

BILL ANALYSIS

Senate Research Center
77R12176 CLG-F

H.B. 3467
By: Hartnett (Bernsen)
Jurisprudence
5/9/2001
Engrossed

DIGEST AND PURPOSE

Current law requires the clerk of a court to issue a citation to all parties interested in an estate when there is an application for the probate of a noncupative will or for a written will which cannot be produced in court. No action can be taken on probating a will until service of citation is made. There are instances, however, when an heir does not object to the offering of the will, allowing an opportunity for wills to be probated and settled more efficiently. H.B. 3467 provides that the filing or contesting in probate court of any pleading relating to a decedent's estate does not constitute tortious interference with inheritance of the estate and provides that when a written will cannot be produced in court, an heir may waive service of citation by delivering an affidavit to the court stating that the heir does not object to the offer of the testator's will for probate.

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 Chapter I, Texas Probate Code, by adding Section 10C, as follows:

Sec. 10C. EFFECT OF FILING OR CONTESTING PLEADING. Provides that the filing or contesting in probate court of any pleading relating to a decedent's estate does not constitute tortious interference with inheritance of the estate.

SECTION 2. Amends Section 128, Texas Probate Code, by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f), as follows:

(b) Adds an exception to this subsection.

(c) Waiver of Citation. Provides that in the case of an application for the probate of a written will that cannot be produced in court, citation under Subsection (b) of this section is not required to be issued to an heir who has delivered to the court an affidavit signed by the heir stating that the heir does not object to the offer of the testator's will for probate.

(d) Additional Statements. Requires the citation required by Subsection (b) of this section and an affidavit described by Subsection (c) of this section, in the case of an application for the probate of a written will that cannot be produced in court, to also contain a certain statement.

(e) Appointment of Attorney Ad Litem for Certain Heirs. Requires the court, if an application for the probate of a written will not produced in court is filed and the residence of any of the testator's heirs cannot be ascertained by the clerk, to appoint an attorney ad litem to protect the interests of unknown heirs.

(f) Reletters existing text of Subsection (c) as Subsection (f).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2001.