

BILL ANALYSIS

Senate Research Center
85R9406 MTB-F

H.B. 1877
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State Affairs
5/10/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When an estate is being probated, the executor is required to file an inventory, appraisal, and list of claims of all of the decedent's property with the court. If an executor does not want that inventory and appraisal to be a public document, then the executor can sign an affidavit asserting that he or she produced the inventory and appraisal and gave copies to each beneficiary. If an executor signs an affidavit that he or she in fact prepared these documents in lieu of turning them in to the court, current law requires the executor to provide a verified, full, and detailed inventory and appraisal, and list of claims to beneficiaries of the estate.

Judges have expressed concern that persons signing these affidavits actually are not creating an inventory and appraisal and giving it to the estate's beneficiaries. While lying on an affidavit already is perjury, as it stands, there is no remedy for this offense. H.B. 1877 authorizes courts to impose a penalty of up to \$1,000 if an executor lies about distributing the inventory and appraisal on an affidavit. This is the same fine that can already be imposed if an executor fails to file an inventory, appraisal, and list of claims or an affidavit in lieu thereof within 90 days of qualifying to probate the will. The potential of incurring this penalty should encourage executors to provide the inventory and appraisal to beneficiaries.

H.B. 1877 amends current law relating to a penalty for independent executors who misrepresent in an affidavit in lieu of the inventory, appraisal, and list of claims that certain beneficiaries received the inventory and appraisal.

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 Subchapter B, Chapter 309, Estates Code, by adding Section 309.0575, as follows:

Sec. 309.0575. PENALTY FOR MISREPRESENTATION IN AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS. (a) Authorizes the court, on its own motion or on motion of any person interested in the estate, and after an independent executor has been cited to answer at a time and place fixed in the notice, to fine an independent executor in an amount not to exceed \$1,000 if the court finds that the executor misrepresented in an affidavit in lieu of the inventory, appraisal, and list of claims filed by the executor that all beneficiaries, other than those described by Section 309.056(b-1) (relating to an independent executor not being required to provide a verified, full, and detailed inventory and appraisal to a beneficiary who meets certain criteria absent a written request by a beneficiary), received a verified, full, and detailed inventory and appraisal as required by Section 309.056(b) (relating to authorizing an independent executor to file with the court clerk a certain affidavit).

(b) Provides that the independent executor and the executor's sureties, if any, are liable for any fine imposed under this section and for all damages and costs

sustained by the executor's misrepresentation. Authorizes recovery of the fine, damages, and costs in any court of competent jurisdiction.

SECTION 2. Makes application of Section 309.0575, Estates Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2017.