

By: Swanson, Hayes, Leach, Dutton, et al.

H.B. No. 3311

Substitute the following for H.B. No. 3311:

By: Schofield

C.S.H.B. No. 3311

A BILL TO BE ENTITLED

AN ACT

relating to priority of claims against a decedent's estate and to payment of the family allowance from the estate.

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

SECTION 1. Section 353.101(b), Estates Code, is amended to read as follows:

(b) Before the inventory, appraisement, and list of claims of an estate are approved or, if applicable, before the affidavit in lieu of the inventory, appraisement, and list of claims is filed, the decedent's surviving spouse or any other person authorized to act on behalf of the decedent's minor children or adult incapacitated children may apply to the court to have the court fix the family allowance by filing an application and a verified affidavit describing:

(1) the amount necessary for the maintenance of the surviving spouse, the decedent's minor children, and the decedent's adult incapacitated children for the applicable periods prescribed by Section 353.102(a) [~~one year after the date of the decedent's death~~]; and

(2) the surviving spouse's separate property and any property that the decedent's minor children or adult incapacitated children have in their own right.

SECTION 2. Section 353.102, Estates Code, is amended to read as follows:

1 Sec. 353.102. AMOUNT AND METHOD OF PAYMENT OF FAMILY
2 ALLOWANCE. (a) The amount of the family allowance must be
3 sufficient for the maintenance of:

4 (1) the decedent's surviving spouse~~[, minor children,~~
5 and adult incapacitated children for one year from the date of the
6 decedent's death; and

7 (2) each minor child of the decedent until the later of
8 the child's:

9 (A) 18th birthday; or

10 (B) graduation from high school.

11 (b) The allowance must be fixed with regard to the facts or
12 circumstances then existing and the facts and circumstances
13 anticipated to exist during the applicable periods prescribed by
14 Subsection (a) ~~[first year after the decedent's death]~~.

15 (c) The allowance must ~~[may]~~ be paid in a lump sum ~~[or in~~
16 ~~installments, as ordered by the court]~~.

17 SECTION 3. Section **353.103**, Estates Code, is amended to
18 read as follows:

19 Sec. 353.103. ORDER FIXING FAMILY ALLOWANCE. When a family
20 allowance has been fixed, the court shall enter an order that:

21 (1) states the amount of the allowance; and

22 (2) ~~[provides how the allowance shall be payable; and~~

23 ~~[(3)]~~ directs the executor or administrator to pay the
24 allowance in accordance with law.

25 SECTION 4. Section **355.102**, Estates Code, is amended by
26 amending Subsections (d) and (e) and adding Subsection (d-1) to
27 read as follows:

(d) Class 3 claims are composed of claims:

(1) for the principal amount of and accrued interest on delinquent child support and child support arrearages that have been:

(A) confirmed as a judgment or a determination of arrearages by a court under Title 5, Family Code; or

(B) administratively determined as evidenced by a certified child support payment record produced by the Title IV-D agency, as defined by Section 101.033, Family Code, in a Title IV-D case, as defined by Section 101.034, Family Code; and

(2) for the unpaid child support obligation for each minor child of the decedent under Section 154.015, Family Code, reduced by all but one year of the amount of any family allowance paid for the maintenance of the child under Section 353.102(a)(2), subject to Subsection (d-1) [each secured claim for money under Section 355.151(a)(1), including a tax lien, to the extent the claim can be paid out of the proceeds of the property subject to the mortgage or other lien. If more than one mortgage, lien, or security interest exists on the same property, the claims shall be paid in order of priority of the mortgage, lien, or security interest securing the debt].

(d-1) For purposes of Subsection (d), "one year" refers to the first year after the decedent's death.

(e) Class 4 claims are composed of each secured claim for money under Section 355.151(a)(1), including a tax lien, to the extent the claim can be paid out of the proceeds of the property subject to the mortgage or other lien. If more than one mortgage,

1 lien, or security interest exists on the same property, the claims
2 shall be paid in order of priority of the mortgage, lien, or
3 security interest securing the debt ~~[claims:]~~

4 ~~[(1) for the principal amount of and accrued interest~~
5 ~~on delinquent child support and child support arrearages that have~~
6 ~~been:]~~

7 ~~[(A) confirmed as a judgment or a determination~~
8 ~~of arrearages by a court under Title 5, Family Code; or~~

9 ~~[(B) administratively determined as evidenced by~~
10 ~~a certified child support payment record produced by the Title IV-D~~
11 ~~agency, as defined by Section 101.033, Family Code, in a Title IV-D~~
12 ~~case, as defined by Section 101.034, Family Code; and~~

13 ~~[(2) for unpaid child support obligations under~~
14 ~~Section 154.015, Family Code].~~

15 SECTION 5. Sections 353.101(b), 353.102, 353.103, and
16 355.102(d) and (e), Estates Code, as amended by this Act, and
17 Section 355.102(d-1), Estates Code, as added by this Act, apply
18 only to the estate of a decedent who dies on or after the effective
19 date of this Act. The estate of a decedent who dies before the
20 effective date of this Act is governed by the law in effect on the
21 date of the decedent's death, and the former law is continued in
22 effect for that purpose.

23 SECTION 6. This Act takes effect September 1, 2025.