

The 2019 Texas Estate and Trust Legislative Update

Statutory Language Supplement

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(See Contact Info and Bio on Page i.)

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Legal Experience

Bill Pargaman has been a partner in the Austin law firm of Saunders, Norval, Pargaman & Atkins since July of 2012. He has been certified as a specialist in Estate Planning and Probate Law by the Texas Board of Legal Specialization (since 1986) and has been a Fellow in the American College of Trust and Estate Counsel (since 1994). He is very active in the Real Estate, Probate and Trust Law Section of the State Bar of Texas, having served as REPTL's Chair for the 2015-2016 bar year, as chair of its Estate and Trust Legislative Affairs Committee for the 2009, 2011, and 2013 legislative sessions, and as a Council member and chair of REPTL's Trusts Committee from 2004 to 2008.

Bill's practice involves the preparation of wills, trusts and other estate planning documents, charitable planning, and estate administration and alternatives to administration. He advises clients on the organization and maintenance of business entities such as corporations, partnerships, and limited liability entities. He represents nonprofit entities with respect to issues involving charitable trusts and endowments. Additionally, he represents clients in contested litigation involving estates, trusts and beneficiaries, and tax issues.

Education

- Doctor of Jurisprudence, *with honors*, University of Texas School of Law, 1981, Order of the Coif, Chancellors
- Bachelor of Arts, Government, *with high honors*, University of Texas at Austin, 1978, Phi Beta Kappa

Professional Licenses

- Attorney at Law, Texas, 1981

Court Admissions

- United States Tax Court

Prior Experience

- Brown McCarroll, L.L.P. (now Husch Blackwell LLP), 1981 – 2012

Speeches and Publications

Mr. Pargaman has been a speaker, author, or course director at numerous seminars, including:

- State Bar of Texas (TexasBarCLE) – Advanced Estate Planning and Probate Course, Advanced Estate Planning Strategies Course, Estate Planning and Probate Drafting Course, Advanced Guardianship Law Course, Advanced Real Estate Law Course, Advanced Real Estate Drafting Course, Advanced Tax Law Course, State Bar College Summer School, State Bar Annual Meeting, Practice Skills for New Lawyers, Essentials for the General Practitioner, Miscellaneous Webcasts, and more
- Real Estate, Probate and Trust Law Section Annual Meeting
- University of Texas Estate Planning, Guardianship, and Elder Law Conference
- South Texas College of Law Wills and Probate Institute
- Estate Planning & Community Property Law Journal Seminar
- Texas NAELA Summer Conference

William D. Pargaman (cont.)

- University of Houston Law Foundation General Practice Institute, and Wills and Probate Institute
- Austin Bar Association Estate Planning and Probate Section Annual Probate and Estate Planning Seminar
- Austin Bar Association and Austin Young Lawyers Association Legal Malpractice Seminar
- Dallas Bar Association Probate, Trusts & Estate Section
- Houston Bar Association Probate, Trusts & Estate Section
- Tarrant County Probate Bar Association
- Hidalgo County Bar Association Estate Planning and Probate Section
- Bell County Bench Bar Conference
- Midland College/Midland Memorial Foundation Annual Estate Planning Seminar
- Austin Chapter, Texas Society of Certified Public Accountants, Annual Tax Update
- Texas Bankers Association Advanced Trust Forum
- Texas Credit Union League Compliance, Audit & Human Resources Conference
- Estate Planning Councils in Austin, Amarillo, Corpus Christi, Lubbock, San Antonio, and Tyler
- Austin Association of Life Underwriters

Professional Memberships and Activities

- American College of Trust and Estate Counsel, Fellow
- State Bar of Texas
 - Real Estate, Probate and Trust Law Section, Member (Chair, 2015-2016)
 - Real Estate, Probate, and Trust Law Council, Member, 2004–2008
 - Estate and Trust Legislative Affairs Committee, Member, 2000–Present (Chair, 2008–2013)
 - Public Service Committee, Chair, 2013–2014
 - Trusts Committee, Member, 2000–2010 (Chair, 2004–2008)
 - Uniform Trust Code Study Project, Articles 7–9 & UPIA, Subcommittee Member, 2000–2003
 - Continuing Legal Education Committee, 2018-2021
 - Texas Board of Legal Specialization (Estate Planning and Probate Law), Examiner, 1995-1997
- Estate Planning Council of Central Texas, Member (President, 1991-1992)
- Austin Bar Association, Member
 - Estate Planning and Probate Section, Member (Chair, 1992-1993, Board Member, 1997-1999)

Honors

- Recipient, TexasBarCLE STANDING OVATION award, 2014
- Listed in The Best Lawyers in America® (2019 Trusts & Estates “Lawyer of the Year” in Austin, TX)
- Listed in *Texas Super Lawyers* (Texas Monthly)
- Listed in The Best Lawyers in Austin (Austin Monthly)

Community Involvement

- St. Stephen’s Episcopal School Professional Advisory Council, Past Member
- City of Austin, XERISCAPE Advisory Board, Past Member
- Volunteer Guardianship Program of Family Eldercare, Inc. of Austin, Past Member, Advisory Board

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Statutory Language Supplement

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What Is This? Since the 2009 legislative session, I've written the legislative update on behalf of the Real Estate, Probate, and Trust Law Section of the State Bar of Texas covering bills that relate to probate (*i.e.*, decedents' estates), guardianships, trusts, powers of attorney, and several other areas of interest to estate and probate practitioners. I began writing each of those updates even before each session started with a description of the REPTL bills that had received State Bar Board of Directors approval. After each session ended, I added attachments that contained the statutory language of most of those bills, marked to show additions and deletions. Those attachments more than doubled the size of each paper. No more. Now I'll still prepare those attachments, but they'll be made available in a separate attachment that won't automatically be printed at each seminar or meeting at which the legislative update is presented. If you want it, you can still print this out. Think of it as a greener alternative. **That's what this is.**

CMA Disclaimers. While reviewing the attachments, please keep in mind the following:

- I've made every reasonable attempt to compile the statutory language, including additions and deletions, accurately.
- Despite rumors to the contrary, I am human. And have been known to make mistakes.
- For example, while I believe that I've included all changes to the Estates and Trust Codes, there may be amendments to some of the other statutes included that I didn't pick up in my search for pertinent amendments.
- I often work on this late at night, past my normal bedtime, perhaps, even, under the influence of strategic amounts of Johnnie Walker Black (donations of Red, Black, Green, Gold, Blue, Platinum, or even Swing happily accepted!).

Therefore, you'll find directions in the main paper for obtaining copies of the actual bills themselves so you may review the changes they contain yourself. You'll also find directions for checking whether any other amendments have been made to a particular statute that I may have missed.

A Note About Linking to the Electronic Versions.

Feel free to link to the electronic versions of the paper or this supplement if you'd like. If you do, use the URLs found on the cover page to link to the most recent versions. The link to the main legislative update paper is:

www.snpalaw.com/resources/2019LegislativeUpdate

And the link to this statutory language supplement is:

www.snpalaw.com/resources/2019LegislativeSupplement

Once you click on either link, you'll open a PDF. However, **don't** copy the URL that you'll find in your browser's address bar when you open the PDF! That's likely to be a 100+ character web address that will take you to that particular version of the paper only, and only so long as that version remains posted. Trust me – the links I've given you will take you to the right version each time.

As an alternative, you can go to the [Resources](#) page at [snpalaw.com](http://www.snpalaw.com) and scroll to the legislative update materials posted "**For Professional Advisors.**"

Obtaining Copies of Bills. If you want to obtain copies of any of the bills, directions are contained in Part 1 of the main legislative update paper. Or, if you're viewing an electronic version of that paper, most of the bill numbers are hyperlinked to the bill's page on the legislative website. Click on the Text tab once there. If you want to read the final version, look for the Enrolled version.

2019 Amendments to the Texas Estates Code (General Provisions)

[The following excerpts reflect amendments made by HB 2782, SB 891.]

Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF CODE.

The term "probate proceeding," as used in this code, includes:

- (1) the probate of a will, with or without administration of the estate;
- (2) the issuance of letters testamentary and of administration;
- (3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;
- (4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;
- (5) a claim arising from an estate administration and any action brought on the claim;
- (6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate; ~~and~~
- (7) a will construction suit; and
- (8) a will modification or reformation proceeding under Subchapter J, Chapter 255.

Sec. 51.054. SERVICE BY PUBLICATION.

(a) Except as provided by Section 17.032, Civil Practice and Remedies Code, citation [Citation] or notice to a person to be served by publication shall be published one time on the public information Internet website maintained as required by Section 72.034, Government Code, and in a newspaper of general circulation in the county in which the proceeding is pending. The publication must be made at least 10 days before the return day of the service, excluding the date of publication.

(b) The date of service of citation or notice by publication is the earlier of:

- (1) the date the citation or notice is published on the public information Internet website under Subsection (a); or
- (2) the date of publication printed on the newspaper in which the citation or notice is published.

(e) [Repealed.]

Sec. 51.103. PROOF OF SERVICE.

(a) [No change.]

(b) Proof of service consists of:

(1) if the service is made by a sheriff or constable, the return of service;

(2) if the service is made by a private person, the person's affidavit;

(3) if the service is made by mail:

(A) the certificate of the county clerk making the service, or the affidavit of the personal representative or other person making the service, stating that the citation or notice was mailed and the date of the mailing; and

(B) the return receipt attached to the certificate or affidavit, as applicable, if the mailing was by registered or certified mail and a receipt has been returned; and

(4) if the service is made by publication:

(A) an affidavit:

(i) made by the Office of Court Administration of the Texas Judicial System or an employee of the office;

(ii) that contains or to which is attached a copy of the published citation or notice; and

(iii) that states the date of publication on the public information Internet website maintained as required by Section 72.034, Government Code; and

(B)[;] an affidavit:

(i) [~~(A)~~] made by the publisher of the newspaper in which the citation or notice was published or an employee of the publisher;

(ii) [~~(B)~~] that contains or to which is attached a copy of the published citation or notice; and

(iii) [~~(C)~~] that states the date of publication printed on the newspaper in which the citation or notice was published.

2019 Amendments to the Texas Estates Code (Decedents' Estates)

[The following excerpts reflect amendments made by HB 2780, HB 2782, SB 874, SB 1420.]

SUBCHAPTER C. PROVISION OF CERTAIN INFORMATION ON DEATH

Sec. 111.101. DEFINITIONS.

In this subchapter:

(1) "Contracting third party" has the meaning assigned by Section 111.051.

(2) "Deceased party" means a deceased:

(A) party to a multiple-party account governed by Chapter 113;

(B) owner of property subject to a possible nontestamentary transfer as described by Section 111.051(1); or

(C) insured under an insurance contract.

Sec. 111.102. PROVISION OF INFORMATION TO PERSONAL REPRESENTATIVE OF DECEASED PARTY.

To the extent not prohibited by federal or other state law, a contracting third party shall, on request, provide to the personal representative of a deceased party's estate all information the contracting third party would have provided to the deceased party as of the date of the deceased party's death, if the deceased party had requested the information, without regard to whether the deceased party's estate has an interest in the multiple-party account, the property subject to a possible nontestamentary transfer, or the insurance contract.

Sec. 113.252. RIGHTS OF CREDITORS.

(a) – (b) [No change.]

(c) Any proceeding by the personal representative of a deceased party to assert liability under Subsection (b):

(1) may be commenced only if the personal representative receives a written demand by a surviving spouse, a creditor, or a person acting on behalf of a minor child of the deceased party; and

(2) must be commenced on or before the second anniversary of the death of the deceased party.

Sec. 114.002. DEFINITIONS.

(a) [No change.]

~~[(b) In this chapter, the terms "cancel" and "revoke" are synonymous.]~~

Sec. 114.102. EFFECT OF SUBSEQUENT CONVEYANCE ON TRANSFER ON DEATH DEED.

An otherwise valid transfer on death deed is void as to a subsequent grantee of an [any] interest in real property that is conveyed by the transferor during the transferor's lifetime after the transfer on death deed is executed and recorded if:

(1) a valid instrument conveying the interest or a memorandum sufficient to give notice of the conveyance of the interest is recorded in the deed records in the county clerk's office of the same county in which the transfer on death deed is recorded; and

(2) the recording of the instrument or memorandum occurs before the transferor's death.

