

BILL ANALYSIS

C.S.H.B. 3311
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that under current law claims against an estate related to delinquent child support and arrearages are given lower priority for payment than mortgage payments and liens, and that in situations where an individual's estate is not enough to cover both of these claims, a minor child could be left in a difficult situation. C.S.H.B. 3311 seeks to ensure that child support is prioritized above tax liens and outstanding mortgage payments in the administration of a decedent's estate, reflecting the ongoing responsibility to provide financial support to one's children.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3311 amends the Estates Code to replace the requirement for the amount of family allowance fixed by a court with respect to administration of a decedent's estate to be sufficient for the maintenance of the decedent's minor children for one year from the date of the decedent's death, as required for the decedent's surviving spouse and adult incapacitated children, with a requirement for that amount to be sufficient for the maintenance of each minor child of the decedent until the later of the child's 18th birthday or graduation from high school. The bill revises the following statutory provisions to reflect that change to the period for maintenance of a decedent's minor child for purposes of a family allowance:

- the provision requiring the affidavit filed by the person applying to have the court fix the family allowance to describe the amount necessary for the maintenance of the surviving spouse and applicable children for the specified time period; and
- the provision requiring the allowance to be fixed with regard to the facts or circumstances anticipated to exist during the specified time period.

C.S.H.B. 3311 replaces the authorization for a family allowance to be paid in a lump sum or in installments, as ordered by a court, with a requirement for the allowance to be paid in a lump sum.

C.S.H.B. 3311 makes the following changes with respect to the classifications of certain claims against a decedent's estate for purposes of setting priority of payment:

- reclassifies from class 4 to class 3 claims for the principal amount of and accrued interest on delinquent child support and child support arrearages that have been:

- confirmed as a judgment or a determination of arrearages by a court under a suit affecting the parent-child relationship; or
- administratively determined as evidenced by a certified child support payment record produced by the child support division of the Office of the Attorney General in a Title IV-D case;
- removes claims for unpaid child support obligations under Family Code provisions relating to the acceleration of those obligations from the class 4 claims and provides instead that class 3 claims include claims for the unpaid child support obligation for each minor child of the decedent under those provisions, reduced by all but one year of the amount of any family allowance paid for the maintenance of the child; and
- reclassifies from class 3 to class 4 each secured claim for money against an estate that is allowed and approved as a matured secured claim, including a tax lien, to the extent the claim can be paid out of the proceeds of the property subject to the mortgage or other lien.

For purposes of the family allowance reduction for unpaid child support obligation claims, "one year" refers to the first year after the decedent's death.

C.S.H.B. 3311 applies only to the estate of a decedent who dies on or after the bill's effective date. The estate of a decedent who dies before the bill's effective date is governed by the law in effect on the date of the decedent's death, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3311 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions absent from the introduced that do the following:

- replace the requirement for the amount of family allowance fixed by a court to be sufficient for the maintenance of the decedent's minor children for one year from the date of the decedent's death with a requirement for that amount to be sufficient for the maintenance of each minor child of the decedent until the later of the child's 18th birthday or graduation from high school;
- revise certain provisions to reflect the substitute's change to the period for maintenance of a decedent's minor child for purposes of a family allowance; and
- replace the authorization for the allowance to be paid in a lump sum or in installments, as ordered by the court, with a requirement for the allowance to be paid in a lump sum.

Both the introduced and the substitute reclassify claims for unpaid child support obligations under Family Code provisions relating to the acceleration of such obligations from class 4 to class 3 claims. However, the substitute specifies that such claims are for the unpaid child support obligation for each minor child of the decedent, reduced by all but one year of the amount of any family allowance paid for the maintenance of the child, which the introduced did not specify. The substitute also includes a provision absent from the introduced establishing that for this purpose, "one year" refers to the first year after the decedent's death.