

By: Watson

S.B. No. 1624

Substitute the following for S.B. No. 1624:

By: Gonzales

C.S.S.B. No. 1624

A BILL TO BE ENTITLED

AN ACT

relating to genetic testing in proceedings to declare heirship;
providing a criminal penalty.

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

SECTION 1. Chapter III, Texas Probate Code, is amended by
adding Sections 53A, 53B, 53C, 53D, and 53E to read as follows:

Sec. 53A. ORDER FOR GENETIC TESTING AUTHORIZED. (a) In a
proceeding to declare heirship under this chapter, the court may,
on the court's own motion, and shall, on the request of a party to
the proceeding, order one or more specified individuals to submit
to genetic testing as provided for in Subchapter F, Chapter 160,
Family Code. If two or more individuals are ordered to be tested,
the court may order that the testing of those individuals be done
concurrently or sequentially. The court may enforce an order under
this subsection by contempt.

(b) Subject to any assessment of costs following the
proceeding in accordance with Rule 131, Texas Rules of Civil
Procedure, the cost of genetic testing ordered under Subsection (a)
of this section must be advanced:

(1) by a party to the proceeding who requests the
testing;

(2) as agreed by the parties and approved by the court;
or

(3) as ordered by the court.

1 (c) Subject to Subsection (d) of this section, the court
2 shall order genetic testing subsequent to the testing conducted
3 under Subsection (a) of this section if:

4 (1) a party to the proceeding contests the results of
5 the genetic testing ordered under Subsection (a) of this section;
6 and

7 (2) the party contesting the results requests that
8 additional testing be conducted.

9 (d) If the results of the genetic testing ordered under
10 Subsection (a) of this section identify a tested individual as an
11 heir of the decedent, the court may order additional genetic
12 testing in accordance with Subsection (c) of this section only if
13 the party contesting those results pays for the additional testing
14 in advance.

15 (e) If a sample of an individual's genetic material that
16 could identify another individual as the decedent's heir is not
17 available for purposes of conducting genetic testing under this
18 section, the court, on a finding of good cause and that the need for
19 genetic testing outweighs the legitimate interests of the
20 individual to be tested, may order any of the following other
21 individuals to submit a sample of genetic material for the testing
22 under circumstances the court considers just:

23 (1) a parent, sibling, or child of the individual
24 whose genetic material is not available; or

25 (2) any other relative of that individual, as
26 necessary to conduct the testing.

27 (f) On good cause shown, the court may order:

1 (1) genetic testing of a deceased individual under
2 this section; and

3 (2) if necessary, removal of the remains of the
4 deceased individual as provided by Section 711.004, Health and
5 Safety Code, for that testing.

6 (g) An individual commits an offense if the individual
7 intentionally releases an identifiable sample of the genetic
8 material of another individual that was provided for purposes of
9 genetic testing ordered under this section, the release is for a
10 purpose not related to the proceeding to declare heirship, and the
11 release was not ordered by the court or done in accordance with
12 written permission obtained from the individual who provided the
13 sample. An offense under this subsection is a Class A misdemeanor.

14 Sec. 53B. RESULTS OF GENETIC TESTING; ADMISSIBILITY. (a) A
15 report of the results of genetic testing ordered under Section 53A
16 of this chapter:

17 (1) must comply with the requirements for a report
18 prescribed by Section 160.504, Family Code; and

19 (2) is admissible in a proceeding to declare heirship
20 under this chapter as evidence of the truth of the facts asserted in
21 the report.

22 (b) The presumption under Section 160.505, Family Code,
23 applies to the results of genetic testing ordered under this
24 section, and the presumption may be rebutted as provided by that
25 section.

26 (c) A party to the proceeding who contests the results of
27 genetic testing may call one or more genetic testing experts to

1 testify in person or by telephone, videoconference, deposition, or
2 another method approved by the court. Unless otherwise ordered by
3 the court, the party offering the testimony bears the expense for
4 the expert testifying.

5 Sec. 53C. USE OF GENETIC TESTING RESULTS IN CERTAIN
6 PROCEEDINGS TO DECLARE HEIRSHIP. (a) This section applies in a
7 proceeding to declare heirship of a decedent only with respect to an
8 individual who:

9 (1) petitions the court for a determination of right
10 of inheritance as authorized by Section 42(b) of this code; and

11 (2) claims to be a biological child of the decedent,
12 but with respect to whom a parent-child relationship with the
13 decedent was not established as provided by Section 160.201, Family
14 Code, or who claims inheritance through a biological child of the
15 decedent, if a parent-child relationship between the individual
16 through whom the inheritance is claimed and the decedent was not
17 established as provided by Section 160.201, Family Code.

18 (b) Unless the results of genetic testing of another
19 individual who is an heir of the decedent are admitted as rebuttal
20 evidence, the court shall find that the individual described by
21 Subsection (a) of this section is an heir of the decedent if the
22 results of genetic testing ordered under Section 53A of this
23 chapter identify a tested individual who is an heir of the decedent
24 as the ancestor of the individual described by Subsection (a) of
25 this section.

26 (c) Unless the results of genetic testing of another
27 individual who is an heir of the decedent are admitted as rebuttal

1 evidence, the court shall find that the individual described by
2 Subsection (a) of this section is not an heir of the decedent if the
3 results of genetic testing ordered under Section 53A of this
4 chapter exclude a tested individual who is an heir of the decedent
5 as the ancestor of the individual described by Subsection (a) of
6 this section.

7 (d) If the results of genetic testing ordered under Section
8 53A of this chapter do not identify or exclude a tested individual
9 as the ancestor of the individual described by Subsection (a) of
10 this section:

11 (1) the court may not dismiss the proceeding to
12 declare heirship; and

13 (2) the results of the genetic testing and other
14 relevant evidence are admissible in the proceeding.

15 Sec. 53D. ADDITIONAL ORDERS AUTHORIZED. On the request of
16 an individual determined by the results of genetic testing to be the
17 heir of a decedent and for good cause shown, the court may:

18 (1) order the name of the individual to be changed; and

19 (2) if the court orders a name change under
20 Subdivision (1) of this section, order the bureau of vital
21 statistics to issue an amended birth record for the individual.

22 Sec. 53E. PROCEEDINGS AND RECORDS PUBLIC. A proceeding
23 under this chapter involving genetic testing is open to the public
24 as in other civil cases, and papers and records in the proceeding
25 are available for public inspection.

26 SECTION 2. Sections 53A, 53B, 53C, 53D, and 53E, Texas
27 Probate Code, as added by this Act, apply to a proceeding to declare

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1 heirship that is pending or commenced on or after the effective date
2 of this Act.

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