

Senate Judiciary Committee

Jennifer Horgan 271-3092

SB 198-FN, relative to electronic publication by the probate division.

Hearing Date: February 7, 2017

Time Opened: 9:43 a.m.

Time Closed: 10:04 a.m.

Members of the Committee Present: Senators Carson, Lasky, French, Gannon and Hennessey

Members of the Committee Absent : None

Bill Analysis : This bill requires the clerk of the applicable circuit court to publish probate court notices on the judicial branch website or by other electronic media. The clerk may also cause such notice to be published in a newspaper in the town or city in which the person whose estate is involved last resided.

This bill was requested by the supreme court.

Sponsors :

Sen. Gannon

Sen. Gray

Sen. French

Sen. Carson

Sen. Reagan

Sen. Birdsell

Sen. Innis

Rep. Vose

Who supports the bill: Senator Gannon; Senator Carson; Senator Innis; Senator Birdsell; Judge David King (NH Judicial Branch);

Who opposes the bill: Senator Reagan; Senator Gray; Representative Horrigan; Secretary Bill Gardner (Secretary of State)

Summary of testimony presented in support :

Senator Gannon

- This is a common sense bill on behalf of NH Supreme Court.
- In this day and age publishing electronically is the right thing to do.

Judge David King (NH Judicial Branch) (provided written testimony)

- This was put in to make things simpler and save constituents money.
- Originally put this language in HB609, but at that time the House leadership did not want to deal with the issue of publications.
- In 2013, SB145 came out committee 5-0 OTP, but it never saw the light of day.
- People do not go to newspapers to look for death notices, people are accustomed to going online.
- Developed the infrastructure to put these online in 2011 and have since published by county, weekly.
- Credit card companies or other companies now go on the website instead of looking in the paper.
- The newspaper is sort of a duplicate at this point.
- The Courts archive them back to 2011 by date and county.

- The constituents pay for these notices when they open the estate.
- Publication is expensive and each paper has different fees.
- This is basically a mechanism to provide notice for an estate of \$10,000 or more.
- About to go live with e-courts for estate filings and the goal live date is May for the first four courts and June for the last six.
- Have averaged the fees, so people filing online all pay the same amount.
- Preference would be to take the fees out completely by no longer requiring publishing it in the paper.
- This bill has an effective date January 1, 2018 and would prefer it to be 'upon passage' so vendors could take the fee out completely before the e-court goes live.
- Senator Lasky asked about giving the clerk discretion in 'II' of the bill.
 - Wanted to leave the option available for newspaper publishing. Sometimes an estate gets filed and the petitioner does not have the addresses for all of the heirs. These are only published once or twice in the paper and on the website it goes back to 2011.

Summary of testimony presented in opposition :

Senator Gray (provided written testimony)

- Only opposed to the part that takes away the duties of the register of probate.
- There are four bills currently dealing with the registers of probate.
- Implored the Committee to make a decision on CACR 8 before making a decision on this.
- If it is the legislature's intent is that NH have registers of probate then the rest of the bill should be adjudicated to support that.
- Provided amendment 2017-0324s to take the language the court suggested, but leave the registers of probate alone.
- Wants the Committee to be consistent so that there is clear legislative intent on what the legislature wants done.

Secretary Gardner (Secretary of State)

- Last summer there was publicity across the country about a former Speaker of the House running for a constitutional position with no duties.
- Shared articles from Seattle and Boston talking about NH and the embarrassment this is for NH to have a constitutional position with no duties.
- The words 'register of probate' are not in this bill but, the current RSA550:10 references that the register of probate should be the one managing this process.
- It is an embarrassment to the State to have a constitutional position that is meaningless.
- CACR8 will not go to the people until 2019.

Future Action: Pending

JCH

Date Hearing Report completed: February 8, 2017