

By: Wentworth

S.B. No. 1789

A BILL TO BE ENTITLED

AN ACT

relating to certain proceedings relating to an individual's will.

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

SECTION 1. Chapter IV, Texas Probate Code, is amended by adding Section 59B to read as follows:

Sec. 59B. ORDERS AFFECTING CERTAIN HEIRS. (a) This section applies only to a person who has executed a will that includes a provision that has the effect of disinheriting an heir of the person.

(b) Notwithstanding Section 72 of this code, a person to whom this section applies may apply to the court for an order as prescribed by this section relating to a disinherited heir's standing to institute a proceeding in relation to the applicant's will after the applicant's death.

(c) On application and citation and notice to heirs of the applicant, the court, after hearing, may make a finding that:

(1) the applicant has sufficient testamentary capacity to make a testamentary disposition of property;

(2) there is no undue influence operating on the applicant;

(3) there is no tortious interference with the inheritance rights of another relating to the applicant's property; and

(4) there is no other cause of action arising in law

1 that may have the same or similar effect as the capacity or a  
2 circumstance listed in Subdivision (1), (2), or (3) of this  
3 subsection to modify or defeat the person's will.

4 (d) If the court makes a finding under Subsection (c) of  
5 this section, the court shall order that the disinherited heir may  
6 not institute in the person's capacity as the applicant's heir a  
7 suit under Section 93 of this code to contest the validity of the  
8 will that is the subject of an adjudication under this section.

9 (e) A court order entered under this section is final and  
10 not subject to appeal.

11 (f) On the applicant's motion, documents and other records  
12 placed into evidence in a hearing under this section may be sealed  
13 by the court.

14 SECTION 2. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2009.