

BILL ANALYSIS

Senate Research Center
81R1614 CLG-D

S.B. 559
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Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current Texas law, the inventories, appraisements, and lists of claims for decedents' estates are filed with the county clerk and are public information. This means that anyone can view the private details of an individual's holdings and assets. Certain individuals need access to this information. Other people, however, should not have access to this personal and private information.

As proposed, S.B. 559 amends the Texas Probate Code to protect personal privacy. S.B. 559 provides that individuals, such as independent executors and devisees, who have a personal interest in the decedent's estate, can continue to view the information without restrictions. Individuals without an interest in the estate, however, are required to make an application to the court and show why they are entitled to this personal information. This revision is limited to independent administrations.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Supreme Court is modified in SECTION 3 (Section 145A, Texas Probate Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15, Texas Probate Code, as follows:

Sec. 15. CASE FILES. Creates an exception under Section 145(s) of this code.

SECTION 2. Amends Section 145, Texas Probate Code, by adding Subsection (s), as follows:

(s) Requires that the inventory, appraisal, and list of claims of the decedent's estate and any supplemental or additional inventory, appraisal, and list of claims, if an independent administration has been created as provided by this section, notwithstanding any other provision of this code, be filed with the court and maintained in the judicial files of the court instead of the case files of the county clerk. Requires that the inventory, appraisal, and list of claims of the decedent's estate be sealed and authorizes that they be opened only as provided by Section 145A of this code.

SECTION 3. Amends Part 4, Chapter VI, Texas Probate Code, by adding Section 145A, as follows:

Sec. 145A. ACCESS TO INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS.

(a) Authorizes that an inventory, appraisal, and list of claims maintained in the judicial records under Section 145(s) of this code be used, inspected, or copied only by the independent executor or a person authorized to use, inspect, or copy the information by a court order issued under this section.

(b) Authorizes the court, on written application, with or without a hearing, to enter an order that authorizes certain persons to use, inspect, or copy an inventory, appraisal, and list of claims maintained in the judicial records under Section 145(s) of this code.

(c) Prohibits a judge from issuing an order authorizing a person described by Subsection (b)(5) (any other person requesting access to the information) of this section to have access to an inventory, appraisal, and list of claims unless the judge finds that the person has shown good cause for the use, inspection, or copying of those records.

(d) Provides that, except as otherwise provided by the court, an order issued under Subsection (a) of this section is a standing order applicable to any supplemental inventory, appraisal, and list of claims returned in connection with an independent administration of a decedent's estate.

(e) Authorizes the court to charge the applicant a reasonable fee not to exceed actual costs for any copies provided under this section.

(f) Provides that to the extent that this section conflicts with the Texas Rules of Judicial Administration or other rules, this section controls. Prohibits the supreme court, notwithstanding Section 22.003 (Procedure of the Court), Government Code, from amending or adopting rules in conflict with this section.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.