

## **BILL ANALYSIS**

Senate Research Center

H.B. 2007  
By: Thompson (Harris)  
Jurisprudence  
4-30-97  
Engrossed

### **DIGEST**

Currently, there are no provisions to guide an individual through the requirements of probating a will as a muniment of title which could aid individuals in avoiding the expensive administration associated with letters testamentary which are not always necessary. Additionally, the court can appoint temporary administrators for the estate of a decedent who died without a will. Temporary administrations are necessary under circumstances such as when there are impending sales or foreclosures of the decedent's estate or when a decedent has a company that must pay its employees. Allowing a court to appoint a temporary administration of the estates of decedents who died testate will be a useful tool to preserve estates of those who died intestate. Under existing law heirs of a decedent who died without a will and with property valued at less than \$50,000 can become entitled to the assets of the decedent upon filing an affidavit with the proper court. Requiring the affidavit to provide information about family history that indicated the heirs' rights to receive property will help ensure that the court has sufficient information to approve the affidavit and allow the heirs the proper documents to collect the estate. This bill will provide new regulations regarding the administration of a decedent's estate.

### **PURPOSE**

As proposed, H.B. 2007 provides new regulations regarding the administration of a decedent's estate.

### **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 1, Chapter V, Probate Code, by amending Section 89A, and adding Sections 89B and 89C, as follows:

Sec. 89A. CONTENTS OF APPLICATION FOR PROBATE OF WILL AS MUNIMENT OF TITLE. Sets forth regulations regarding the contents of an application for probate of a will as a muniment of title.

Sec. 89B. PROOF REQUIRED FOR PROBATE OF A WILL AS A MUNIMENT OF TITLE. Sets forth regulations regarding the proof required for probate of a will as a muniment of title.

Sec. 89C. PROBATE OF WILLS AS MUNIMENTS OF TITLE. Created from existing Section 89A.

SECTION 2. Amends Section 131A(b), Probate Code, to require an application for appointment of a temporary administrator to include the information required by Section 81 of this code if the decedent died testate or Section 82 of this code if the decedent died intestate.

SECTION 3. Amends Section 137(a), Probate Code, to require the distributees of the estate of a decedent who dies intestate to be entitled thereto, under certain conditions, without awaiting the appointment of a personal representative when the affidavit includes the relevant family history facts concerning heirship that show the distributees rights to receive the money or the property of the

estate, among other items.

SECTION 4. Amends the heading to Section 320, Probate Code, as follows:

Sec. 320. New heading: ORDER OF PAYMENT OF CLAIMS AND ALLOWANCES.

SECTION 5. Repealer: Chapter XII, Probate Code (Informal Probate).

SECTION 6. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 7. Emergency clause.