

## **BILL ANALYSIS**

Senate Research Center  
86R6407 MTB-F

H.B. 2780  
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State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In the process of updating outdated references to the Texas Probate Code, the Texas Legislative Council (TLC) identified certain provisions that TLC was not able to update because its mandate under Chapter 323, Government Code, only allows it to make nonsubstantive changes, and updating these provisions in an appropriate manner could potentially result in making substantive changes. These provisions were identified and forwarded to the Real Property, Probate & Trust Law Section of the State Bar of Texas (REPTL) for potential inclusion in a substantive code update bill.

For example, Section 71.012, Civil Practice and Remedies Code, relating to survival actions, contains a reference to former Section 95, Texas Probate Code. Language from that section ultimately found its way into ten different Estates Code sections spread across four different Estates Code chapters. The portion of former Section 95 to which Section 71.012 refers found its way into Chapter 503, Estates Code, alone. However, referencing that chapter alone would have violated TLC's mandate to make only nonsubstantive changes. Therefore, in order to update the reference to Section 95 in a manner that would not lead to confusion, a substantive, albeit minor, change is necessary.

The “substantive” change made by Section 1 of the proposed legislation designed to provide a clear update is to change the reference in Section 71.012 from former Section 92 of the Texas Probate Code to current Chapter 503 of the Estates Code.

H.B. 2780 amends current law relating to obsolete references to the Texas Probate Code.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 71.012 and 71.022, Civil Practice and Remedies Code, to replace references to Section 95, Texas Probate Code, with references to Chapter 503, Estates Code.

SECTION 2. Amends Section 54.241(d), Education Code, to replace a reference to Section 71, Texas Probate Code, with a reference to Subchapter A, Chapter 252, Estates Code.

SECTION 3. Amends Section 358.060(a), Estates Code, to delete existing text relating to an oil, gas, and mineral lease executed by a personal representative under the former Texas Probate Code or this code.

SECTION 4. Amends Section 358.201, Estates Code, to delete existing text relating to a mineral lease or pooling or unitization agreement, executed on behalf of an estate before January 1, 1956, or on or after that date under the provisions of the former Texas Probate Code or this code and to make a nonsubstantive change.

SECTION 5. Amends Section 1160.060(a), Estates Code, to delete existing text relating to an oil, gas, and mineral lease executed by a guardian of an estate under this chapter or former Chapter XIII, Texas Probate Code.

SECTION 6. Amends Section 81.1011(a), Government Code, to replace a reference to the Texas Department on Aging with a reference to the Health and Human Services Commission and to replace a reference to Section 679, Texas Probate Code, with a reference to Section 1104.202, Estates Code.

SECTION 7. Amends Section 313.004(b), Health and Safety Code, to replace a reference to Chapter V, Texas Probate Code, with a reference to Title 3, Estates Code, and to make a nonsubstantive change.

SECTION 8. Amends Section 552.018(e), Health and Safety Code, to provide that, for purposes of this section, a guardianship administered under the Estates Code, rather than a guardianship established under the former Texas Probate Code or under the Estates Code, is not considered to be a trust and is not entitled to the exemption provided by this section.

SECTION 9. Amends Section 593.081(f), Health and Safety Code, to make a conforming change.

SECTION 10. Amends Section 594.036(b), Health and Safety Code, to require notice to be served on the parents if the resident being transferred to a state mental hospital is a minor and on the guardian for the resident's person if the resident has been declared to be incapacitated and a guardian has been appointed in a proceeding under Title 3, Estates Code, rather than requiring notice to be served on the parents if the resident is a minor and on the guardian for the resident's person if the resident has been declared to be incapacitated as provided by the former Texas Probate Code or the Estates Code and a guardian has been appointed.

SECTION 11. Amends Section 258.104(b), Occupations Code, to replace a reference to Chapter V, Texas Probate Code, with a reference to Chapter 1054, Estates Code.

SECTION 12. Amends Section 41.0021(e), Property Code, to replace a reference to Part 3, Chapter VIII, Texas Probate Code, with a reference to Chapter 353, Estates Code.

SECTION 13. Amends Section 112.034(a), Property Code, to replace a reference to Chapter XI, Texas Probate Code, with a reference to Chapter 113, Estates Code.

SECTION 14. Effective date: September 1, 2019.