

Amend **SB 1198** (senate engrossed version) as follows:

(1) Add the following appropriately numbered SECTION to Article 1 of the bill and renumber subsequent SECTIONS of Article 1 as appropriate:

SECTION 1.____. Section 83(a), Texas Probate Code, is amended to read as follows:

(a) Where Original Application Has Not Been Heard. If, after an application for the probate of a will or for the appointment of a general personal representative has been filed, and before such application has been heard, an application for the probate of a will of the decedent, not theretofore presented for probate, is filed, the court shall hear both applications together and determine what instrument, if any, should be admitted to probate, or whether the decedent died intestate. The court may not sever or bifurcate the proceeding on the applications.

(2) In SECTION 1.24 of the bill, strike Subdivisions (5) and (6) in amended Section 149C(a), Texas Probate Code (page 42, line 24, through page 43, line 3), and substitute the following:

(5) the independent executor is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent executor's duties; [~~or~~]

(6) the independent executor becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes legally incapacitated from properly performing the independent executor's fiduciary duties; or

(7) the independent executor becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

(3) In SECTION 1.42 of the bill, between Subsections (d) and (e) of that section (page 61, between lines 4 and 5), insert the following:

(d-1) The changes in law made by this article to Section 83(a), Texas Probate Code, apply only to an application for the probate of a will or administration of the estate of a decedent that is pending or filed on or after the effective date of this Act.

(4) Add the following appropriately numbered SECTION to Article 2 of the bill and renumber subsequent SECTIONS of Article 2

as appropriate:

SECTION 2.____. Section 256.101, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 256.101. PROCEDURE ON FILING OF SECOND APPLICATION WHEN ORIGINAL APPLICATION HAS NOT BEEN HEARD. (a) If, after an application for the probate of a decedent's will or the appointment of a personal representative for the decedent's estate has been filed but before the application is heard, an application is filed for the probate of a will of the same decedent that has not previously been presented for probate, the court shall:

(1) hear both applications together; and

(2) determine:

(A) if both applications are for the probate of a will, which will should be admitted to probate, if either, or whether the decedent died intestate; or

(B) if only one application is for the probate of a will, whether the will should be admitted to probate or whether the decedent died intestate.

(b) The court may not sever or bifurcate the proceeding on the applications described in Subsection (a).

(5) In SECTION 2.52 of the bill, strike added Sections 404.003(a)(5) and (6), Estates Code (page 121, lines 12 through 18), and substitute the following:

(5) the independent executor is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent executor's duties;

(6) the independent executor becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes legally incapacitated from properly performing the independent executor's fiduciary duties; or

(7) the independent executor becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

(6) In SECTION 2.53(b) of the bill, strike Subdivisions (1), (2), and (3) (page 136, lines 18-23) and substitute the following:

(1) Sections 4D, 4H, 48, 49, 59, 64, 67, 83(a), 84, 250, 260, 436, 439, 452, 471, 472, and 473, as amended by Article 1

of this Act; and

(2) Sections 6A, 6B, 6C, 6D, 8A, 8B, 145A, 145B, and 145C, as added by Article 1 of this Act.