SUBCHAPTER D. FORMS FOR TRANSFER ON DEATH DEED

~~[Sections 114.151 – 114.152]~~

Sec. 201.003. COMMUNITY ESTATE OF AN INTESTATE.

(a) – (b) [No change.]

(c) If the deceased spouse is survived by a child or other descendant who is not also a child or other descendant of the surviving spouse, the deceased spouse's undivided one-half interest in the community estate [one half of the community estate is retained by the surviving spouse and the other one half] passes to the deceased spouse's children or other descendants. The descendants inherit only the portion of that estate to which they would be entitled under Section 201.101. In every case, the community estate passes charged with the debts against the community estate.

Sec. 202.151. EVIDENCE IN PROCEEDING TO DECLARE HEIRSHIP.

(a) [No change.]

(b) Except as provided by Subsection (c), [Testimony] in a proceeding to declare heirship, testimony regarding a decedent's heirs and family history must be taken from two disinterested and credible witnesses in open court, by deposition in accordance with Section 51.203, or in accordance with the Texas Rules of Civil Procedure.

(c) If it is shown to the court's satisfaction in a proceeding to declare heirship that, after a diligent search was made, only one disinterested and credible witness can be found who can make the required proof

in the proceeding, the testimony of that witness must be taken in open court, by deposition in accordance with Section 51.203, or in accordance with the Texas Rules of Civil Procedure.

CHAPTER 254. ~~[VALIDITY OF]~~ CERTAIN PROVISIONS IN, AND CONTRACTS RELATING TO, WILLS

Sec. 254.006. DESIGNATION OF ADMINISTRATOR.

(a) A testator may grant in a will to an executor named in the will or to another person identified by name, office, or function the authority to designate one or more persons to serve as administrator of the testator's estate.

(b) To be effective, a designation of an administrator of a testator's estate as authorized by a will under Subsection (a) must be in writing and acknowledged before an officer authorized to take acknowledgments and administer oaths.

(c) Unless the will provides otherwise, a person designated to serve as administrator of a testator's estate as provided by Subsection (a) may serve only if:

(1) each executor named in the testator's will:

(A) is deceased;

(B) is disqualified to serve as executor; or

(C) indicates by affidavit filed with the county clerk of the county in which the application for letters testamentary is filed or, if an application has not been filed, a county described by Section 33.001(a)(1) or (2) the executor's inability or unwillingness to serve as executor;

(2) the designation is effective as provided by Subsection (b); and

(3) the person is not disqualified from serving under Section 304.003.

(d) Unless the will or designation provides otherwise, a person designated as administrator of a testator's estate as provided by this section has the same rights, powers, and duties as an executor named in the will, including the right to serve as an independent administrator with the power to sell property without the need for consent of the distributees under Section 401.002 or 401.006.

Sec. 255.152. FAILURE OF DEVISE; EFFECT ON RESIDUARY ESTATE.

(a) – (c) [No change.]

(d) Unless the will provides otherwise, Subsections (a), (b), and (c) do not apply to a devise to a charitable trust, as defined by Section 123.001, Property Code.

Sec. 255.456. JURISDICTION AND TRANSFER OF PROCEEDING.

(a) To the extent that this section conflicts with other provisions of this title, this section prevails.

(b) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, if a personal representative petitions the county court to modify or reform the terms of a will, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, according to the motion:

(1) request the assignment of a statutory probate court judge to hear the proceeding, as provided by Section 25.0022, Government Code; or

(2) transfer the proceeding to the district court, which may then hear the proceeding as if originally filed in the district court.

(c) A district court to which a proceeding is transferred under Subsection (b) has the jurisdiction and authority granted to a statutory probate court by Subtitle A.

(d) If a party to a modification or reformation proceeding files a motion for the assignment of a statutory probate court judge to hear the proceeding before the judge of the county court transfers the proceeding to a district court under this section, the county judge shall grant the motion for the assignment of a statutory probate court judge and may not transfer the proceeding to the district court unless the party withdraws the motion.

(e) A statutory probate court judge assigned to a proceeding under this section has the jurisdiction and authority granted to a statutory probate court by Subtitle A.

(f) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, if a personal representative petitions the county court to modify or reform the terms of a will, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, transfer the proceeding to the county court at law, which may then hear the proceeding as if originally filed in the county court at law.

(g) The county court shall continue to exercise jurisdiction over the management of the estate, other than the modification or reformation proceeding, until final disposition of the modification or reformation proceeding is made in accordance with this subchapter.

(h) On resolution of the modification or reformation proceeding, the statutory probate court

judge assigned to hear the proceeding or the district court or county court at law to which the proceeding is transferred under this section shall return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court, district court, or county court at law, as applicable.

(i) The clerk of a district court to which a modification or reformation proceeding is transferred under this section may perform in relation to the proceeding any function a county clerk may perform with respect to that type of matter.

Sec. 256.051. ELIGIBLE APPLICANTS FOR PROBATE OF WILL.

(a) An executor named in a will, an administrator designated as authorized under Section 254.006, an independent administrator designated by all of the distributees of the decedent under Section 401.002(b), or an interested person may file an application with the court for an order admitting a will to probate, whether the will is:

- (1) [~~written or unwritten~~;
[~~2~~] in the applicant's possession or not;
- (2) [~~3~~] lost;
- (3) [~~4~~] destroyed; or
- (4) [~~5~~] outside of this state.

(b) [No change.]

Sec. 256.052. CONTENTS OF APPLICATION FOR PROBATE OF WILL.

(a) An application for the probate of a will must state and aver the following to the extent each is known to the applicant or can, with reasonable diligence, be ascertained by the applicant:

(1) each applicant's name and domicile;

(1-a) the last three numbers of each applicant's driver's license number and social security number, if the applicant has been issued one [applicable];

(2) the testator's name, domicile, and, if known, age, on the date of the testator's death;

(2-a) the last three numbers of the testator's driver's license number and social security number;

(3) the fact, date, and place of the testator's death;

(4) facts showing that the court with which the application is filed has venue;

(5) that the testator owned property, including a statement generally describing the property and the property's probable value;

(6) the date of the will;

(7) the name, state of residence, and physical address where service can be had of the executor named in the will or other person to whom the applicant desires that letters be issued;

(8) the name of each subscribing witness to the will, if any;

(9) whether one or more children born to or adopted by the testator after the testator executed the will survived the testator and, if so, the name of each of those children;

(10) whether a marriage of the testator was ever dissolved after the will was made and, if so, when and from whom;

(11) whether the state, a governmental agency of the state, or a charitable organization is named in the will as a devisee; and

(12) that the executor named in the will, the applicant, or another person to whom the applicant desires that letters be issued is not disqualified by law from accepting the letters.

(b) [No change.]

Sec. 256.053. FILING OF WILL WITH APPLICATION FOR PROBATE GENERALLY REQUIRED.

(a) [No change.]

(b) A will filed under Subsection (a) must remain in the custody of the county clerk unless removed from the clerk's custody:

(1) by a court order under Section 256.202; or

(2) by a court order issued under Subchapter C, Chapter 33, in which case the clerk shall deliver the will directly to the clerk of the court to which the probate proceeding is transferred.

Sec. 256.202. CUSTODY OF PROBATED WILL.

An original will and the probate of the will shall be deposited in the office of the county clerk of the county in which the will was probated. The will and probate of the will shall remain in that office except during a time the will and the probate of the will are removed for inspection to another place on an order of the court where the will was probated. If that court orders the original will to be removed to another place for inspection:

(1) the person removing the will shall give a receipt for the will; [~~and~~]

(2) the court clerk shall make and retain a copy of the will; and

(3) the will shall be delivered back to the office of the county clerk of the county in which the will was probated after the inspection is completed.

Sec. 257.051. CONTENTS OF APPLICATION GENERALLY.

(a) An application for the probate of a will as a muniment of title must state and aver the following to the extent each is known to the applicant or can, with reasonable diligence, be ascertained by the applicant:

(1) each applicant's name and domicile;

(1-a) the last three numbers of each applicant's driver's license number and social security number, if the applicant has been issued one [applicable];

(2) the testator's name, domicile, and, if known, age, on the date of the testator's death;

(2-a) the last three numbers of the testator's driver's license number and social security number;

(3) the fact, date, and place of the testator's death;

(4) facts showing that the court with which the application is filed has venue;

(5) that the testator owned property, including a statement generally describing the property and the property's probable value;

(6) the date of the will;

(7) the name, state of residence, and physical address where service can be had of the executor named in the will;

(8) the name of each subscribing witness to the will, if any;

(9) whether one or more children born to or adopted by the testator after the testator executed the will survived the testator and, if so, the name of each of those children;

(10) that the testator's estate does not owe an unpaid debt, other than any debt secured by a lien on real estate, or that for another reason there is no necessity for administration of the estate;

(11) whether a marriage of the testator was ever dissolved after the will was made and, if so, when and from whom; and

(12) whether the state, a governmental agency of the state, or a charitable organization is named in the will as a devisee.

(b) [No change.]

SUBCHAPTER D. SUBSEQUENT ESTATE ADMINISTRATION

Sec. 257.151. APPOINTMENT OF PERSONAL REPRESENTATIVE AND OPENING OF ADMINISTRATION AFTER WILL ADMITTED TO PROBATE AS MUNIMENT OF TITLE.

A court order admitting a will to probate as a muniment of title under this chapter does not preclude the subsequent appointment of a personal representative and opening of an administration for the testator's estate if:

(1) an application under Chapter 301 is filed not later than the fourth anniversary of the testator's death; or

(2) the administration of the testator's estate is necessary for a reason provided by Section 301.002(b).

Sec. 257.152. COMPUTATION OF CERTAIN PERIODS.

If a personal representative is appointed for a testator's estate after the testator's will has been admitted to probate as a muniment of title, the periods prescribed by the following sections begin to run from the date of qualification of the personal representative rather than from the date the will is admitted to probate as a muniment of title:

(1) Section 306.001;

(2) Section 306.002(a)(2)(B)(ii);

(3) Section 308.002; and

(4) Section 308.004.

Sec. 301.051. ELIGIBLE APPLICANTS FOR LETTERS.

An executor named in a will, an administrator designated as authorized under Section 254.006, an independent administrator designated by all of the distributees of the decedent under Section 401.002(b) or 401.003, or an interested person may file an application with the court for:

(1) the appointment of the executor named in the will;

(1-a) the appointment of the designated administrator; or

(2) the appointment of an administrator, if:

(A) there is a will, but:

(i) no executor is named in the will;

[ø]

(ii) the executor named in the will is disqualified, refuses to serve, is dead, or resigns;

(iii) a person designated to serve as administrator under Section 254.006 is disqualified, refuses to serve, is dead, or resigns; or

(iv) an authorized person other than the executor has not designated any person to serve as administrator under Section 254.006 as of the date of the filing of the application and the applicant notifies the court that the authorized person has no intention of doing so; or

(B) there is no will.

Sec. 301.052. CONTENTS OF APPLICATION FOR LETTERS OF ADMINISTRATION.

(a) An application for letters of administration when no will is alleged to exist must state:

(1) the applicant's name, domicile, and, if any, relationship to the decedent;

(1-a) the last three numbers of:

(A) the applicant's driver's license number, if the applicant has been issued one [applicable]; and

(B) the applicant's social security number, if the applicant has been issued one [applicable];

(2) the decedent's name and that the decedent died intestate;

(2-a) if known by the applicant at the time the applicant files the application, the last three numbers of the decedent's driver's license number and social security number;

(3) the fact, date, and place of the decedent's death;

(4) facts necessary to show that the court with which the application is filed has venue;

(5) whether the decedent owned property and, if so, include a statement of the property's probable value;

(6) the name and address, if known, whether the heir is an adult or minor, and the relationship to the decedent of each of the decedent's heirs;

(7) if known by the applicant at the time the applicant files the application, whether one or more children were born to or adopted by the decedent and, if so, the name, birth date, and place of birth of each child;

(8) if known by the applicant at the time the applicant files the application, whether the decedent was ever divorced and, if so, when and from whom;

(9) that a necessity exists for administration of the decedent's estate and an allegation of the facts that show that necessity; and

(10) that the applicant is not disqualified by law from acting as administrator.

