

RÉSUMÉ DIGEST

HB 295

2021 Regular Session

Seabaugh

Present law (C.C.P. Art. 3431(A)) provides for the following circumstances when it is not necessary to judicially open a small succession:

- (1) For a person domiciled in La. and who died intestate or testate, leaving no immovable property and the probate of the testament would have the same effect as if the deceased died intestate.
- (2) For a person domiciled outside of La. who died intestate or whose testament has been probated by a court order of another state and whose sole heirs were the following:
 - (a) Descendants.
 - (b) Ascendants.
 - (c) Brothers or sisters, or descendants thereof.
 - (d) Surviving spouse.
 - (e) Legatees under a testament.

Proposed law would have retained present law in that it would not have been necessary to open a small succession for a person who died testate and was domiciled in La. if probate of the testament of the deceased would have the same effect as if the deceased had died intestate. Proposed law would have removed the provision requiring the deceased to not leave immovable property.

Present law (C.C.P. Art. 3434) provides for a certified copy of the deceased's death certificate to be attached to a small succession affidavit.

Proposed law (C.C.P. Art. 3434(C)(1)) would have removed the present law requirement to attach a certified copy of the deceased's death certificate. Proposed law would have required either an authentic act of the affidavit or a copy of the deceased's death certificate.

(Proposed to amend C.C.P. Arts. 3431(A) and 3434(C)(1); proposed to repeal C.C.P. Art. 3421(B))

VETO MESSAGE:

"This bill, as finally passed, would eliminate the requirement that a certified copy of a death certificate be attached to the affidavit required to administer a small succession outside of probate. It is clear from committee debate in both chambers that the intent of both the author and the committees is that the legislation eliminate the necessity of a certified copy of the death certificate but alternatively require the affidavit to be an authentic act with a copy of the death certificate attached. Instead, the bill requires either an affidavit with a copy of the death certificate *or* an affidavit that is an authentic act."