

1-1 By: Wentworth S.B. No. 1789
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 16, 2009, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; April 16, 2009, sent to printer.)

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

1-8 relating to certain proceedings relating to an individual's will.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter IV, Texas Probate Code, is amended by
1-11 adding Section 59B to read as follows:

1-12 Sec. 59B. ORDERS AFFECTING CERTAIN HEIRS. (a) This
1-13 section applies only to a person who has executed a will that
1-14 includes a provision that has the effect of disinheriting an heir of
1-15 the person.

1-16 (b) Notwithstanding Section 72 of this code, a person to
1-17 whom this section applies may apply to the court for an order as
1-18 prescribed by this section relating to a disinherited heir's
1-19 standing to institute a proceeding in relation to the applicant's
1-20 will after the applicant's death.

1-21 (c) On application and citation and notice to heirs of the
1-22 applicant, the court, after hearing, may make a finding that:

1-23 (1) the applicant has sufficient testamentary
1-24 capacity to make a testamentary disposition of property;

1-25 (2) there is no undue influence operating on the
1-26 applicant;

1-27 (3) there is no tortious interference with the
1-28 inheritance rights of another relating to the applicant's property;
1-29 and

1-30 (4) there is no other cause of action arising in law
1-31 that may have the same or similar effect as the capacity or a
1-32 circumstance listed in Subdivision (1), (2), or (3) of this
1-33 subsection to modify or defeat the person's will.

1-34 (d) If the court makes a finding under Subsection (c) of
1-35 this section, the court shall order that the disinherited heir may
1-36 not institute in the person's capacity as the applicant's heir a
1-37 suit under Section 93 of this code to contest the validity of the
1-38 will that is the subject of an adjudication under this section.

1-39 (e) A court order entered under this section is final and
1-40 not subject to appeal.

1-41 (f) On the applicant's motion, documents and other records
1-42 placed into evidence in a hearing under this section may be sealed
1-43 by the court.

1-44 SECTION 2. This Act takes effect immediately if it receives
1-45 a vote of two-thirds of all the members elected to each house, as
1-46 provided by Section 39, Article III, Texas Constitution. If this
1-47 Act does not receive the vote necessary for immediate effect, this
1-48 Act takes effect September 1, 2009.

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