(b) [No change.]

Sec. 301.151. GENERAL PROOF REQUIREMENTS.

An applicant for the issuance of letters testamentary or of administration of an estate must prove to the court's satisfaction that:

(1) the person whose estate is the subject of the application is dead;

(2) except as provided by Sections 301.002(b)(1) and (2) [~~Section 301.002(b)~~] with respect to administration necessary to receive or recover property or to prevent real property of the estate from becoming a danger [~~due a decedent's estate~~], and Section 501.006 with respect to a foreign will, [~~except as provided by Section 301.002(b)(2)~~], four years have not elapsed since the date of the decedent's death and before the application;

(3) the court has jurisdiction and venue over the estate;

(4) citation has been served and returned in the manner and for the period required by this title; and

(5) the person for whom letters testamentary or of administration are sought is entitled by law to the letters and is not disqualified.

Sec. 304.001. ORDER OF PERSONS QUALIFIED TO SERVE AS PERSONAL REPRESENTATIVE.

(a) The court shall grant letters testamentary or of administration to persons qualified to act, in the following order:

(1) the person named as executor in the decedent's will;

(1-a) the person designated as administrator as authorized under Section 254.006;

(2) the decedent's surviving spouse;

(3) the principal devisee of the decedent;

(4) any devisee of the decedent;

(5) the next of kin of the decedent;

(6) a creditor of the decedent;

(7) any person of good character residing in the county who applies for the letters;

(8) any other person who is not disqualified under Section 304.003; and

(9) any appointed public probate administrator.

(b) – (c) [No change.]

Sec. 309.056. AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS.

(a) – (d) [No change.]

(e) Any extension granted by a court of the period in which to file an inventory, appraisal, and list of claims prescribed by Section 309.051 is considered an extension of the filing period for an affidavit under this section.

Sec. 351.106. DIGITAL ASSETS.

A personal representative of a decedent's estate may apply for and obtain a court order, either at the time the personal representative is appointed or at any time before the administration of the estate is closed, that:

(1) directs disclosure of the content of electronic communications of the decedent to the personal representative as provided by Section 2001.101 and that contains any court finding described by Section 2001.101(b)(3);

(2) with respect to a catalog of electronic communications sent or received by the decedent and other digital assets of the decedent, other than the content of an electronic communication, contains any court finding described by Section 2001.102(b)(4); or

(3) directs under Section 2001.231 a custodian to comply with a request to disclose digital assets under Chapter 2001.

Sec. 351.152. CONTINGENT INTEREST FOR CERTAIN ATTORNEY'S FEES; COURT APPROVAL.

(a) A [Except as provided by Subsection (b) and subject only to the approval of the court in which the estate is being administered, a] personal representative may, without court approval, convey or enter into a contract to convey for attorney services a contingent interest in any property sought to be recovered, not to exceed a one-third interest in the property.

(b) A personal representative, including an independent executor or independent administrator, may convey or enter into a contract to convey for attorney services a contingent interest in any property sought to be recovered under this subchapter in an amount that exceeds a one-third interest in the property only on the approval of the court in which the estate is being administered. The court must approve a contract [entered into] or conveyance described by [made under] this subsection [section] before an attorney performs any legal services. A contract entered into or a

conveyance made in violation of this subsection [section] is void unless the court ratifies or reforms the contract or documents relating to the conveyance to the extent necessary to make the contract or conveyance meet the requirements of this subsection [section].

(c) [No change.]

Sec. 352.052. ALLOWANCE FOR DEFENSE OR SUCCESSFUL CONTEST OF WILL.

(a) – (b) [No change.]

(c) In this subsection, "interested person" does not include a creditor or any other having a claim against the estate. An interested person who, in good faith and with just cause, successfully prosecutes a proceeding to contest the validity of a will or alleged will offered for or admitted to probate may be allowed out of the estate the person's necessary expenses and disbursements in that proceeding, including reasonable attorney's fees.

Sec. 355.102. CLAIMS CLASSIFICATION; PRIORITY OF PAYMENT.

(a) [No change.]

(b) Class 1 claims are composed of funeral expenses and expenses of the decedent's last illness, including claims for reimbursement of those expenses, for a reasonable amount approved by the court, not to exceed [a total of] \$15,000 for funeral expenses and \$15,000 for expenses of the decedent's last illness. Any excess shall be classified and paid as other unsecured claims.

(c) Class 2 claims are composed of:

(1) expenses of administration;

(2) [;] expenses incurred in preserving, safekeeping, and managing the estate, including fees and expenses awarded under Section 352.052;

(3) [–and] unpaid expenses of administration awarded in a guardianship of the decedent; and

(4) for an estate with respect to which a public probate administrator has taken any action under Chapter 455, court costs and commissions to which the administrator is entitled under Subchapter A, Chapter 352.

Sec. 355.103. PRIORITY OF CERTAIN PAYMENTS.

When a personal representative has estate funds in the representative's possession, the representative shall pay in the following order:

(1) funeral expenses in an amount not to exceed \$15,000 and expenses of the decedent's last illness[;] in an amount not to exceed \$15,000;

(2) allowances made to the decedent's surviving spouse and children, or to either the surviving spouse or children;

(3) expenses of administration and expenses incurred in preserving, safekeeping, and managing the estate; and

(4) other claims against the estate in the order of the claims' classifications.

Sec. 355.1551. CLAIM HOLDER DUTY TO POSSESS OR SELL WITHIN REASONABLE TIME.

(a) A [claim] holder of a claim allowed and approved under Section 355.151(a)(2) who elects to take possession or sell the property securing the debt before final maturity in satisfaction of the [claim] holder's claim must do so within a reasonable time, as determined by the court.

(b) If the claim holder fails to take possession or sell secured property within the [a reasonable] time determined by the court under Subsection (a), on application by the personal representative, the court may require the sale of the property free of the lien and apply the proceeds to the payment of the whole debt in full satisfaction of the claim.

(c) [No change.]

Sec. 356.105. REPORT; EVIDENCE OF TITLE.

(a) A sale of estate personal property shall be reported to the court. The laws regulating the approval [confirmation] or disapproval of a sale of real estate apply to the sale, except that a conveyance is not required.

(b) The court's order approving [confirming] the sale of estate personal property:

(1) vests the right and title of the intestate's estate in the purchaser who has complied with the terms of the sale; and

(2) is prima facie evidence that all requirements of the law in making the sale have been met.

(c) [No change.]

SUBCHAPTER I. SALE OF REAL ESTATE: PUBLIC AUCTION [SALE]

Sec. 356.401. METHOD OF SALE; REQUIRED NOTICE.

(a) A public sale of real estate of an estate shall be made at public auction. Except as otherwise provided by Section 356.403(c), the personal representative of an estate shall advertise a public auction [sale] of real estate of the estate by a notice published in the county

in which the estate is pending, as provided by this title for publication of notices or citations. The notice must:

(1) include a reference to the order of sale;

(2) include the time, place, and required terms of sale; and

(3) briefly describe the real estate to be sold.

(b) The notice required by Subsection (a) is not required to contain field notes, but if the real estate to be sold is rural property, the notice must include:

(1) the name of the original survey of the real estate;

(2) the number of acres comprising the real estate;

(3) the location of the real estate in the county; and

(4) any name by which the real estate is generally known.

Sec. 356.402. COMPLETION [METHOD] OF AUCTION [SALE].

A public auction [sale] of real estate of an estate shall be completed on the bid of [made at public auction to] the highest bidder.

Sec. 356.403. TIME AND PLACE OF AUCTION [SALE].

(a) Except as provided by Subsection (c), a public auction [sale] of real estate of an estate shall be held [made] at:

(1) the courthouse door in the county in which the real estate is located, or if the real estate is located in more than one county, the courthouse door in any county in which the real estate is located [proceedings are pending]; or

(2) another place in a [that] county described by Subdivision (1) at which auctions [sales] of real estate are specifically authorized to be held as designated by the commissioners court of the county under Section 51.002(a), Property Code [made].

(b) Except as otherwise provided by this subsection, the auction [The sale] must occur between 10 a.m. and 4 p.m. on the first Tuesday of the month after publication of notice has been completed. If the first Tuesday of the month occurs on January 1 or July 4, the auction must occur between 10 a.m. and 4 p.m. on the first Wednesday of the month.

(c) If the court considers it advisable, the court may order the auction [sale] to be held [made] in the county in which the proceedings are pending [real estate is located], in which event notice shall be

published both in that county and in the county in which the real estate is located [~~proceedings are pending~~].

Sec. 356.404. CONTINUANCE OF AUCTION [~~SALE~~].

(a) A public auction [~~sale~~] of real estate of an estate that is not completed on the day advertised may be continued from day to day by an oral public announcement of the continuance made at the conclusion of the auction [~~sale~~] each day.

(b) A continued auction [~~sale~~] must occur within the hours prescribed by Section 356.403(b).

(c) The continuance of an auction [~~a sale~~] under this section shall be shown in the report [~~of the sale~~] made to the court under Section 356.551.

Sec. 356.405. FAILURE OF BIDDER TO COMPLY.

(a) If a person bids off real estate of the estate offered [~~for sale~~] at public auction and fails to comply with the terms of the bid [~~sale~~], the property shall be readvertised and auctioned [~~sold~~] without any further order.

(b) The person defaulting on a bid as described by Subsection (a) is liable for payment to the personal representative of the estate, for the estate's benefit, of:

(1) 10 percent of the amount of the bid; and

(2) the amount of any deficiency in price on the second auction [~~sale~~].

(c) The personal representative may recover the amounts under Subsection (b) by suit in any court in the county in which the auction [~~sale~~] was made that has jurisdiction of the amount claimed.

**SUBCHAPTER J. SALE OF REAL ESTATE:
CONTRACT FOR PRIVATE SALE**

Sec. 356.451. TERMS OF [~~MANNER OF~~] SALE.

The personal representative of an estate may enter into a contract for the [A] private sale of real estate of the estate [~~shall be~~] made in the manner the court directs in the order of sale. Unless the court directs otherwise, additional advertising, notice, or citation concerning the sale is not required.

Sec. 356.502. PROCEDURE.

The procedure for the sale of an easement or right-of-way authorized under Section 356.501 is the same as the procedure provided by law for a private sale of estate real property by contract [~~at private sale~~].

**SUBCHAPTER L. APPROVAL [~~CONFIRMATION~~]
OF SALE OF REAL PROPERTY AND TRANSFER
OF TITLE**

Sec. 356.551. REPORT.

A successful bid or contract for the sale of estate real property shall be reported to the court ordering the sale not later than the 30th day after the date the bid [~~sale~~] is made or the property is placed under contract. The report must:

(1) be sworn to, in writing, and filed with the clerk;

(2) include:

(A) the date of the order of sale;

(B) a description of the property being sold;

(C) the time and place of the auction or date the property is placed under contract [~~sale~~];

(D) the purchaser's name;

(E) the amount of the successful bid or the purchase price for [~~which~~] each parcel of property or interest in property auctioned or placed under contract [~~was sold~~];

(F) the terms of the sale;

(G) whether the proposed sale of the property was made at public auction or by contract [~~privately~~]; and

(H) whether the purchaser is ready to comply with the order of sale; and

(3) be noted on the probate docket.

Sec. 356.552. ACTION OF COURT ON REPORT [~~OF SALE~~].

After the expiration of five days from the date a report [~~of sale~~] is filed under Section 356.551, the court shall:

(1) inquire into the manner in which the auction or contract described in the report [~~sale~~] was made;

(2) hear evidence in support of or against the report; and

(3) determine the sufficiency or insufficiency of the personal representative's general bond, if any has been required and given.

**Sec. 356.553. APPROVAL [~~CONFIRMATION~~] OF
SALE WHEN BOND NOT REQUIRED.**

If the personal representative of an estate is not required by this title to give a general bond, the court

may approve [~~confirm~~] the sale of estate real property in the manner provided by Section 356.556(a) if the court finds that the sale is satisfactory and made in accordance with law.

Sec. 356.554. SUFFICIENCY OF BOND.

