

By: Naishtat

H.B. No. 519

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of a trust for the management of an  
3 incapacitated person's estate.

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

5 SECTION 1. Section 867(b-1), Texas Probate Code, is amended  
6 to read as follows:

7 (b-1) On application by an appropriate person as provided by  
8 Subsection (a-1) of this section and regardless of whether an  
9 application for guardianship has been filed on the alleged  
10 incapacitated person's behalf, a proper court exercising probate  
11 jurisdiction may enter an order that creates a trust for the  
12 management of the estate of an alleged incapacitated person who  
13 does not have a guardian if the court, after a hearing, finds that:

14 (1) the person is an incapacitated person; and

15 (2) the creation of the trust is in the incapacitated  
16 person's best interests.

17 SECTION 2. (a) The amendment made by this Act to Section  
18 867(b-1), Texas Probate Code, is intended to clarify, rather than  
19 change, existing law.

20 (b) A court in which an application for the creation of a  
21 management trust under Section 867, Texas Probate Code, is pending  
22 on the effective date of this Act and that is not a proper court  
23 exercising probate jurisdiction, as required by that section, shall  
24 transfer the proceeding to a proper court exercising probate

1 jurisdiction. When a proceeding is transferred from one court to  
2 another as provided by this subsection, all processes, writs,  
3 bonds, recognizances, or other obligations issued from the  
4 transferring court are returnable to the court to which the  
5 proceeding is transferred as if originally issued by that court.  
6 The obligees in all bonds and recognizances taken in and for a court  
7 from which a proceeding is transferred, and all witnesses summoned  
8 to appear in a court from which a proceeding is transferred, are  
9 required to appear before the court to which a proceeding is  
10 transferred as if originally required to appear before the court to  
11 which the transfer is made.

12 SECTION 3. This Act takes effect September 1, 2007.