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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 339  
(1\_134\_1517-2)  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 339's Bill Analysis](#)

**Version:** In House Civil Justice

**Primary Sponsor:** Rep. Swearingen

**Local Impact Statement Procedure Required:** Yes

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### Highlights

- The bill may generate significant annual expenses for the probate divisions of certain courts of common pleas to establish and maintain an electronic will filing system and to adjudicate potentially complex cases to confirm a will's validity. The payment of costs and allowable fees to the probate division for filing and hearings will likely generate some offsetting revenue.
- The bill has no readily apparent direct fiscal effect on the state.

### Detailed Analysis

The bill allows for the electronic notarization and execution of a will, a living will, a power of attorney, a durable power of attorney for health care, and a transfer on death designation affidavit for real property. Probate courts and clerks of court could realize increased expenses to accept, maintain, protect, and archive these electronic documents. Technology-related expenses will likely vary from court to court depending on current systems, capacity, and volume of electronic wills submitted. Some courts may be capable of handling the bill's requirements while others may need to implement a new system or upgrade an outdated file management or storage system. For the latter courts, expenses could be significant, while additional costs related to data storage, and especially ongoing data storage, could prove more than minimal for all courts depending on the volume of electronic documents to be stored.

In addition, through the Judicial Conference, judges have expressed concerns that cases based on electronic documents may be more complex, requiring additional court time and investigation, as well as forensic accounting of the electronic documents to determine their validity. Increased costs due to this added complexity will likely vary by jurisdiction and by case.

Costs may be offset to some degree by the collection of a \$25 fee which, under continuing law, is assessed for the deposit of a will with the probate court. The bill permits a copy of an electronic will to be deposited in the office of the judge of the probate court. Though a testator is not required to deposit a copy of the electronic will to the probate court, if they choose to do so, the court is required to accept it. Probate courts may charge other fees for and assess costs for the affected processes and resultant hearings as under continuing law.

## **Synopsis of Fiscal Effect Changes**

Under the substitute version of the bill (l\_134\_1517-2), a copy of an electronic will is no longer required, but rather permitted, to be deposited by the testator, in the office of the judge of the probate court before or after the death of the testator. If a copy is submitted, the court is required to accept and possibly store the file indefinitely. This may lesson some costs for probate divisions of certain courts of common pleas, but as is the case under the As Introduced version of the bill, technology-related expenses will still likely vary from court to court depending on current systems and capacity, and volume of electronic wills submitted.