(a) If the personal representative of an estate is required by this title to give a general bond, before the court approves [~~confirms~~] any sale of real estate, the court shall determine whether the bond is sufficient to protect the estate after the sale proceeds are received.

(b) If the court finds that the general bond is sufficient, the court may approve [~~confirm~~] the sale as provided by Section 356.556(a).

(c) If the court finds that the general bond is insufficient, the court may not approve [~~confirm~~] the sale until the general bond is increased to the amount required by the court, or an additional bond is given, and approved by the court.

(d) [No change.]

Sec. 356.556. APPROVAL [~~CONFIRMATION~~] OR DISAPPROVAL ORDER.

(a) If the court is satisfied that the proposed sale of real property [~~a sale~~] reported under Section 356.551 is [~~was~~] for a fair price, properly made, and in conformity with law, and the court has approved any increased or additional bond that the court found necessary to protect the estate, the court shall enter an order:

- (1) approving [~~confirming~~] the sale;
- (2) showing conformity with this chapter;
- (3) detailing the terms of the sale; and

(4) authorizing the personal representative to convey the property on the purchaser's compliance with the terms of the sale.

(b) If the court is not satisfied that the proposed sale of real property is [~~sale was~~] for a fair price, properly made, and in conformity with law, the court shall enter an order setting aside the bid or contract [~~sale~~] and ordering a new sale to be made, if necessary.

(c) The court's action in approving [~~confirming~~] or disapproving a report under Section 356.551 [~~of a sale~~] has the effect of a final judgment. Any person interested in the estate or in the sale is entitled to have an order entered under this section reviewed as in other final judgments in probate proceedings.

Sec. 356.557. DEED.

Real estate of an estate that is sold shall be conveyed by a proper deed that refers to and identifies

the court order approving [~~confirming~~] the sale. The deed:

(1) vests in the purchaser all right and title of the estate to, and all interest of the estate in, the property; and

(2) is prima facie evidence that the sale has met all applicable requirements of the law.

Sec. 356.558. DELIVERY OF DEED.

(a) After the court has approved [~~confirmed~~] a sale and the purchaser has complied with the terms of the sale, the personal representative of the estate shall promptly execute and deliver to the purchaser a proper deed conveying the property.

(b) – (c) [No change.]

Sec. 358.060. AMENDMENT OF LEASE REGARDING EFFECT OF SHUT-IN GAS WELL.

(a) An oil, gas, and mineral lease executed by a personal representative [~~under the former Texas Probate Code or this code~~] may be amended by an instrument that provides that a shut-in gas well on the land covered by the lease or on land pooled with all or part of the land covered by the lease continues the lease in effect after the lease's five-year primary term.

Sec. 358.201. AUTHORIZATION FOR EXECUTION OF AGREEMENTS.

As to any mineral lease or pooling or unitization agreement, executed on behalf of an estate [~~before January 1, 1956, or on or after that date under the provisions of the former Texas Probate Code or this code,~~] or [~~executed~~] by a former owner of land, minerals, or royalty affected by the lease or agreement, the personal representative of the estate being administered may, without further court order and without consideration, execute:

- (1) division orders;
- (2) transfer orders;
- (3) instruments of correction;

(4) instruments designating depository banks for the receipt of delay rentals or shut-in gas well royalty to accrue or become payable under the terms of the lease; and

(5) similar instruments relating to the lease or agreement and the property covered by the lease or agreement.

Sec. 401.005. BOND; WAIVER OF BOND.

(a) [No change.]

(a-1) If a decedent's will does not contain language directing that no bond or security be required of a person named as executor, unless the court finds that it would not be in the best interest of the estate, the court may waive the requirement of a bond if all of the distributees of the decedent agree to the waiver of bond in:

(1) the application for probate of the decedent's will; or

(2) one or more separate documents consenting to the application for probate of the decedent's will.

(b) [No change.]

Sec. 402.003. DIGITAL ASSETS.

The court, either at the time the independent executor of an estate is appointed or at any time before the administration of the estate is closed, may enter an order that:

(1) directs disclosure of the content of electronic communications of the decedent to the independent executor as provided by Section 2001.101 and that contains any court finding described by Section 2001.101(b)(3);

(2) with respect to a catalog of electronic communications sent or received by the decedent and other digital assets of the decedent, other than the content of an electronic communication, contains any court finding described by Section 2001.102(b)(4); or

(3) directs under Section 2001.231 a custodian to comply with a request to disclose digital assets under Chapter 2001.

Sec. 455.008. SMALL ESTATES.

(a) If gross assets of an estate do not exceed 20 [40] percent of the maximum amount authorized for a small estate affidavit under Section 205.001, the public probate administrator may act without issuance of letters testamentary or of administration if the court approves a statement of administration stating:

- (1) the name and domicile of the decedent;
- (2) the date and place of death of the decedent;

and

(3) the name, address, and relationship of each known heir or devisee of the decedent.

(b) – (c) [No change.]

Sec. 455.009. SMALL ESTATE AFFIDAVIT.

(a) [No change.]

(a-1) The public probate administrator may file the affidavit as provided by Subsection (a) after the public probate administrator has acted under Section 455.007 or 455.008.

(b) [No change.]

Sec. 455.012. DEPOSIT OF FUNDS IN COURT REGISTRY [INTO THE COUNTY TREASURY].

The public probate administrator shall deposit all funds coming into the custody of the administrator in the court registry, except as provided by Section 455.003 [county treasury]. Funds deposited must be disbursed [dispersed] at the direction of the public probate administrator and according to an order issued by the statutory probate court judge who appointed the administrator [the guidelines of the county treasurer or auditor].

Sec. 551.003. PAYMENT OF PORTION THAT IS NOT IN MONEY.

(a) [No change.]

(b) Recovery of [An action to recover] the proceeds of a sale under this section is governed by Subchapter B.

Sec. 551.051. RECOVERY OF FUNDS.

If funds of an estate have been paid to the comptroller under this chapter, an heir or devisee or an assignee of an heir or devisee may recover the share of the funds to which the heir, devisee, or assignee is entitled by filing a claim with the comptroller in the manner provided by Chapter 74, Property Code, for property delivered to the comptroller under that chapter.

Sec. 551.052. ACTION FOR RECOVERY.

[Repealed.]

Sec. 551.053. JUDGMENT.

[Repealed.]

Sec. 551.054. PAYMENT OF COSTS.

[Repealed.]

Sec. 551.055. REPRESENTATION OF COMPTROLLER.

[Repealed.]

2019 Amendments to the Texas Estates Code (Powers of Attorney)

[The following excerpt reflects an amendment made by HB 4170.]

Sec. 752.113. RETIREMENT PLAN TRANSACTIONS.

(a) – (b) [No change.]

(c) Unless the principal has granted the authority to create or change a beneficiary designation expressly as required by Section 751.031(b)(4), an agent may be named a beneficiary under a retirement plan only to the extent the agent was [a] named a beneficiary by the principal under the retirement plan, or in the case of a rollover or trustee-to-trustee transfer, the predecessor retirement plan.

(c)

2019 Amendments to the Texas Estates Code (Guardianship)

[The following excerpts reflect amendments made by HB 2780, HB 4170, SB 891, SB 1784.]

Sec. 1051.054. SERVICE BY PUBLICATION.

(a) Except as provided by Section 17.032, Civil Practice and Remedies Code, citation [~~Citation~~] or notice to a person to be served by publication shall be published one time on the public information Internet website maintained as required by Section 72.034, Government Code, and in a newspaper of general circulation in the county in which the proceeding is pending. The publication must be made at least 10 days before the return day of the citation or notice, excluding the date of publication.

(b) The date of service of citation or notice by publication is the earlier of:

(1) the date the citation or notice is published on the public information Internet website under Subsection (a); or

(2) the date of publication printed on the newspaper in which the citation or notice is published.

(~~e~~) [Repealed.]

Sec. 1051.153. PROOF OF SERVICE.

(a) [No change.]

(b) Proof of service consists of:

(1) if the service is made by a sheriff or constable, the return of service;

(2) if the service is made by a private person, the person's affidavit;

(3) if the service is made by mail:

(A) the certificate of the county clerk making the service, or the affidavit of the guardian or other person making the service that states that the citation or notice was mailed and the date of the mailing; and

(B) the return receipt attached to the certificate, if the mailing was by registered or certified mail and a receipt has been returned; and

(4) if the service is made by publication:

(A) an affidavit that:

(i) is made by the Office of Court Administration of the Texas Judicial System or an employee of the office;

(ii) contains or to which is attached a copy of the published citation or notice; and

(iii) states the date of publication on the public information Internet website maintained as required by Section 72.034, Government Code; and

(B) [~~r~~] an affidavit that:

(i) [~~(A)~~] is made by the publisher of the newspaper in which the citation or notice was published or an employee of the publisher;

(ii) [~~(B)~~] contains or to which is attached a copy of the published citation or notice; and

(iii) [~~(C)~~] states the date of publication printed on the newspaper in which the citation or notice was published.

Sec. 1104.359. EFFECT OF LACK OF REQUIRED REGISTRATION.

(a) A guardianship program may not be appointed guardian:

(1) if the program is not registered as required under Subchapter F [~~D~~], Chapter 155, Government Code;

(2) if a registration certificate issued to the program under Subchapter F [~~D~~], Chapter 155, Government Code, is expired or refused renewal, or has been revoked and not been reissued; or

(3) during the time a registration certificate issued to the program under Subchapter F [~~D~~], Chapter 155, Government Code, is suspended.

(b) [No change.]

Sec. 1155.202. COMPENSATION AND COSTS PAYABLE UNDER MEDICAL ASSISTANCE PROGRAM.

(a) Notwithstanding any other provision of this title and to the extent permitted by federal law, a court that appoints a guardian for a recipient of medical assistance who has applied income may order the following to be deducted as an additional personal needs allowance in the computation of the recipient's applied income in accordance with Section 32.02451, Human Resources Code:

(1) compensation to the guardian in an amount not to exceed \$250 [~~\$175~~] per month;

(2) costs directly related to establishing or terminating the guardianship, not to exceed \$1,000 except as provided by Subsection (b); and

(3) other administrative costs related to the guardianship, not to exceed \$1,000 during any three-year period.

(a) In a guardianship proceeding, the court costs of the proceeding, including the costs described by Subsection (a-1), shall, except as provided by Subsection (c), be paid as follows, and the court shall issue the judgment accordingly:

(b) – (c) [No change.]

**Sec. 1160.060. AMENDMENT OF LEASE
REGARDING EFFECT OF SHUT-IN GAS WELL.**

(a) An oil, gas, and mineral lease executed by a guardian of an estate [~~under this chapter or former Chapter XIII, Texas Probate Code,~~] may be amended by an instrument that provides that a shut-in gas well on the land covered by the lease or on land pooled with all or part of the land covered by the lease continues the lease in effect after the lease's five-year primary term.

(b) [No change.]

2019 Amendments to the Texas Trust Code

[The following excerpts reflect amendments made by HB 2245, HB 2246, HB 2780.]

SEC. 111.0035. DEFAULT AND MANDATORY RULES; CONFLICT BETWEEN TERMS AND STATUTE.

(a) [No change.]

(b) The terms of a trust prevail over any provision of this subtitle, except that the terms of a trust may not limit:

(1) the requirements imposed under Section 112.031;

(2) the applicability of Section 114.007 to an exculpation term of a trust;

(3) the periods of limitation for commencing a judicial proceeding regarding a trust;

(4) a trustee's duty:

(A) with regard to an irrevocable trust, to respond to a demand for accounting made under Section 113.151 if the demand is from a beneficiary who, at the time of the demand:

(i) is entitled or permitted to receive distributions from the trust; or

(ii) would receive a distribution from the trust if the trust terminated at the time of the demand; and

(B) to act in good faith and in accordance with the purposes of the trust;

(5) the power of a court, in the interest of justice, to take action or exercise jurisdiction, including the power to:

(A) modify, reform, or terminate a trust or take other action under Section 112.054;

(B) remove a trustee under Section 113.082;

(C) exercise jurisdiction under Section 115.001;

(D) require, dispense with, modify, or terminate a trustee's bond; [ø]]

(E) adjust, [ø] deny, or order disgorgement of a trustee's compensation if the trustee commits a breach of trust; or

(F) make an award of costs and attorney's fees under Section 114.064; or

(6) the applicability of Section 112.038.

