

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 probate court may enter an
11 order that creates a trust for the management of the estate of an
12 alleged incapacitated person who does not have a guardian if the
13 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 probate court, as
23 defined by Section 601, Texas Probate Code, shall transfer the
24 proceeding to a proper probate court, as defined by that section.

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

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