

## **BILL ANALYSIS**

Senate Research Center  
81R15410 CLG-D

H.B. 1461  
By: Paxton (Wentworth)  
Jurisprudence  
5/14/2009  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In Texas there is a unique alternative to probate known as a "muniment of title" which is authorized to be used whenever a decedent's estate includes only real estate in Texas. This process essentially treats the will as a deed, transferring the ownership of the property to the person set out in the will. Under current law, the applicant for probate of a will as muniment of title is only required to specify whether the decedent was ever divorced, not whether the decedent was ever divorced after the will was made. This ambiguity leads to confusion and contested wills.

H.B. 1461 clarifies the marital status of a decedent before and after the time the decedent's will was established. This bill requires that the application for probate of a will as a muniment of title state, if applicable, the dates of the decedent's divorce and to specify whether any divorce occurred after the date the will was made.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 89A(a), Texas Probate Code, to require that an application for probate of a will as a muniment of title state whether a marriage of the decedent was ever dissolved after the will was made, whether by divorce, annulment, or a declaration that the marriage was void, and if so, when and from whom, rather than whether the decedent was ever divorced, and if so, when and from whom.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.