(c) [No change.]

Sec. 112.0335. CONSTRUCTION OF CERTAIN TRUSTS.

(a) Unless the terms of the trust provide otherwise, if a trust is created and amendable or revocable by the settlor, or by the settlor and the settlor's spouse, Chapter 255, Estates Code, applies at the settlor's death to the construction and interpretation of at-death transfers as if the settlor of the trust is the testator, the beneficiaries of the at-death transfer are devisees, and the at-death transfers are devises.

(b) Section 355.109, Estates Code, applies to the abatement of at-death transfers.

(c) For purposes of this section, "at-death transfer" means a transfer pursuant to the terms of a trust described by Subsection (a) that is intended to take effect or become irrevocable by reason of the settlor's death.

(d) For purposes of the Estates Code provisions specified by this section:

(1) an at-death transfer of specifically identifiable trust property is a specific bequest, devise, or legacy;

(2) an at-death transfer from the general assets of the trust that does not transfer specifically identifiable property is a general bequest, devise, or legacy; and

(3) an at-death transfer of trust property that remains after all specific and general transfers have been satisfied is the residuary estate.

Sec. 112.034. MERGER.

(a) If a settlor transfers both the legal title and all equitable interests in property to the same person or retains both the legal title and all equitable interests in property in himself as both the sole trustee and the sole beneficiary, a trust is not created and the transferee holds the property as his own. This subtitle does not invalidate a trust account validly created and in effect under Chapter 113, Estates [XI, Texas Probate] Code.

(b) – (c) [No change.]

Sec. 112.054. JUDICIAL MODIFICATION, REFORMATION, OR TERMINATION OF TRUSTS.

(a) – (b-1) [No change.]

(c) The court may direct that an order described by Subsection (a)(4) [ø] ~~(b-1)~~] has retroactive effect. The

reformation of a trust under an order described by Subsection (b-1) is effective as of the creation of the trust.

(d) – (f) [No change.]

Sec. 112.0715. CREATION OF SECOND TRUST.

(a) A second trust may be created by a distribution of principal under Section 112.072 or 112.073 to a trust created under the same trust instrument as the first trust from which the principal is distributed or to a trust created under a different trust instrument.

(b) If a second trust is created by a distribution of principal under Section 112.072 or 112.073 to a trust created under the same trust instrument as the first trust from which the principal is distributed, the property is not required to be retitled.

(c) The legislature intends this section to be a codification of the common law of this state in effect immediately before September 1, 2019.

SUBCHAPTER E. EFFECT OF DISSOLUTION OF MARRIAGE ON CERTAIN TRANSFERS IN TRUST

Sec. 112.101. DEFINITIONS.

In this subchapter:

(1) "Disposition or appointment of property" includes a transfer of property to or a provision of another benefit to a beneficiary under a trust instrument.

(2) "Divorced individual" means an individual whose marriage has been dissolved by divorce, annulment, or a declaration that the marriage is void.

(3) "Relative" means an individual who is related to another individual by consanguinity or affinity, as determined under Sections 573.022 and 573.024, Government Code, respectively.

(4) "Revocable," with respect to a disposition, appointment, provision, or nomination, means a disposition to, appointment of, provision in favor of, or nomination of an individual's spouse or any relative of the individual's spouse who is not a relative of the individual that is contained in a trust instrument executed by the individual before the dissolution of the individual's marriage to the spouse and that the individual was solely empowered by law or by the trust instrument to revoke regardless of whether the individual had the capacity to exercise the power at that time.

Sec. 112.102. REVOCATION OF CERTAIN NONTESTAMENTARY TRANSFERS; TREATMENT OF FORMER SPOUSE OR FORMER SPOUSE'S

RELATIVE AS BENEFICIARY UNDER CERTAIN POLICIES OR PLANS.

(a) The dissolution of the marriage revokes a provision in a trust instrument that was executed by a divorced individual as settlor before the divorced individual's marriage was dissolved and that:

(1) is a revocable disposition or appointment of property made to the divorced individual's former spouse or any relative of the former spouse who is not a relative of the divorced individual;

(2) revocably confers a general or special power of appointment on the divorced individual's former spouse or any relative of the former spouse who is not a relative of the divorced individual; or

(3) revocably nominates the divorced individual's former spouse or any relative of the former spouse who is not a relative of the divorced individual to serve:

(A) as a personal representative, trustee, conservator, agent, or guardian; or

(B) in another fiduciary or representative capacity.

(b) Subsection (a) does not apply if one of the following provides otherwise:

(1) a court order;

(2) the express terms of a trust instrument executed by the divorced individual before the individual's marriage was dissolved; or

(3) an express provision of a contract relating to the division of the marital estate entered into between the divorced individual and the individual's former spouse before, during, or after the marriage.

(c) Sections 9.301 and 9.302, Family Code, govern the designation of a former spouse as a beneficiary of certain life insurance policies or as a beneficiary under certain retirement benefit plans or other financial plans.

Sec. 112.103. EFFECT OF REVOCATION.

(a) An interest granted in a provision of a trust instrument that is revoked under Section 112.102(a)(1) or (2) passes as if the former spouse of the divorced individual who executed the trust instrument and each relative of the former spouse who is not a relative of the divorced individual disclaimed the interest granted in the provision.

(b) An interest granted in a provision of a trust instrument that is revoked under Section 112.102(a)(3) passes as if the former spouse and each relative of the former spouse who is not a relative of the divorced

individual died immediately before the dissolution of the marriage.

Sec. 112.104. LIABILITY OF CERTAIN PURCHASERS OR RECIPIENTS OF CERTAIN PAYMENTS, BENEFITS, OR PROPERTY.

A bona fide purchaser of property from a divorced individual's former spouse or any relative of the former spouse who is not a relative of the divorced individual or a person who receives from the former spouse or any relative of the former spouse who is not a relative of the divorced individual a payment, benefit, or property in partial or full satisfaction of an enforceable obligation:

(1) is not required by this subchapter to return the payment, benefit, or property; and

(2) is not liable under this subchapter for the amount of the payment or the value of the property or benefit.

Sec. 112.105. LIABILITY OF FORMER SPOUSE OR FORMER SPOUSE'S RELATIVE FOR CERTAIN PAYMENTS, BENEFITS, OR PROPERTY.

A divorced individual's former spouse or any relative of the former spouse who is not a relative of the divorced individual who, not for value, receives a payment, benefit, or property to which the former spouse or the relative of the former spouse who is not a relative of the divorced individual is not entitled as a result of Sections 112.102(a) and (b):

(1) shall return the payment, benefit, or property to the person who is entitled to the payment, benefit, or property under this subchapter; or

(2) is personally liable to the person described by Subdivision (1) for the amount of the payment or the value of the benefit or property received, as applicable.

Sec. 112.106. CERTAIN TRUSTS WITH DIVORCED INDIVIDUALS AS JOINT SETTLORS.

(a) This section applies only to a trust created under a trust instrument that:

(1) was executed by two married individuals as settlors whose marriage to each other is subsequently dissolved; and

(2) includes a provision described by Section 112.102(a).

(b) On the death of one of the divorced individuals who is a settlor of a trust to which this section applies, the trustee shall divide the trust into two trusts, each of which shall be composed of the property attributable to the contributions of only one of the divorced individuals.

(c) An action authorized in a trust instrument described by Subsection (a) that requires the actions of both divorced individuals may be taken with respect to a trust established in accordance with Subsection (b) from the surviving divorced individual's contributions solely by that divorced individual.

(d) The provisions of this subchapter apply independently to each trust established in accordance with Subsection (b) as if the divorced individual from whose contributions the trust was established had been the only settlor to execute the trust instrument described by Subsection (a).

(e) This section does not apply if one of the following provides otherwise:

(1) a court order;

(2) the express terms of a trust instrument executed by the two divorced individuals before their marriage was dissolved; or

(3) an express provision of a contract relating to the division of the marital estate entered into between the two divorced individuals before, during, or after their marriage.

SEC. 114.0031. DIRECTED TRUSTS; ADVISORS.

(a) – (d) [No change.]

(e) If the terms of a trust give a person the authority to direct, consent to, or disapprove a trustee's actual or proposed investment decisions, distribution decisions, or other decisions, the person is ~~considered to be~~ an advisor. An advisor is ~~and~~ a fiduciary regardless of trust terms to the contrary ~~when exercising that authority~~ except that the trust terms may provide that an advisor acts in a nonfiduciary capacity if:

(1) the advisor's only power is to remove and appoint trustees, advisors, trust committee members, or other protectors; and

(2) the advisor does not exercise that power to appoint the advisor's self to a position described by Subdivision (1).

(e-1) Subsection (e) does not prohibit the exercise of a power in a nonfiduciary capacity as required by the Internal Revenue Code for a grantor or other person to be treated as the owner of any portion of the trust for federal income tax purposes.

(f) – (i) [No change.]

2019 Selected Amendments to the Texas Property Code (Excluding Trust Code)

[The following excerpts reflect amendments made by HB 69, HB 2245, HB 2779, HB 2780, HB 3598, SB 1420.]

Sec. 41.0021. HOMESTEAD IN QUALIFYING TRUST.

(a) – (d) [No change.]

(e) This section does not affect the rights of a surviving spouse or surviving children under Section 52, Article XVI, Texas Constitution, or Chapter 353, Estates [Part 3, Chapter VIII, Texas Probate] Code.

Sec. 42.0021. ADDITIONAL EXEMPTION FOR CERTAIN SAVINGS PLANS.

(a) In this section, "qualified savings plan" means [addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments, whether vested or not, under] any stock bonus, pension, annuity, deferred compensation, profit-sharing, health, education, or similar plan or account, to the extent the plan or account is exempt from federal income tax or to the extent federal income tax on a person's interest in the plan or account is deferred until actual payment of benefits to the person. A plan or account that is subject to federal income tax is considered to be exempt from federal income tax for purposes of this section if the plan or account is subject to the tax solely under Sections 511 through 514, Internal Revenue Code of 1986. The term includes:

(1) a retirement plan sponsored by a private employer, government, or church;

(2) [~~including~~] a retirement plan for self-employed individuals;

(3) [~~or~~] a simplified employee pension plan;

(4) [~~]~~ an individual retirement account or [individual retirement] annuity, including an inherited individual retirement account or [~~individual retirement~~] annuity;

(5) a [~~]~~ Roth IRA, including an [~~or~~] inherited Roth IRA;

(6) [~~or~~] a health savings account;

(7) a Coverdell education savings account;

(8) a plan or account established under Subchapter F, Chapter 54, Education Code, including a prepaid tuition contract;

(9) a plan or account established under Subchapter G, Chapter 54, Education Code, including a savings trust account;

(10) a qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986;

(11) a qualified ABLE program of any state that meets the requirements of Section 529A, Internal Revenue Code of 1986; and

(12) an [~~and under any~~] annuity or similar contract purchased with assets distributed from a [that type of] plan or account described by this subsection.

(b) In addition to the exemption prescribed by Section 42.001 and except as provided by this section, a person's interest in and right to receive payments from a qualified savings plan, whether vested or not, is exempt from attachment, execution, and seizure for the satisfaction of debts.

(c) An interest or right in a qualified savings plan that was [~~to the extent the plan, contract, annuity, or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person under Section 223, 401(a), 403(a), 403(b), 408(a), 408A, 457(b), or 501(a), Internal Revenue Code of 1986, including a government plan or church plan described by Section 414(d) or (e), Internal Revenue Code of 1986. For purposes of this subsection, the interest of a person in a plan, annuity, account, or contract] acquired by reason of the death of another person, whether as an owner, participant, beneficiary, survivor, coannuitant, heir, or legatee, is exempt to the same extent that the interest or right of the decedent [person from whom the plan, annuity, account, or contract was acquired] was exempt on the date of the decedent's [person's] death.~~

(d) [If this subsection is held invalid or preempted by federal law in whole or in part or in certain circumstances, the subsection remains in effect in all other respects to the maximum extent permitted by law.

