second Chance Trust Fund’s money to be used to encourage attorneys to assist their clients in making anatomical gifts through their wills or their declarations governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment (<i>R.C. 2108.34(B)(6)</i>).</p> <p>Outright repeals current law which permits a declarant to make a gift of the declarant’s body or body part by specifying the declarant’s intent to make that gift in a space provided in the declaration (<i>R.C. 2133.16</i>).</p>
Ohio Legacy Trust Act (OLTA) changes	
No provision.	Modifies the definitions of “disposition” and “qualified trustee” in the OLTA (<i>R.C. 5816.02(H) and (S)</i>).
No provision.	Expands the definition of “qualified trustee” to include a “family trust company” (FTC) as defined in the Ohio Family Trust Company Act (OFTCA) and which may or may not be licensed under that Act, if all of specified requirements apply regarding the FTC’s licensing status (<i>R.C. 5816.02(S)</i>).
No provision.	Specifies that the records required to be maintained by a qualified trustee for the legacy trust be electronic or physical records (<i>R.C. 5816.02(S)(2)</i>).
No provision.	Expands a transferor’s powers to include a power allowing the transferor, while acting in a nonfiduciary capacity, to substitute property of equivalent value for any property that is part of the principal of the legacy trust (<i>R.C. 5816.05(N)</i>).

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No provision.	Changes the reference to a court taking an action in the procedure for the determination or selection of a successor or replacement trustee of a legacy trust, to a reference to a court “entering or issuing an order” (R.C. 5816.09(A)).
No provision.	Specifies that when determining whether a provision of law is similar to any provision of the Ohio Uniform Fraudulent Transfer Act if there is a conflict between that Act and the OLTA, a court must be liberal in finding that such similarity exists (R.C. 5816.10(A)).
No provision.	<p>Adds new provisions applicable if any disposition is made by a trustee of a first legacy trust to a trustee of a second legacy trust, including (R.C. 5816.10(I)):</p> <ul style="list-style-type: none"> ▪ A provision that generally the disposition is considered a qualified disposition for the benefit of all the beneficiaries of both the first and second legacy trusts; ▪ The specification of dates to apply when an item of property is to be treated as having been transferred to a trustee of the second legacy trust; ▪ A provision that specifies that a qualified trustee of the first legacy trust may serve as the qualified trustee of the second legacy trust.
No provision.	Specifies that the OLTA and its provisions reflect and embody the strong public policy of Ohio (R.C. 5816.10(K)).
Reimbursement of municipal and county court assigned judges	
No provision.	Modifies existing law by providing that the treasurer of the county that is required to pay the <i>per diem</i> compensation to which an acting judge is entitled or an assigned judge is entitled as a part-time judge must submit to the Administrative Director of the Supreme Court quarterly

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No provision.	<p>requests for reimbursement of the <i>state portion</i> of the per diem amounts so paid (<i>R.C. 1901.123(B) and 1907.143(B)</i>).</p> <p>Modifies existing law by stating that <i>if the</i> Ohio Supreme Court is required to pay the <i>per diem</i> compensation to which an assigned judge is entitled, annually, on August 1, the Administrative Director must issue a billing to the county treasurer of any county to which such judge was assigned to a municipal court or county court for reimbursement of the county or local portion of the per diem compensation previously paid by <i>the Supreme Court</i> for the 12-month period preceding June 30 (<i>R.C. 1901.123(C) and 1907.143(C)</i>).</p>
Cemetery endowment care trusts	
No provision.	<p>Requires a cemetery to choose either of the following distribution methods from an endowment care trust:</p> <ul style="list-style-type: none"> ▪ All net ordinary income, which includes collected income earned by the trust, reduced by any expenses; ▪ A unitrust disbursement not exceeding 5% of the fair market value of the endowment care fund (<i>R.C. 1721.21(J)(2) and (K)(1)</i>).
No provision.	<p>If a cemetery chooses the unitrust method above, requires it to do both of the following:</p> <ul style="list-style-type: none"> ▪ Notify the Department of Commerce Division of Real Estate; ▪ Not later than 60 days prior to the beginning of a calendar year, deliver to the trustees written disbursement instructions (<i>R.C. 1721.21(J)(3)(b) and (K)(2)(a)</i>).

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No provision.	Provides that the distribution method and, if a unitrust disbursement, the disbursement percentage selected, must remain in effect unless the cemetery notifies the trustees and the Division of Real Estate of its desire to effect a change <i>(R.C. 1721.21(K)(2)(b))</i> .
No provision.	Requires that the trustees adopt an investment policy supporting the growth of the trust <i>(R.C. 1721.21(K)(2)(b))</i> .
No provision.	Requires distributions to be made monthly, quarterly, semiannually, or annually as agreed upon by the trustees. If the trustees do not receive written instructions, requires the trustees to distribute the net income on a monthly basis. <i>(R.C. 1721.21(K)(3).)</i>
No provision.	Requires, in order to withdraw a unitrust disbursement, the fair market value after disbursement to be greater than 80% of the preceding year's fair market value. If it is not, limits the disbursement to net ordinary income. <i>(R.C. 1721.21(K)(4).)</i>
No provision.	Requires the trustees to pay reasonable operating expenses and taxes of the trust. If this amount is greater than 2.5% of the preceding year's fair market value and the cemetery has selected a unitrust disbursement, limits the disbursement to 2.5%. <i>(R.C. 1721.21(K)(5).)</i>
No provision.	Expands the list of allowable trust expenses to which a trust distribution can be directed to include investment expenses <i>(R.C. 1721.21(I))</i> .

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Involuntary mental health treatment placements	
No provision.	Authorizes a court to consider a respondent’s diagnosis and prognosis by certain advanced practice registered nurses with psychiatric training (instead of only those made by a psychiatrist or licensed clinical psychologist) when determining appropriate involuntary mental health treatment placements (<i>R.C. 5122.15(E)</i>).
Name conformity process	
No provision.	Creates a probate court name conformity process for adults and minors to correct a misspelling, inconsistency, or other error in official identity documents (<i>R.C. 2717.01, 2717.04 to 2717.08, 2717.10 to 2717.14, 2717.18, and 2717.19</i>).
Legal name change process	
No provision.	Modifies existing law governing the probate court name change process for adults and minors regarding requirements for application, affidavit, hearing and hearing notice, documents submitted to the court, and criminal records check (<i>R.C. 2717.01, 2717.02, 2717.03, 2717.06 to 2717.09, and 2717.10 to 2717.19</i>).