

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 5, 2013

TO: Honorable Royce West, Chair, Senate Committee on Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB911 by Rodríguez (Relating to decedents' estates.), As Introduced

No fiscal implication to the State is anticipated.

The bill makes a number of modifications and amendments to the Estates Code. The bill provides the court may appoint an attorney ad litem to represent a missing heir or for an unknown or missing person for whom the court registry is holding cash. An attorney ad litem may be appointed to an incapacitated heir for heirs unknown or whose address is unknown. The court may continue an independent administration if the decedent's will or while a still alive, decedent created a trust, i.e. a life insurance trust, and the beneficiary is incapacitated. The courts may decide the ownership of the money or benefits from a nontestamentary transfer pursuant to community property survivorship agreement or a multiple-party account.

The bill provides that heirship can be brought up at any time, even after the decedent's death. The bill provides, if there is no will, the surviving grandparents may benefit rather than the estate escheating to the state. For purpose of inheritance, the child is considered to be the child of the intended parents and not the child of the surrogate/biological/gestational parent.

The bill mandates courts cannot prohibit a person from executing a new will or codicil. Any such court order is void.

The bill provides if a witness is not a resident of the county or is unable to attend court, the witness's written or oral deposition may be used to prove up a handwritten/holographic will.

The bill allows for the estate to have privacy for its holdings. Provided all debts have been paid and the will doesn't provide otherwise, the independent executor may file, but is not required to file, an affidavit in lieu of inventory.

The bill prohibits the court from awarding a family allowance for an incapacitated adult child if the deceased was not supporting the incapacitated adult child at the time of his death.

The bill requires, upon final settlement, the court shall order the personal representative to convert any remaining nonmonetary assets into cash and deposit the cash into the court's registry for any unknown or missing person.

Finally, the bill provides the court, on its own or any interested person's motion and without notice may remove an independent executor if the independent executor's whereabouts are unknown, he is eluding service, he is a nonresident of the state without a designated resident agent, or there is

sufficient support the independent executor has or is about to misapply or embezzle any property committed to his care.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, CL, SJS