[~~(b)~~] Contributions to a qualified savings plan that are excess contributions under Section 4973, [an individual retirement account that exceed the amounts permitted under the applicable provisions of the] Internal Revenue Code of 1986, and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law. [Amounts qualifying as nontaxable rollover contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986 before January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts treated as qualified rollover contributions under Section 408A, Internal Revenue Code of 1986, are treated as exempt amounts under Subsection (a). In addition, amounts qualifying as nontaxable rollover

~~contributions under Section 402(c), 402(c)(6), 402(f), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue Code of 1986 on or after January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 223(f)(5) of the Internal Revenue Code of 1986 on or after January 1, 2004, are treated as exempt amounts under Subsection (a).]~~

(e) [(e)] Amounts distributed from a qualified savings plan are exempt from attachment, execution, and [plan, annuity, account, or contract entitled to an exemption under Subsection (a) are not subject to] seizure for a creditor's claim for 60 days after the date of distribution. If [(f)] the amounts qualify as a [nontaxable] rollover contribution under the Internal Revenue Code of 1986, whether taxable or nontaxable, the amounts will continue to be exempt thereafter under this section [Subsection (b)].

(f) A person's interest in a retirement plan that is solely an unfunded, unsecured promise by an employer to pay deferred compensation is not exempt under this section unless otherwise exempt by law.

(g) A person [(d) A participant or beneficiary of a plan, annuity, account, or contract entitled to an exemption under Subsection (a), other than an individual retirement account or individual retirement annuity,] is not prohibited by this section from granting a valid and enforceable security interest in the person's interest in or right [participant's or beneficiary's right to the assets held in or] to receive payments from a qualified savings plan to the extent permitted by, and in accordance with, the Internal Revenue Code of 1986 and the terms of the qualified savings plan [under the exempt plan, annuity, account, or contract] to secure a loan to the person [participant or beneficiary] from the qualified savings plan. The person's interest in or right [exempt plan, annuity, account, or contract, and the right to the assets held in or] to receive payments from the plan [- annuity, account, or contract] is subject to attachment, execution, and seizure for the satisfaction of the security interest or lien granted by the person [participant or beneficiary] to secure the loan.

(h) [(e)] If any provision of this section is held [Subsection (a) is declared] invalid or preempted by federal law, in whole or in part or in certain circumstances, the remaining provisions of this section remain [as applied to a person who has not brought a proceeding under Title 11, United States Code, the subsection remains] in effect, to the maximum extent permitted by law [- as to any person who has filed that type of proceeding].

(i) [(f)] A reference in this section to the Internal Revenue Code of 1986 or a specific provision of the Internal Revenue Code of 1986 includes a subsequent amendment of that code or of the substance of that provision.

~~Sec. 42.0022. EXEMPTION FOR COLLEGE SAVINGS PLANS.~~

[Repealed.]

Sec. 42.005. CHILD SUPPORT LIENS.

(a) Except as provided by Subsection (b), Sections 42.001, 42.002, and 42.0021 [of this code] do not apply to a child support lien established under Subchapter G, Chapter 157, Family Code.

(b) The exemption from attachment, execution, and seizure for the satisfaction of debts provided under Section 42.0021 for a plan or account described by Section 42.0021(a)(8), (9), or (10) applies to a child support lien established under Subchapter G, Chapter 157, Family Code.

Sec. 74.501. CLAIM FILED WITH COMPTROLLER.

(a) – (c) [No change.]

(d) On receipt of a claim form and all necessary documentation and as may be appropriate under the circumstances, the comptroller may approve the claim of:

- (1) the reported owner of the property;
- (2) if the reported owner died testate:

(A) the appropriate legal beneficiaries of the owner as provided by the last will and testament of the owner that has been accepted into probate or filed as a muniment of title; or

(B) the executor of the owner's last will and testament who holds current letters testamentary;

- (3) if the reported owner died intestate:

(A) the legal heirs of the owner as provided by Sections 201.001 and 201.002, Estates Code; or

(B) the court-appointed administrator of the owner's estate, if the administrator was appointed before the fourth anniversary of the date of the death of the owner;

(4) the legal heirs of the reported owner as established by an affidavit of heirship order signed by a judge of the county probate court or by a county judge;

(5) if the reported owner is a minor child or an adult who has been adjudged incompetent by a court of law, the parent or legal guardian of the child or adult;

(6) if the reported owner is a corporation:

(A) the president or chair of the board of directors of the corporation, on behalf of the corporation; or

(B) any person who has legal authority to act on behalf of the corporation;

(7) if the reported owner is a corporation that has been dissolved or liquidated:

(A) the sole surviving shareholder of the corporation, if there is only one surviving shareholder;

(B) the surviving shareholders of the corporation in proportion to their ownership of the corporation, if there is more than one surviving shareholder;

(C) the corporation's bankruptcy trustee; or

(D) the court-ordered receiver for the corporation; or

(8) any other person that is entitled to receive the unclaimed property under other law or comptroller policy.

(e) Except as provided by Subsection (f) or Section 551.051, Estates Code, the comptroller may not pay to the following persons a claim to which this section applies:

(1) a creditor, a judgment creditor, a lienholder, or an assignee of the reported owner or of the owner's heirs; or

(2) a person holding a power of attorney from the reported owner or the owner's heirs.

(e) Except as provided by Subsection (f), the comptroller may not pay to the following persons a claim to which this section applies:

(1) a creditor, a judgment creditor, a lienholder, or an assignee of the reported owner or of the owner's heirs; [ø]

(2) a person holding a power of attorney from the reported owner or the owner's heirs; or

(3) a person attempting to make a claim on behalf of a corporation that was previously forfeited, dissolved, or terminated, if the comptroller finds that:

(A) the corporation was revived for the purpose of making a claim under this section; and

(B) the person submitting the claim was not an authorized representative of the corporation at the time of the corporation's forfeiture, dissolution, or termination.

(f) [No change.]

Sec. 92.0162. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING TENANT'S DEATH.

(a) A representative of the estate of a tenant who dies before the expiration of the tenant's lease and was, at the time of the tenant's death, the sole occupant of a rental dwelling may terminate the tenant's rights and obligations under the lease and may vacate the leased premises and avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the leased premises before the end of the lease term if:

(1) the representative provides to the landlord or the landlord's agent written notice of the termination of the lease under this section;

(2) the deceased tenant's property is removed from the leased premises in accordance with Section 92.014(c) or (d); and

(3) the representative signs an inventory of the removed property, if required by the landlord or the landlord's agent.

(b) Termination of a lease under this section is effective on the later of:

(1) the 30th day after the date on which the notice under Subsection (a) was provided; or

(2) the date on which all of the conditions in Subsection (a) have been met.

(c) After receipt of the notice provided under Subsection (a), the landlord shall provide a copy of the written lease agreement to the person who provided the notice on written request of that person.

(d) This section does not affect the obligations or liability of the tenant or the tenant's estate under the lease before the lease is terminated under this section, including the liability of the tenant or the tenant's estate for:

(1) delinquent, unpaid rent; and

(2) damages to the leased premises not caused by normal wear and tear.

(e) A landlord or landlord's agent who lawfully permits a person described by Subsection (a) to enter or facilitates the person's entry into the leased premises under this section is not liable for an act or omission that arises in connection with permitting or facilitating the entry.

Sec. 142.005. TRUST FOR PROPERTY.

(a) [No change.]

(b) The decree shall provide for the creation of a trust for the management of the funds for the benefit of

the beneficiary and for terms, conditions, and limitations of the trust, as determined by the court, that are not in conflict with the following mandatory provisions:

(1) The beneficiary shall be the sole beneficiary of the trust.

(2) The trustee may disburse amounts of the trust's principal, income, or both as the trustee in the trustee's sole discretion determines to be reasonably necessary for the health, education, support, or maintenance of the beneficiary. The trustee may conclusively presume that medicine or treatments approved by a licensed physician are appropriate for the health of the beneficiary.

(3) The income of the trust not disbursed under Subdivision (2) shall be added to the principal of the trust.

(4) If the beneficiary is a minor who is not considered disabled for purposes of 42 U.S.C. Chapter 7, Subchapter XVI, the trust shall terminate on the death of the beneficiary, on the beneficiary's attaining an age stated in the trust, or on the 25th birthday of the beneficiary, whichever occurs first.

(4-a) If the court finds that a minor beneficiary is considered disabled for purposes of 42 U.S.C. Chapter 7, Subchapter XVI, the trust shall terminate on the death of the beneficiary.

(4-b) If [~~— or —~~if] the beneficiary is an incapacitated person, the trust shall terminate on the death of the beneficiary or when the beneficiary regains capacity.

(5) A trustee that is a financial institution shall serve without bond.

(6) The trustee shall receive reasonable compensation paid from trust's income, principal, or both on application to and approval of the court.

(7) The first page of the trust instrument shall contain the following notice:

NOTICE: THE BENEFICIARY AND CERTAIN PERSONS INTERESTED IN THE WELFARE OF THE BENEFICIARY MAY HAVE REMEDIES UNDER SECTION 114.008 OR 142.005, PROPERTY CODE.

(c) – (1) [No change.]

Sec. 142.010. TRANSFER OF TRUST PROPERTY TO A POOLED TRUST SUBACCOUNT.

(a) In this section, "management trust" means a trust created for a beneficiary in accordance with Section 142.005.

(b) If the court with continuing jurisdiction over a management trust determines that it is in the best interests of the beneficiary for whom the management trust is created, the court may order the transfer of all property in the management trust to a pooled trust subaccount established in accordance with Chapter 143.

(c) For purposes of a proceeding to determine whether to transfer property from a management trust to a pooled trust subaccount, the court may, but is not required to, appoint an attorney ad litem or guardian ad litem to represent the interests of a management trust beneficiary who has a physical disability and is not an incapacitated person. The attorney ad litem or the guardian ad litem is entitled to a reasonable fee and reimbursement of expenses to be paid from the management trust property.

(d) The transfer of property from the management trust to the pooled trust subaccount shall be treated as a continuation of the management trust and may not be treated as the establishment of a new trust for purposes of 42 U.S.C. Section 1396p(d)(4)(A) or (C) or otherwise for purposes of the management trust beneficiary's eligibility for medical assistance under Chapter 32, Human Resources Code.

(e) The court may not allow termination of the management trust from which property is transferred under this section until all of the property in the management trust has been transferred to the pooled trust subaccount.

CHAPTER 143. POOLED TRUST SUBACCOUNTS

Sec. 143.001. DEFINITIONS.

In this chapter:

(1) "Beneficiary" means a person for whose benefit a subaccount is established.

(2) "Incapacitated person" has the meaning assigned by Section 142.007.

(3) "Medical assistance" means benefits and services under the medical assistance program administered under Chapter 32, Human Resources Code.

(4) "Pooled trust" means a trust that meets the requirements of 42 U.S.C. Section 1396p(d)(4)(C) for purposes of exempting the trust from the applicability of 42 U.S.C. Section 1396p(d) in determining the eligibility of a person who is disabled for medical assistance.

(5) "Subaccount" means an account in a pooled trust established under this chapter.

Sec. 143.002. APPLICATION TO ESTABLISH SUBACCOUNT.

The following persons may apply to the court having jurisdiction under Section 142.005 for the establishment of a subaccount solely for the benefit of a proposed beneficiary who is a person for whom a management trust has been or could be established for the person's benefit under Section 142.005:

(1) the trustee of a management trust established under Section 142.005 for the benefit of the proposed beneficiary of the subaccount;

(2) the guardian of the person or estate, or both, of the proposed beneficiary of the subaccount;

(3) a person who has filed an application for the appointment of a guardian of the person or estate, or both, for the proposed beneficiary of the subaccount;

(4) an attorney ad litem or guardian ad litem appointed to represent the proposed beneficiary of the subaccount; or

(5) the proposed beneficiary, if the proposed beneficiary is not a minor or incapacitated person.

Sec. 143.003. APPOINTMENT OF ATTORNEY AD LITEM.

(a) The court shall appoint an attorney ad litem for a person who is a minor or an incapacitated person and who is the subject of an application under Section 143.002.

(b) The attorney ad litem is entitled to a reasonable fee and reimbursement of expenses to be paid from the person's property.

Sec. 143.004. ESTABLISHMENT OF SUBACCOUNT.

