

By: Naishtat

H.B. No. 519

Substitute the following for H.B. No. 519:

By: Hartnett

C.S.H.B. No. 519

A BILL TO BE ENTITLED

AN ACT

1
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.