STATE OF NEW YORK

2110--A

Cal. No. 1176

2021-2022 Regular Sessions

IN SENATE

January 19, 2021

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the surrogate's court procedure act, in relation to court filing

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2611 of the surrogate's court procedure act is amended by adding a new subdivision 4 to read as follows:

4. (a) In accordance with paragraph (c) of rule 2102 of the civil practice law and rules, a surrogate court clerk or chief clerk shall refuse to accept for filing papers filed in a proceeding only under the following circumstances or as designated in statute, administrative rule or order of the court;

(i) the paper does not have a file number;

(ii) the petition, decree or order sought to be filed with the court contains the words "et al" or otherwise does not contain a full caption;

(iii) the paper sought to be filed with the clerk is filed in the wrong court;

(iv) the paper is not signed in accordance with section 130-1.1-a of the rules of the chief administrator; or

(v) the paper sought to be filed is in a proceeding subject to electronic filing pursuant to the rules of the chief administrator but is not being filed electronically, and either

(A) is not being filed by an unrepresented litigant; or

(B) does not include the notice required by paragraph 1 of subdivision d of section 202.5-b of such rules.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(b) The chief clerk shall require the payment of any applicable statutory fees, or an order of the court waiving payment of such fees, before accepting a paper for filing.

(c) A clerk or chief clerk of the court shall signify a refusal to accept a paper by use of a stamp on the paper indicating the date of the refusal and shall explain in writing on the paper the reason for the refusal.

(d) Any ex parte application requesting an order of the surrogate shall be entertained or passed upon within two days of its filing.

§ 2. This act shall take effect immediately.