If the court finds that it is in the best interests of a person who is the subject of an application under Section 143.002, the court may order:

(1) the establishment of a subaccount of which the person is the beneficiary; and

(2) the transfer to the subaccount of any of the person's property on hand or accruing to the person.

Sec. 143.005. TERMS OF SUBACCOUNT.

Unless the court orders otherwise, the terms governing the subaccount must provide that:

(1) the subaccount terminates on the earliest of the date of:

(A) the beneficiary's 18th birthday, if the beneficiary:

(i) is not found by the court to be considered disabled for purposes of 42 U.S.C. Chapter 7, Subchapter XVI; and

(ii) is a minor at the time the subaccount is established;

(B) the beneficiary's death; or

(C) a court order terminating the subaccount; and

(2) on termination, any property remaining in the beneficiary's subaccount after making any required payments to satisfy the amounts of medical assistance reimbursement claims for medical assistance provided to the beneficiary under this state's medical assistance program and other states' medical assistance programs shall be distributed to:

(A) the beneficiary, if on the date of termination the beneficiary is living and is not a minor or incapacitated person;

(B) the beneficiary's guardian of the estate, if on the date of termination the beneficiary is living and is a minor or incapacitated person; or

(C) the personal representative of the beneficiary's estate, if on the date of termination the beneficiary is deceased.

Sec. 143.006. FEES AND REPORTING.

(a) The manager or trustee of a pooled trust may:

(1) assess fees against a subaccount of that pooled trust that is established under this chapter, in accordance with the manager's or trustee's standard fee structure; and

(2) pay fees assessed under Subdivision (1) from the subaccount.

(b) If required by the court, the manager or trustee of the pooled trust shall file a copy of the annual report of account with the court clerk.

Sec. 143.007. JURISDICTION EXCLUSIVE.

Notwithstanding any other law, the court that orders the establishment of a subaccount for a beneficiary has exclusive jurisdiction of a subsequent proceeding or action that relates to both the beneficiary and the subaccount, and the proceeding or action may be brought only in that court.

2019 Selected Amendments to the Texas Health & Safety Code

[The following excerpts reflect amendments made by HB 1901, HB 2248, HB 2430, HB 2734, HB 2780.]

Sec. 313.004. CONSENT FOR MEDICAL TREATMENT.

(a) [No change.]

(b) Any dispute as to the right of a party to act as a surrogate decision-maker may be resolved only by a court of record having jurisdiction of proceedings under Title 3, Estates [~~Chapter V, Texas Probate~~] Code.

(c) – (f) [No change.]

Sec. 552.018. TRUST PRINCIPALS.

(a) – (d) [No change.]

(e) For the purposes of this section, the following are not considered to be trusts and are not entitled to the exemption provided by this section:

(1) a guardianship administered [~~established under the former Texas Probate Code or~~] under the Estates Code;

(2) a trust established under Chapter 142, Property Code;

(3) a facility custodial account established under Section 551.003;

(4) the provisions of a divorce decree or other court order relating to child support obligations;

(5) an administration of a decedent's estate; or

(6) an arrangement in which funds are held in the registry or by the clerk of a court.

Sec. 555.027. ANATOMICAL GIFT.

(a) The executive commissioner by rule shall prescribe a form that a resident's guardian may sign on behalf of a resident if the resident's guardian elects to make an anatomical gift on behalf of the resident in accordance with Chapter 692A.

(b) Subsection (a) does not preclude a guardian from executing a document in accordance with Chapter 692A that supersedes the form executed under that subsection.

Sec. 593.081. TRUST EXEMPTION.

(a) – (e) [No change.]

(f) For the purposes of this section, the following are not considered to be trusts and are not entitled to the exemption provided by this section:

(1) a guardianship administered [~~established under the former Texas Probate Code or~~] under the Estates Code;

(2) a trust established under Chapter 142, Property Code;

(3) a facility custodial account established under Section 551.003;

(4) the provisions of a divorce decree or other court order relating to child support obligations;

(5) an administration of a decedent's estate; or

(6) an arrangement in which funds are held in the registry or by the clerk of a court.

Sec. 594.036. NOTICE.

(a) [No change.]

(b) Notice shall also be served on the parents if the resident is a minor and on the guardian for the resident's person if the resident has been declared to be incapacitated [~~as provided by the former Texas Probate Code or the Estates Code~~] and a guardian has been appointed in a proceeding under Title 3, Estates Code.

Sec. 611.0041. REQUIRED DISCLOSURE OF CONFIDENTIAL INFORMATION OTHER THAN IN JUDICIAL OR ADMINISTRATIVE PROCEEDING.

(a) In this section:

(1) "Patient" has the meaning assigned by Section 552.0011.

(2) "State hospital" has the meaning assigned by Section 552.0011.

(b) To the extent permitted by federal law, a professional shall disclose confidential information to the descendant of a patient of a state hospital if:

(1) the patient has been deceased for at least 50 years; and

(2) the professional does not have information indicating that releasing the medical record is inconsistent with any prior expressed preference of the deceased patient or personal representatives of the deceased patient's estate.

(c) A person who receives information from confidential communications or records may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person first obtained the information.

Sec. 711.002. DISPOSITION OF REMAINS; DUTY TO INTER.

(a) – (a-3) [No change.]

(b) The written instrument referred to in Subsection (a)(1) may be in substantially the following form:

APPOINTMENT FOR DISPOSITION OF REMAINS

I, _____,
(your name and address)
being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by _____
_____ (name of agent)

in accordance with Section 711.002, [~~of the~~] Health and Safety Code, and, with respect to that subject only, I hereby appoint such person as my agent (attorney-in-fact).

All decisions made by my agent with respect to the disposition of my remains, including cremation, shall be binding.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent:

AGENT:

Name: _____
Address: _____
Telephone Number: _____

SUCCESSORS:

If my agent or a successor agent dies, becomes legally disabled, resigns, or refuses to act, or if my marriage to [~~I divorce~~] my agent or successor agent is dissolved by divorce, annulled, or declared void before my death and this instrument does not state that the [~~divorced~~] agent or successor agent continues to serve after my marriage to [~~divoree from~~] that agent or successor agent is dissolved by divorce, annulled, or declared void, I hereby appoint the following persons (each to act alone and successively, in the order named) to serve as my agent (attorney-in-fact) to control the disposition of my remains as authorized by this document:

1. First Successor

Name: _____
Address: _____
Telephone Number: _____

2. Second Successor

Name: _____
Address: _____
Telephone Number: _____

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENTS REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

RELIANCE:

I hereby agree that any cemetery organization, business operating a crematory or columbarium or both, funeral director or embalmer, or funeral establishment who receives a copy of this document may act under it. Any modification or revocation of this document is not effective as to any such party until that party receives actual notice of the modification or revocation. No such party shall be liable because of reliance on a copy of this document.

ASSUMPTION:

THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY THE PROVISIONS OF, SECTION 711.002, [~~OF THE~~] HEALTH AND SAFETY CODE.

SIGNATURES:

This written instrument and my appointments of an agent and any successor agent in this instrument are valid without the signature of my agent and any successor agents below. Each agent, or a successor agent, acting pursuant to this appointment must indicate acceptance of the appointment by signing below before acting as my agent.

Signed this _____ day of _____, 20____.

(your signature)

State of _____

County of _____

This document was acknowledged before me on _____ (date) by _____
(name of principal).

(signature of notarial officer)

(Seal, if any, of notary)

(printed name)
My commission expires: _____

ACCEPTANCE AND ASSUMPTION BY AGENT:

I have no knowledge of or any reason to believe this Appointment for Disposition of Remains has been revoked. I hereby accept the appointment made in this instrument with the understanding that I will be individually liable for the reasonable cost of the decedent's interment, for which I may seek reimbursement from the decedent's estate.

Acceptance of Appointment: _____
(signature of agent)

Date of Signature: _____
Acceptance of Appointment: _____
(signature of first successor)

Date of Signature: _____
Acceptance of Appointment: _____
(signature of second successor)

Date of Signature: _____

(c) A written instrument is legally sufficient under Subsection (a)(1) if the instrument designates a person to control the disposition of the decedent's remains, the instrument is signed by the decedent, the signature of the decedent is acknowledged, and the agent or successor agent signs the instrument before acting as the decedent's agent. Unless the instrument provides otherwise, the designation of the decedent's spouse as an agent or successor agent in the instrument is revoked when the marriage [on the divorce] of the decedent and the spouse appointed as an agent or successor agent is dissolved by divorce, annulled, or declared void before the decedent's death. Such written instrument may be modified or revoked only by a subsequent written instrument that complies with this subsection.

(d) – (j) [No change.]

(k) Any dispute among any of the persons listed in Subsection (a) concerning their right to control the disposition, including cremation, of a decedent's remains shall be resolved by a court with [of competent] jurisdiction over probate proceedings for the decedent, regardless of whether a probate proceeding has been initiated. A cemetery organization or funeral establishment shall not be liable for refusing to accept the decedent's remains, or to inter or otherwise dispose of the decedent's remains, until it

receives a court order or other suitable confirmation that the dispute has been resolved or settled.

Sec. 711.004. REMOVAL OF REMAINS.

(a) – (b) [No change.]

(c) If the consent required by Subsection (a) cannot be obtained, the remains may be removed by permission of a county [district] court of the county in which the cemetery is located. Before the date of application to the court for permission to remove remains under this subsection, notice must be given to:

(1) the cemetery organization operating the cemetery in which the remains are interred or if the cemetery organization cannot be located or does not exist, the Texas Historical Commission;

(2) each person whose consent is required for removal of the remains under Subsection (a); and

(3) any other person or entity that the court subsequently requires to be served.

(d) For the purposes of Subsection (c) and except as provided by this subsection or Subsection (d-1) or (k), personal notice must be given not later than the 11th day before the date of application to the court for permission to remove the remains, or notice by certified or registered mail must be given not later than the 16th day before the date of application. In an emergency circumstance described by Subsection (l) that necessitates immediate removal of remains from a plot, the court shall hear an application for permission to remove remains under Subsection (c) not later than the first business day after the application is made. In an emergency circumstance described by this subsection, personal notice may be given on the date the application is made.

(d-1) If the court subsequently requires an additional person or entity to be served under Subsection (c)(3), that additional service must be performed not later than the 11th day after the date of the judge's order. Service may not be required for any court appointed representative or other court appointed official.

(e) – (l) [No change.]

SECTION 4. The changes in law made by this Act apply only to a suit involving the removal of remains from an abandoned, unknown, or unverified cemetery pending in a trial court on the effective date of this Act or filed on or after that date. A suit involving the removal of remains from an abandoned, unknown, or unverified cemetery in which a final order is rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

Other Selected 2019 Amendments

[The following excerpts reflect amendments made by HB 558, HB 770, HB 2780, HB 2782, SB 31, SB 281, SB 874, SB 891, SB 1184, SB 1943.]

CIVIL PRACTICE & REMEDIES CODE**Sec. 17.032. CITATION BY PUBLICATION.**

(a) Notwithstanding any statute or rule requiring a person to publish citation or notice on the public information Internet website maintained as required by Section 72.034, Government Code, and in a newspaper of general circulation, the person may publish the citation or notice only on the public information Internet website if:

(1) the person files a statement of inability to afford payment of court costs under the Texas Rules of Civil Procedure;

(2) the total cost of the required publication exceeds the greater of \$200 each week or the amount set by the supreme court under Subsection (b); or

(3) the county in which the publication of the citation or notice is required does not have any newspaper published, printed, or generally circulated in the county.

(b) The supreme court shall adjust for inflation the maximum amount of publication costs established in Subsection (a)(2).

SECTION 10.04. (a) Subchapter B, Chapter 17, Civil Practice and Remedies Code, is amended by adding Section 17.033 to read as follows:

Sec. 17.033. SUBSTITUTED SERVICE THROUGH SOCIAL MEDIA PRESENCE.

(a) If substituted service of citation is authorized under the Texas Rules of Civil Procedure, the court, in accordance with the rules adopted by the supreme court under Subsection (b), may prescribe as a method of service an electronic communication sent to the defendant through a social media presence.

(b) The supreme court shall adopt rules to provide for the substituted service of citation by an electronic communication sent to a defendant through a social media presence.

