

## **BILL ANALYSIS**

Senate Research Center

S.B. 1176  
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Jurisprudence  
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As Filed

### **DIGEST**

Currently, according to State Bar ethics rules, probate attorneys are not supposed to include themselves in a will that the attorneys write for a non-family member. Some probate attorneys have written themselves into wills knowing that they can receive sums of money or property for doing so, with the only potential punishment under the ethics rules being disbarment. With a growing elderly population in Texas, there has been an increase in attorneys who have, unknowingly to the testator or rightful heirs, written themselves into wills. This bill would void a devise or bequest of property in a will to an attorney who prepares or supervises the preparation of the will or to that attorney's heir or employee. This bill would provide that this legislation does not apply to an attorney who is related within the second degree or affinity to the testator.

### **PURPOSE**

As proposed, S.B. 1176 relates to the validity of devises or bequests in a will to certain attorneys.

### **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 Chapter IV, Probate Code, by adding Section 58b, as follows:

Sec. 58b. DEVICES AND BEQUESTS THAT ARE VOID. Provides that a devise or bequest of property in a will to an attorney who prepares or supervises the preparation of the will or a devise or bequest of property in a will to an heir or employee of the attorney who prepares or supervises the preparation of the will is void. Provides that this section does not apply to a bequest made to a person who is related within the second degree by consanguinity or affinity to the testator.

SECTION 2. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 3. Emergency clause.