

BILL ANALYSIS

Senate Research Center

H.B. 2003
By: Thompson (Harris)
Jurisprudence
4-30-97
Engrossed

DIGEST

In 1993, the legislature added two new chapters to the Probate Code with overlapping section numbers. Additionally, it is unclear whether a court can order attorney's fees and court costs for an emergency intervention proceeding. This bill will move Part 2 of Chapter XII of the Probate Code to Part 3 of Chapter V of the Probate Code, and allow a court to order funds of the decedent held to be used to pay for reasonable attorney's fees and court costs.

PURPOSE

As proposed, H.B. 2003 moves Part 2 of Chapter XII of the Probate Code to Part 3 of Chapter V of the Probate Code, and allows a court to order funds of the decedent held to be used to pay for reasonable attorney's fees and court costs.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Part 2, Chapter XII, Probate Code, to transfer and redesignate it as Part 3, Chapter V, Probate Code, as follows:

PART 3. EMERGENCY INTERVENTION PROCEEDINGS; FUNERAL AND BURIAL EXPENSES

Sec. 108. TIME TO FILE EMERGENCY APPLICATION. Created from existing Section 520.

Sec. 109. ELIGIBLE APPLICANTS FOR EMERGENCY INTERVENTION. Created from existing Section 521.

Sec. 110. REQUIREMENTS FOR EMERGENCY INTERVENTION. Created from existing Section 521A. Makes a conforming change.

Sec. 111. CONTENTS OF EMERGENCY INTERVENTION APPLICATION FOR FUNERAL AND BURIAL EXPENSES. Created from existing Section 522.

Sec. 112. CONTENTS FOR EMERGENCY INTERVENTION APPLICATION FOR ACCESS TO PERSONAL PROPERTY. Created from existing Section 522A.

Sec. 113. ORDERS OF EMERGENCY INTERVENTION. Created from existing Section 523. Authorizes a court to order funds of the decedent held by certain individuals to be paid directly to a funeral home for court costs for obtaining an order if the court determines on review of an application filed under Section 108 of this code that emergency intervention is necessary to obtain funds needed for a decedent's funeral and burial expenses. Makes a conforming change.

Sec. 114. TERMINATION. Created from existing Section 524.

Sec. 115. LIMITATION ON RIGHT OF SURVIVING SPOUSE TO CONTROL DECEASED'S BURIAL OR CREMATION. Created from existing Section 525.

SECTION 2. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 3. Emergency clause.