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House Bill 464 Sponsor Testimony

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, members of the House Civil Justice Committee, thank you for allowing us the opportunity to offer sponsor testimony today on House Bill 464 – legislation simple but important changes to Ohio’s probate and trust laws in addition to changes affecting the process of referring cases to a retired judge. This legislation is the result of conversations had with and recommendations from individuals representing the Trust and Probate Section of the Ohio State Bar Association. Today we will describe the legislation’s four main features, and will be happy to answer any questions you may have afterwards.

Surviving Spouses Selecting Automobiles

House Bill 464 helps to improve the position of a surviving spouses when taking ownership of one or more of a deceased spouse’s automobiles. Under current law, if more than one of automobiles automobile is selected, any allowance for support is reduced by the automobile of least value. Under this legislation, a probate court will also have to consider the value of the least expensive automobile when calculating a family’s support allowance, should the surviving spouse select more than one automobile.

Guardianship

Current authority of a legal guardian is limited with respect to estate planning when involving wards. This bill would expand the power of legal guardians, subject to the approval of the probate court. Furthermore, guardians would be deemed to be free from an inference of impropriety or liability in those situations where the guardian

chooses not to apply for or take on these additional powers. The legislation also expands what situations trigger a notice being issued and a hearing scheduled, when any new guardian powers are being sought or considered. Additionally, the individuals to be notified would be expanded, prior to a probate court granting such guardianship changes,.

Trusts

With respect to trusts, House Bill 464 modifies the treatment of a non-charitable trust by enabling modifications and further clarifying procedurally the removal or replacement of a trustee . It also repeals the current trust code provision that states that upon the lapse, release, or waiver of the power of withdrawal, the holder is treated as the settlor of the trust only to the extent the value of the affected property exceeds the greater of amounts specified under the Internal Revenue Code.

Actions Referred to Retired Judges

Finally, current law, parties in a civil action may mutually agree to choose to have their case referred to a retired judge, and are required to create a written agreement when doing so. This legislation would now require both parties to the action to include language describing procedurally what steps would be required if the agreement were to be terminated. The court of original jurisdiction presiding over the civil action must address the written agreement within 14 days and, at the courts discretion, order the referral. The legislation also makes it clear that jurisdiction returns to the referring judge once the civil issue or question is decided.

In Conclusion

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, and members of the House Civil Justice Committee, again we appreciate the opportunity to give testimony on HB 464. As you will have noted in our testimony, this legislation makes a number of common sense, technical changes to probate and trust law, as well as to civil procedures involving retired judges. We are confident that these specific fixes will improve upon a number of common civil legal situations. At this time we would be glad to answer any questions you may have.