

## **BILL ANALYSIS**

Senate Research Center  
80R6479 KLA-F

S.B. 593  
By: Wentworth  
Jurisprudence  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Beneficiaries of wills where an independent executor is appointed may not learn of the will or their rights until it is too late for them to take steps to protect their interests. Currently, only beneficiaries of wills being probated more than four years after the death of the testator currently receive notice.

As proposed, S.B. 593 requires the personal representative of a decedent's estate, within 60 days of an order admitting a will to probate, to give notice to each beneficiary named in the will whose identity is known or, through reasonable diligence, can be ascertained, and to file an affidavit with the court listing the beneficiaries notified. The bill also sets out what the notice must contain.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 128A, Texas Probate Code, as follows:

Sec. 128A. New heading: NOTICE TO BENEFICIARIES AFTER PROBATE OF WILL. (a) Defines "beneficiary."

(b) Requires the personal representative (representative) of the decedent's estate, including an independent executor or independent administrator, to give notice that complies with Subsection (d) of this section to each beneficiary named in the will whose identity and address are known to the personal representative or, through reasonable diligence, can be ascertained, not later than the 60th day after the date of admitting a decedent's will to probate. Requires that the representative give the notice as soon as possible to a person whose identity and address are made known to the representative after the 60th day after the date of the order.

(c) Requires that the representative give notice with respect to a beneficiary described by this subsection if the beneficiary is a trust, to the trustee, unless the representative is the trustee, in which case the representative shall give notice to the person or class of persons first eligible to receive the trust income, to be determined for purposes of this subdivision as if the trust were in existence on the date of the decedent's death; if the beneficiary has a court-appointed guardian or conservator, to that the guardian or conservator; and if the beneficiary is a minor for whom no guardian or conservator has been appointed, to a parent of the minor, notwithstanding the requirement under Subsection (b) of this section that the representative give the notice to the beneficiary.

(d) Requires the notice to state certain information and to contain as attachments a copy of the will admitted to probate and the order admitting the will to probate.

(e) Requires the notice to be sent by registered or certified mail, return receipt requested.

(f) Requires the representative, not later than the 60th day after the date of an order admitting a will to probate, to file with the clerk of the court in which the decedent's estate is pending, an affidavit stating certain information. Deletes existing text relating to providing notice to an entity that is named as a devisee, and certain procedures relating to such notice.

SECTION 2. Amends the heading to Section 128B, Texas Probate Code, to read as follows:

Sec. 128B. NOTICE TO HEIRS ON APPLICATION TO PROBATE WILL AFTER FOUR YEARS.

SECTION 3. Amends Section 149C(a), Texas Probate Code, to make nonsubstantive changes regarding gender-neutral language, and other nonsubstantive changes.

SECTION 4. Amends Section 222(b), Texas Probate Code, to make nonsubstantive changes regarding gender-neutral language, and other nonsubstantive changes.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2007.