

BILL ANALYSIS

Senate Research Center
77R8903 DAK-D

H.B. 947
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Jurisprudence
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Engrossed

DIGEST AND PURPOSE

If a plaintiff who is a surviving spouse dies while a cause of action is pending in a wrongful death suit, the cause of action dies with the surviving spouse. There are some concerns that this potential scenario may create an incentive for defendants to delay a trial and avoid the ruling of a judge or jury. H.B. 947 allows the child of the spouse who is the subject of the action to be made the plaintiff and carry on the cause of action on behalf of the plaintiff in the event of the death of the plaintiff.

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 71B, Civil Practice and Remedies Code, by adding Section 71.023, as follows:

Sec. 71.023. DEATH OF PLAINTIFF. (a) Defines "child."

(b) Authorizes the child of the spouse who is the subject of the action, if a plaintiff who is a surviving spouse dies while an action for damages arising from the death of the spouse is pending, to be made the plaintiff and authorizes the action to be prosecuted as though the surviving spouse had not died.

(c) Provides that recovery of damages by an individual under this section does not affect the recovery of damages by the individual in any suit brought in the individual's own name.

(d) Provides that this section applies to an action for any kind of damages, including exemplary damages.

SECTION 2. Effective date: September 1, 2001.
Makes application of this Act prospective.