

By: Leach

H.B. No. 3157

A BILL TO BE ENTITLED

AN ACT

relating to emergency intervention proceedings concerning a decedent's estate.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 152.001, Estates Code, is amended to read as follows:

Sec. 152.001. APPLICATION AUTHORIZED. (a) Subject to Subsection (b), a person qualified to serve as an administrator under Section 304.001 may file an application requesting emergency intervention by a court exercising probate jurisdiction to provide for:

(1) the payment or reimbursement of the decedent's funeral and burial expenses; or

(2) the protection and storage of personal property owned by the decedent that, on the date of the decedent's death, was located in accommodations rented by the decedent.

(b) An applicant may file an application under this section only if:

(1) an application or affidavit has not been filed and is not pending under Section 256.052, 256.054, or 301.052 or Chapter 205 or 401; and

(2) the applicant needs to:

(A) obtain funds for the payment or reimbursement of the decedent's funeral and burial expenses; or

1 (B) gain access to accommodations rented by the
2 decedent that contain the decedent's personal property and the
3 applicant has been denied access to those accommodations.

4 SECTION 2. Sections 152.002(a) and (b), Estates Code, are
5 amended to read as follows:

6 (a) An emergency intervention application must be sworn and
7 must contain:

8 (1) the applicant's name, address, and interest;

9 (2) facts showing an immediate necessity for the
10 issuance of an emergency intervention order under Subchapter B;

11 (3) the decedent's date of death, place of death, and
12 residential address on the date of death;

13 (4) the name and address of the funeral home holding
14 the decedent's remains or paid by the applicant for the decedent's
15 funeral and burial; and

16 (5) the names of any known or ascertainable heirs and
17 devisees of the decedent.

18 (b) In addition to the information required under
19 Subsection (a), if emergency intervention is requested to obtain
20 funds needed for the payment or reimbursement of the decedent's
21 funeral and burial expenses, the application must also contain:

22 (1) the reason any known or ascertainable heirs and
23 devisees of the decedent:

24 (A) cannot be contacted; or

25 (B) have refused to assist in the decedent's
26 burial;

27 (2) a description of necessary funeral and burial

1 procedures and a statement from the funeral home that contains a
2 detailed and itemized description of the cost of those procedures;
3 [~~and~~]

4 (3) the name and address of an individual, entity, or
5 financial institution, including an employer, in possession of any
6 funds of or due to the decedent, and related account numbers and
7 balances, if known by the applicant; and

8 (4) if applicable, the amount paid by the applicant
9 for the funeral and burial procedures described by Subdivision (2).

10 SECTION 3. Section 152.003, Estates Code, is amended to
11 read as follows:

12 Sec. 152.003. ADDITIONAL CONTENTS OF APPLICATION:
13 INSTRUCTIONS REGARDING DECEDENT'S FUNERAL AND REMAINS. (a) In
14 addition to the information required under Section 152.002, if
15 emergency intervention is requested to obtain funds needed for the
16 payment or reimbursement of a decedent's funeral and burial
17 expenses, the application must also state whether there are or were
18 any written instructions from the decedent relating to the type and
19 manner of funeral or burial preferred by the decedent. The
20 applicant shall:

21 (1) attach the instructions, if available, to the
22 application; and

23 (2) fully comply, or must have fully complied, as
24 appropriate, with the instructions.

25 (b) If written instructions do not exist, the applicant may
26 not permit or have permitted the decedent's remains to be cremated
27 unless the applicant obtains or obtained the court's permission to

1 cremate the remains.

2 SECTION 4. Section 152.004, Estates Code, is amended to
3 read as follows:

4 Sec. 152.004. TIME AND PLACE OF FILING. An emergency
5 intervention application must be filed:

6 (1) with the court clerk in the county in which:

7 (A) the decedent was domiciled; or

8 (B) the accommodations rented by the decedent
9 that contain the decedent's personal property are located; and

10 (2) not earlier than the third day after the date of
11 the decedent's death and not later than nine months [~~the 90th day~~]
12 after the date of the decedent's death.

13 SECTION 5. Section 152.051, Estates Code, is amended to
14 read as follows:

15 Sec. 152.051. ISSUANCE OF ORDER REGARDING FUNERAL AND
16 BURIAL EXPENSES. If on review of an application filed under Section
17 152.001 the court determines that emergency intervention is
18 necessary to obtain funds needed for the payment or reimbursement
19 of a decedent's funeral and burial expenses, the court may order
20 funds of the decedent that are being held by an individual, an
21 employer, or a financial institution to be paid directly to a
22 funeral home or the applicant, as applicable, only for:

23 (1) reasonable and necessary attorney's fees for the
24 attorney who obtained the order;

25 (2) court costs for obtaining the order; and

26 (3) funeral and burial expenses not to exceed \$5,000
27 as ordered by the court to provide the decedent with or to provide

1 reimbursement for a reasonable, dignified, and appropriate funeral
2 and burial.

3 SECTION 6. The changes in law made by this Act apply only to
4 an application requesting emergency intervention that is filed on
5 or after the effective date of this Act. An application that is
6 filed before the effective date of this Act is governed by the law
7 in effect at the time the application was filed, and the former law
8 is continued in effect for that purpose.

9 SECTION 7. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2023.