

1-1 By: Naishtat (Senate Sponsor - Wentworth) H.B. No. 519
1-2 (In the Senate - Received from the House April 10, 2007;
1-3 April 11, 2007, read first time and referred to Committee on
1-4 Jurisprudence; May 3, 2007, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 3, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of a trust for the management of an
1-9 incapacitated person's estate.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 867(b-1), Texas Probate Code, is amended
1-12 to read as follows:

1-13 (b-1) On application by an appropriate person as provided by
1-14 Subsection (a-1) of this section and regardless of whether an
1-15 application for guardianship has been filed on the alleged
1-16 incapacitated person's behalf, a proper court exercising probate
1-17 jurisdiction may enter an order that creates a trust for the
1-18 management of the estate of an alleged incapacitated person who
1-19 does not have a guardian if the court, after a hearing, finds that:

1-20 (1) the person is an incapacitated person; and

1-21 (2) the creation of the trust is in the incapacitated
1-22 person's best interests.

1-23 SECTION 2. (a) The amendment made by this Act to Section
1-24 867(b-1), Texas Probate Code, is intended to clarify, rather than
1-25 change, existing law.

1-26 (b) A court in which an application for the creation of a
1-27 management trust under Section 867, Texas Probate Code, is pending
1-28 on the effective date of this Act and that is not a proper court
1-29 exercising probate jurisdiction, as required by that section, shall
1-30 transfer the proceeding to a proper court exercising probate
1-31 jurisdiction. When a proceeding is transferred from one court to
1-32 another as provided by this subsection, all processes, writs,
1-33 bonds, recognizances, or other obligations issued from the
1-34 transferring court are returnable to the court to which the
1-35 proceeding is transferred as if originally issued by that court.
1-36 The obligees in all bonds and recognizances taken in and for a court
1-37 from which a proceeding is transferred, and all witnesses summoned
1-38 to appear in a court from which a proceeding is transferred, are
1-39 required to appear before the court to which a proceeding is
1-40 transferred as if originally required to appear before the court to
1-41 which the transfer is made.

1-42 SECTION 3. This Act takes effect September 1, 2007.

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