

Committee on Judiciary

CS/HB 625 — Attorney Compensation

by Judiciary Committee and Rep. Yarborough and others (CS/CS/SB 954 by Rules Committee; Judiciary Committee; and Senator Bean)

Under current law, the fee charged by an attorney for probate or trust administration services is presumed reasonable if it conforms to a statutory fee schedule based on the percentage of the value of an estate or trust. This fee structure is presumed reasonable regardless of the hours or complexity of work conducted for the estate or trust.

Under the bill, an attorney must provide a series of disclosures to the personal representative or trustee if the attorney intends to charge a fee using the statutory fee schedule. These disclosures state that:

- There is not a mandatory statutory attorney fee for estate or trust administration;
- The attorney fee is not required to be based on the size of the estate or trust and that the presumption of reasonableness may not be appropriate to every estate administration;
- The fee is subject to negotiation between the personal representative or trustee and the attorney;
- The selection of the attorney is made at the discretion of the personal representative or trustee;
- The personal representative or trustee is entitled to a summary of ordinary and extraordinary services rendered for the fees agreed upon at the conclusion of the representation.

Additionally, the attorney is required to obtain a timely signature acknowledging these disclosures. If the attorney does not make the disclosures required under the bill, the attorney may not be paid for legal services without prior court approval or the written consent of the interested parties to an estate proceeding or the written consent of the trustee and all qualified beneficiaries of a trust.

Under current law, an interested person may petition a court to increase or decrease an attorney's compensation for ordinary services or award additional compensation based on extraordinary services. Under the bill, a court may consider any agreement relating the attorney's compensation and whether the above disclosures were made to the personal representative or trustee in a timely manner in order to determine reasonable compensation.

Lastly, the bill provides that the complexity of an estate or trust may be considered when determining additional compensation based on an attorney's extraordinary services during the estate or trust administration.

If approved by the Governor, these provisions take effect October 1, 2021.

Vote: Senate 39-0; House 113-1