

BILL ANALYSIS

Senate Research Center
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H.B. 2152
By: Averitt (Jackson)
Jurisprudence
5/10/2001
Engrossed

DIGEST AND PURPOSE

Under current law, the Texas Probate Code provides that a devise or bequest made to an attorney, an attorney's heir, or an employee of the attorney who prepares or supervises the preparation of a will is void. However, a person who makes a bequest and was related within the second degree of consanguinity or affinity to the testator is excepted from this provision. While the statute itself applies to devises or bequests, the exception only applies to bequests and could be construed to disallow any gift of real estate to the spouse or child of the attorney. In addition, gifts to great grandchildren of the testator are disallowed by current statutes, if those great grandchildren were the heirs of the attorney preparing the will because they are not within the second degree of consanguinity. H.B. 2152 includes the testator's spouse, an ascendant or descendant of the testator, or a person that is related within the third degree by consanguinity or affinity to the testator among persons allowed to make a valid devise or bequest to an attorney

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 Section 58(b), Texas Probate Code, to provide that this section does not apply to a devise or bequest made to a person who is the testator's spouse, is an ascendant or descendant of the testator, or is related within the third, rather than second, degree by consanguinity or affinity to the testator; or a bona fida purchaser for value from a devisee in a will.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2001.