

BILL ANALYSIS

Senate Research Center
77R9986 MTB-D

H.B. 898
By: Thompson (Brown)
Jurisprudence
4/12/2001
Engrossed

DIGEST AND PURPOSE

Current law provides that in order for a guardian to sell property on behalf of a ward, the guardian must apply to the court for the authority to sell the property. Also, the court may only close and settle a guardianship if the cash assets are \$25,000 or less, and any debts may only be received or paid if the amount of a debtor's or creditor's interest does not exceed \$50,000. These limitations on guardianship prove to be burdensome to the guardian, as well as the ward. The law governing guardianship procedure in Texas involves multiple steps and, for some becomes an expensive process. In 1993, the legislature expedited the procedure for wards with a relatively small interest. An increase in the maximum value of the ward's interest to \$100,000 and the ability of a court to terminate a guardianship of an estate for up to \$100,000 may allow the expedited process to be used more frequently. As proposed, H.B. 898 relates to the administration of certain property of incapacitated persons, wards, and former wards.

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 745(c), Texas Probate Code, to authorize the guardianship of the estate of a minor ward, when the estate consists only of cash or cash equivalents in an amount of \$100,000, rather than \$25,000, or less, to be terminated and the assets paid to the county clerk of the county in which the guardianship proceeding is pending, and requires the clerk to manage the funds as provided by Section 887 of this code.

SECTION 2. Amends Sections 887(a) and (e), Texas Probate Code, to make conforming changes.

SECTION 3. Amends Section 889(a), Texas Probate Code, to provide that when a minor has an interest in real or personal property and the net value of the interest does not exceed \$100,000, rather than \$50,000, a natural or adoptive parent, or the managing conservator, of a minor who is not a ward is authorized to apply to the court for an order to sell the minor's interest in the property without being appointed guardian. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 890(b), Texas Probate Code, to make a conforming change.

SECTION 5. Makes application of SECTIONS 1 and 4 of this Act prospective.

SECTION 6. Makes application of SECTION 3 of this Act prospective.

SECTION 7. Effective date: September 1, 2001.