

By: Thompson

H.B. No. 2095

A BILL TO BE ENTITLED

AN ACT

relating to genetic testing in certain proceedings to declare heirship.

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

SECTION 1. Sections 53C(a) and (b), Texas Probate Code, are amended to read as follows:

(a) This section applies in a proceeding to declare heirship of a decedent only with respect to an individual who~~+~~

~~[(1) petitions the court for a determination of right of inheritance as authorized by Section 42(b) of this code; and~~

~~[(2)] claims to be a biological child of the decedent[, but with respect to whom a parent-child relationship with the decedent was not established as provided by Section 160.201, Family Code,] or [who] claims inheritance through a biological child of the decedent[, if a parent-child relationship between the individual through whom the inheritance is claimed and the decedent was not established as provided by Section 160.201, Family Code].~~

(b) The presumption under Section 160.505, Family Code, that applies in establishing a parent-child relationship also applies in determining heirship in the probate court using the results of genetic testing ordered with respect to an individual described by Subsection (a) of this section, and the presumption may be rebutted in the same manner provided by Section 160.505,

1 Family Code. [~~Unless the results of genetic testing of another~~  
2 ~~individual who is an heir of the decedent are admitted as rebuttal~~  
3 ~~evidence, the court shall find that the individual described by~~  
4 ~~Subsection (a) of this section is an heir of the decedent if the~~  
5 ~~results of genetic testing ordered under Section 53A of this~~  
6 ~~chapter identify a tested individual who is an heir of the decedent~~  
7 ~~as the ancestor of the individual described by Subsection (a) of~~  
8 ~~this section.~~]

9 SECTION 2. (a) Sections 204.151 and 204.152, Estates Code,  
10 as effective January 1, 2014, are amended to read as follows:

11 Sec. 204.151. APPLICABILITY OF SUBCHAPTER. This subchapter  
12 applies in a proceeding to declare heirship of a decedent only with  
13 respect to an individual who[+]

14 [~~(1) petitions the court for a determination of right~~  
15 ~~of inheritance as authorized by Section 201.052(c); and~~

16 [~~(2)~~] claims[+]

17 [~~(A)~~] to be a biological child of the decedent or  
18 claims[, ~~but with respect to whom a parent-child relationship with~~  
19 ~~the decedent was not established as provided by Section 160.201,~~  
20 ~~Family Code, or~~

21 [~~(B)~~] to inherit through a biological child of  
22 the decedent[, ~~if a parent-child relationship between the~~  
23 ~~individual through whom the inheritance is claimed and the decedent~~  
24 ~~was not established as provided by Section 160.201, Family Code].~~

25 Sec. 204.152. PRESUMPTION; [~~REQUIRED FINDINGS IN ABSENCE~~  
26 ~~OF] REBUTTAL [~~EVIDENCE~~]. The presumption under Section 160.505,  
27 Family Code, that applies in establishing a parent-child~~

1 relationship also applies in determining heirship in the probate  
2 court using the results of genetic testing ordered with respect to  
3 an individual described by Section 204.151, and the presumption may  
4 be rebutted in the same manner provided by Section 160.505, Family  
5 Code. [~~Unless the results of genetic testing of another individual~~  
6 ~~who is an heir of the decedent who is the subject of a proceeding to~~  
7 ~~declare heirship to which this subchapter applies are admitted as~~  
8 ~~rebuttal evidence, the court shall find that the individual~~  
9 ~~described by Section 204.151:~~

10 [~~(1) is an heir of the decedent, if the results of~~  
11 ~~genetic testing ordered under Subchapter B identify a tested~~  
12 ~~individual who is an heir of the decedent as the ancestor of the~~  
13 ~~individual described by Section 204.151, or~~

14 [~~(2) is not an heir of the decedent, if the results of~~  
15 ~~genetic testing ordered under Subchapter B exclude a tested~~  
16 ~~individual who is an heir of the decedent as the ancestor of the~~  
17 ~~individual described by Section 204.151.]~~

18 (b) The changes in law made by Section 1 of this Act to  
19 Sections 53C(a) and (b), Texas Probate Code, are repealed.

20 SECTION 3. Section 53C(c), Texas Probate Code, is repealed.

21 SECTION 4. The change in law made by this Act applies only  
22 to a proceeding to declare heirship commenced on or after September  
23 1, 2011. A proceeding to declare heirship commenced before that  
24 date is governed by the law in effect on the date the proceeding was  
25 commenced, and the former law is continued in effect for that  
26 purpose.

27 SECTION 5. (a) Except as otherwise provided by Subsection

1 (b) of this section, this Act takes effect September 1, 2011.

2 (b) Section 2 of this Act takes effect January 1, 2014.