

BILL ANALYSIS

S.B. 1792
By: Ellis
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties point out that, in certain cases when someone dies without a will, a small estate affidavit can be a less expensive way of probating the estate than traditional estate administration. However, the parties emphasize that filing a small estate affidavit requires a demonstration that estate assets exceed known liabilities and that a lack of access to an account balance at a bank or other financial institution can be a barrier to families who would otherwise be able to use a small estate affidavit. The parties believe that a mechanism is needed for a decedent's heirs to obtain information that would enable them to avoid a costly probate administration. S.B. 1792 seeks to provide that mechanism.

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

S.B. 1792 amends the Estates Code to authorize a court, on application of an interested person or on the court's own motion, to issue an order requiring a financial institution to release to the person named in the order information concerning the balance of each account that is maintained at the financial institution of a decedent who dies intestate if 90 days have elapsed since the date of the decedent's death, no petition for the appointment of a personal representative for the decedent's estate is pending, and no letters testamentary or of administration have been granted with respect to the estate. The bill defines "interested person" as an heir, spouse, creditor, or any other having a property right in or claim against the decedent's estate.

S.B. 1792 does not apply to an account with a beneficiary designation, a P.O.D. account, a trust account, or an account that provides for a right of survivorship.

EFFECTIVE DATE

September 1, 2015.