

SUBJECT: Nullifying bequests to attorneys preparing a will

COMMITTEE: Judicial Affairs — favorable, with amendments

VOTE: 8 ayes — Thompson, Hartnett, Clark, Crabb, Luna, Shields, Solis, Zbranek  
0 nays  
1 absent — Garcia

SENATE VOTE: On final passage, April 17, Local and Uncontested Calendar — 31-0

WITNESSES: No public hearing.

BACKGROUND : Professional ethics rules imposed by the State Bar of Texas prohibit attorneys from drafting wills that include a devise or bequest to them or their families unless the client is related to the donee. The maximum penalty that may be imposed on an attorney for violating the rule is disbarment.

DIGEST: SB 1176 would make any devise or bequest to attorneys or their heirs void unless the devisee was related within the second degree of consanguinity to the testator or was a bona fide purchaser for value from a devisee. The second degree of consanguinity would include parents, children, grandparents, grandchildren, siblings, aunts and uncles.

NOTES: The committee amendments would remove a prohibition on devises or bequests to employees of the attorney and would add an exception for bona fide purchasers for value from a devisee in a will.