BILL ANALYSIS

DIGEST

Currently, Texas law requires the social security number of the decedent and of the applicant to be included in all applications for letters testamentary or letters of administration. Requiring the disclosure of social security numbers in documents which become public records is viewed as unnecessarily intrusive of a person's right to privacy and gives rise to the potential for misuse of those numbers by persons who would not otherwise have access to them. Additionally, a personal representative of an estate does not have the right to abandon property. S.B. 506 will remove the requirement that the social security number of the decedent and the applicant be included in all applications for letters testamentary or letters of administration. This bill will also give personal representatives, independent executors, and independent administrators the right to abandon worthless property.

PURPOSE

As proposed, S.B. 506 deletes the requirement that the social security number of the decedent and the applicant be included in all applications for letters testamentary or letters of administration and will give personal representatives, independent executors, and independent administrators the right to abandon worthless property.

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 Section 42(b)(1), Probate Code, to provide that a child, for the purpose of inheritance, is the child of his biological father if the child is born under circumstances described by Section 151.002, rather than 12.02, Family Code, is adjudicated to be the child of the father by court decree as provided by Chapter 160, rather than 13, Family Code, or if the father executed a statement of paternity as provided by Section 160.202, rather than 13.22, Family Code.

SECTION 2. Amends Section 69(a), Probate Code, to require, if, after making a will, the testator is divorced or the testator's marriage is annulled, all provisions in the the will in favor of the testator's former spouse, or appointing such spouse to any fiduciary capacity under the will or with respect to the estate or person of the testator's children, to be read as if the former spouse failed to survive the testator.

SECTION 3. Amends Section 81(a), Probate Code, to delete a requirement that an application for probate of a written will must state the social security number of the applicant and of the decedent. Makes a conforming change.

SECTION 4. Amends Section 82, Probate Code, to delete a requirement that an application for letters of administration when no will is alleged to exist must state the social security number of the applicant and of the decedent if known. Makes a conforming change.

SECTION 5. Amends Section 146, Probate Code, by amending Subsection (b) and adding Subsections (d) and (e), to require certain creditors, within a certain time period, to give notice to, rather than notify by certified or registered mail, the independent executor of the creditor's election

to have the creditor's claim approved. Requires an unsecured creditor who has a claim for money against an estate and receives a notice under Section 294(d) of this code to give notice to the independent executor of the nature and amount of the claim not later than the 120th day after the date on which the notice is received, or the claim is barred. Sets forth requirements for the notice required by Subsections (b) and (d) of this section.

SECTION 6.   Amends Section 234(a), Probate Code, to authorize a personal representative, in certain circumstances, to abandon the administration of property of the estate that is burdensome or worthless.

SECTION 7.   Amends Section 281, Probate Code, to require certain exempt property to be liable for the payment of Class 1 claims, rather than the funeral expenses and the expenses of last sickness of the deceased, when claims are presented within the time prescribed therefor.

SECTION 8.   Amends Section 290, Probate Code, to make a conforming change.

SECTION 9.   Amends Section 299, Probate Code, to provide that the general statutes of limitation are tolled on the date a claim for money is filed or deposited with the clerk, rather than by filing a claim which is legally allowed and approved; or on the date a suit is brought against the personal representative of an estate with respect to a claim of the estate that is not required to be presented to the personal representative, rather than by bringing a suit upon a rejected and disapproved claim within ninety days after such rejection or disapproval.

SECTION 10.   Amends Sections 306(c), (e), and (f), Probate Code, to require certain claims to be paid in due course of administration and to provide that the secured creditor is not entitled to exercise any other remedies in a manner that prevents the preferential payment of claims, rather than claims and allowances, described by Paragraphs (1) and (3), rather than (1) through (3), of Section 320(a) of this code. Requires the court, if the representative defaults in such payment of performance, on application of the claim holder, to authorize foreclosure by the claim holder as prescribed by Subsections (f) through (k) of this section. Requires an application by a claim holder, rather than if the court authorizes a claim holder, to foreclose the claimholder's lein or security interest on certain property to be supported by affidavit of the claimholder containing certain information. Makes conforming changes.

SECTION 11.   Effective date: September 1, 1997.
                Makes application of this Act prospective.

SECTION 12.   Emergency clause.