Sec. 71.012. QUALIFICATION OF FOREIGN PERSONAL REPRESENTATIVE.

If the executor or administrator of the estate of a nonresident individual is the plaintiff in an action under this subchapter, the foreign personal representative of

the estate who has complied with the requirements of Chapter 503, Estates [~~Section 95, Texas Probate~~] Code, for the probate of a foreign will is not required to apply for ancillary letters testamentary under Section 501.006, Estates Code, to bring and prosecute the action.

Sec. 71.022. QUALIFICATION OF FOREIGN PERSONAL REPRESENTATIVE.

If the executor or administrator of the estate of a nonresident individual is the plaintiff in an action under this subchapter, the foreign personal representative of the estate who has complied with the requirements of Chapter 503, Estates [~~Section 95, Texas Probate~~] Code, for the probate of a foreign will is not required to apply for ancillary letters testamentary under Section 501.006, Estates Code, to bring and prosecute the action.

EDUCATION CODE**Sec. 54.241. MILITARY PERSONNEL AND DEPENDENTS.**

(a) – (c) [No change.]

(d) A spouse or dependent child of a member of the Armed Forces of the United States, who is not assigned to duty in Texas but who has previously resided in Texas for a six-month period, is entitled to pay the tuition fees and other fees or charges provided for Texas residents for a term or semester at an institution of higher education if the member:

(1) at least one year preceding the first day of the term or semester executed a document with the applicable military service that is in effect on the first day of the term or semester and that:

(A) indicates that the member's permanent residence address is in Texas; and

(B) designates Texas as the member's place of legal residence for income tax purposes;

(2) has been registered to vote in Texas for the entire year preceding the first day of the term or semester; and

(3) satisfies at least one of the following requirements:

(A) for the entire year preceding the first day of the term or semester has owned real property in Texas and in that time has not been delinquent in the payment of any taxes on the property;

(B) has had an automobile registered in Texas for the entire year preceding the first day of the term or semester; or

(C) at least one year preceding the first day of the term or semester executed a will that has not been revoked or superseded indicating that the member is a resident of this state and deposited the will with the county clerk of the county of the member's residence under Subchapter A, Chapter 252, Estates [Section 71, Texas Probate] Code.

Sec. 54.910. DESIGNATED BENEFICIARY.

(a) [No change.]

(b) If the designated beneficiary of the account is not able to exercise signature authority over the account, or if a designated beneficiary chooses to establish an account but not exercise signature authority [~~a minor or has a custodian or other fiduciary appointed for the purpose of managing the minor's financial affairs~~], the parent, legal guardian, [~~or custodian~~] or other fiduciary of the beneficiary may serve as the participant if [~~that form of ownership is~~] permitted [~~or not prohibited~~] by Section 529A, Internal Revenue Code.

(c) [No change.]

FAMILY CODE

Sec. 154.302. COURT-ORDERED SUPPORT FOR DISABLED CHILD.

(a) – (b) [No change.]

(c) Notwithstanding Subsection (b), a court that orders support under this section for an adult child with a disability may designate a special needs trust and provide that the support may be paid directly to the trust for the benefit of the adult child. The court shall order that support payable to a special needs trust under this subsection be paid directly to the trust and may not order the support be paid to the state disbursement unit. This subsection does not apply in a Title IV-D case.

GOVERNMENT CODE

Sec. 22.004. RULES OF CIVIL PROCEDURE.

(a) – (g) [No change.]

(h) The supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions. The rules shall apply to civil actions in district courts, county courts at law, and statutory probate courts in which the amount in controversy, inclusive of all claims for damages of any kind, whether actual or exemplary, a penalty, attorney's fees, expenses, costs, interest, or any other type of damage of any kind, does not exceed \$100,000. The rules shall

address the need for lowering discovery costs in these actions and the procedure for ensuring that these actions will be expedited in the civil justice system. The supreme court may not adopt rules under this subsection that conflict with other statutory law [~~a provision of~~:

- ~~(1) Chapter 74, Civil Practice and Remedies Code;~~
- ~~(2) the Family Code;~~
- ~~(3) the Property Code; or~~
- ~~(4) the Tax Code.~~

(h-1) In addition to the rules adopted under Subsection (h), the supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions filed in county courts at law in which the amount in controversy does not exceed \$250,000. The rules shall balance the need for lowering discovery costs in these actions against the complexity of and discovery needs in these actions. The supreme court may not adopt rules under this subsection that conflict with other statutory law.

(i) [No change.]

Sec. 22.020. PROMULGATION OF CERTAIN PROBATE FORMS.

(a) [No change.]

(1) – (2) [No change.]

(3) "Transfer on death deed" has the meaning assigned by Section 114.002, Estates Code.

(b) The supreme court shall, as the court considers appropriate, promulgate:

(1) forms for use by individuals representing themselves in certain probate matters, including forms for use in:

(A) a small estate affidavit proceeding under Chapter 205, Estates Code; and

(B) the probate of a will as a muniment of title under Chapter 257, Estates Code;

(2) a simple will form for:

(A) a married individual with an adult child;

(B) a married individual with a minor child;

(C) a married individual with no children;

(D) an unmarried individual with an adult child;

(E) an unmarried individual with a minor child; and

(F) an unmarried individual with no children;

(2-a) a form for use to create a transfer on death deed and a form for use to create an instrument of revocation of a transfer on death deed under Chapter 114, Estates Code; and

(3) instructions for the proper use of each form or set of forms.

(c) – (g) [No change.]

Sec. 25.002201. ASSIGNMENT OF JUDGE ON RECUSAL OR DISQUALIFICATION.

(a) [No change.]

(b) If the judge who is the subject of an order of recusal or disqualification is the presiding judge of the statutory probate courts, the chief justice of the supreme court shall assign ~~[a regional presiding judge,]~~ a statutory probate judge~~[-]~~ or a former or retired judge of a statutory probate court to hear the case.

Sec. 25.00255. COURT INVESTIGATORS.

(a) Notwithstanding any conflicting provision in the Texas Rules of Civil Procedure, Rules 18a and 18b, Texas Rules of Civil Procedure, apply to the recusal and disqualification of a statutory probate court judge except as otherwise provided by this section or another provision of this subchapter. The presiding judge:

(1) has the authority and shall perform the functions and duties of the presiding judge of the administrative judicial region under the rules, including the duty to hear or rule on a referred motion of recusal or disqualification or, subject to Subdivisions (2) and (3) ~~[and to Section 25.002201]~~, assign a judge to hear and rule on a referred motion of recusal or disqualification;

(2) may assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification only with the consent of the presiding judge of the administrative judicial region; ~~[and]~~

(3) may not assign a judge of a statutory probate court located in the same county as the statutory probate court served by the judge who is the subject of the motion of recusal or disqualification; and

(4) if the presiding judge is the subject of the motion of recusal or disqualification, shall sign and file with the clerk an order referring the motion to the chief justice of the supreme court for assignment of a presiding judge of an administrative judicial region, a

statutory probate court judge, or a former or retired judge of a statutory probate court to hear and rule on the motion, subject to Subdivisions (2) and (3).

(b) [No change.]

Sec. 72.034. SETTLEMENT AGREEMENT DATABASE.

(a) The office shall establish and maintain an electronic database that contains personal injury or wrongful death settlement agreements for which a minor or incapacitated person is the beneficiary. A party to the agreement or a guardian, next friend, or guardian ad litem may record the agreement in the database. Only one copy of an agreement may be filed by the parties or the guardian, next friend, or guardian ad litem in each settlement agreement.

(b) A settlement agreement recorded in the database is confidential, and the office shall ensure that a settlement agreement may be accessed only by:

(1) the parties to the settlement agreement;

(2) each attorney representing a party to the settlement agreement; or

(3) the guardian, next friend, or guardian ad litem of a party to the settlement agreement.

(c) The office may set and collect a fee to record a settlement agreement in the database in an amount sufficient to cover the costs of maintaining the agreement in the database, not to exceed \$50 for each agreement.

(d) Any fee to record a settlement agreement in the database established by the office as provided by Subsection (c) is a court cost to be included for payment in the settlement agreement.

SUBCHAPTER G. GUARDIANSHIP ABUSE, FRAUD, AND EXPLOITATION DETERRENCE PROGRAM

Sec. 72.121. DEFINITIONS.

In this subchapter:

(1) "Guardianship proceeding" has the meaning assigned by Section 1002.015, Estates Code.

(2) "Program" means the guardianship abuse, fraud, and exploitation deterrence program established by this subchapter.

Sec. 72.122. ESTABLISHMENT OF PROGRAM.

(a) The office shall establish and maintain a guardianship abuse, fraud, and exploitation deterrence program designed to provide additional resources and assistance to courts that have jurisdiction over guardianship proceedings by:

(1) engaging guardianship compliance specialists who shall:

(A) review the guardianships of wards and identify reporting deficiencies by guardians;

(B) audit annual accounts required to be filed by guardians under Chapter 1163, Estates Code, or other law and report their findings to the appropriate courts;

(C) work with courts to develop best practices in managing guardianship cases; and

(D) report to the appropriate courts any concerns of potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward and discovered as a result of the specialists' work under this section; and

(2) maintaining an electronic database to monitor filings of:

(A) inventories, appraisements, and lists of claims required under Chapter 1154, Estates Code, or Section 1203.203, Estates Code;

(B) annual reports required under Section 1163.101, Estates Code; and

(C) any other reports and accounts required of guardians under Chapter 1163, Estates Code, or other law.

(b) A court is required to participate in the program, including allowing guardianship compliance specialists to conduct reviews and audits under the program, if the court is selected by the office to participate in the program.

(c) A court may apply to the office in the manner and form prescribed by the office for participation in the program.

Sec. 72.123. NOTIFICATION OF STATE COMMISSION ON JUDICIAL CONDUCT.

The director may notify the State Commission on Judicial Conduct in writing if the office has reason to believe that a judge's actions or failure to act with respect to a report received from a guardianship compliance specialist indicating a concern described by Section 72.122(a)(1)(D) constitutes judicial misconduct.

Sec. 72.124. ANNUAL REPORT.

Not later than January 1 of each year, the office shall submit a report to the legislature regarding the performance of the program. The report must include:

(1) the number of courts involved in the program;

(2) the number of guardianships reviewed by guardianship compliance specialists;

(3) the number of reviewed guardianship cases found to be out of compliance with statutory reporting requirements;

(4) the number of cases reported to a court concerning potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward; and

(5) the status of any technology developed to monitor guardianship cases for purposes of the program.

Sec. 81.1011 EXCEPTION FOR CERTAIN LEGAL ASSISTANCE.

(a) Notwithstanding Section 81.101(a), the "practice of law" does not include technical advice, consultation, and document completion assistance provided by an employee or volunteer of an area agency on aging affiliated with the Health and Human Services Commission [~~Texas Department on Aging~~] who meets the requirements of Subsection (b) if that advice, consultation, and assistance relates to:

(1) a medical power of attorney or other advance directive under Chapter 166, Health and Safety Code; or

(2) a designation of guardian before need arises under Section 1104.202, Estates [~~679, Texas Probate~~] Code.

(b) [No change.]

Sec. 392.002 USE OF PERSON FIRST RESPECTFUL LANGUAGE REQUIRED.

(a) – (b) [No change.]

(b-1) In addition to the terms and phrases listed in Subsection (a), the legislature and the Texas Legislative Council are directed to avoid using in any new statute or resolution "hearing impaired," "auditory impairment," and "speech impaired" in reference to a deaf or hard of hearing person, and the legislature and the Texas Legislative Council are directed to replace, when enacting or revising a statute or resolution, those phrases with "deaf" or "hard of hearing," as appropriate.

(c) [No change.]

OCCUPATIONS CODE

Sec. 258.104. CONSENT TO DISCLOSURE OF PRIVILEGED INFORMATION.

(a) [No change.]

(b) Consent for the release of privileged information must be in writing and be signed by:

- (1) the patient;
- (2) a parent or legal guardian of the patient, if the patient is a minor;
- (3) a legal guardian of the patient, if the patient has been adjudicated incompetent to manage the patient's personal affairs;
- (4) an attorney ad litem appointed for the patient, as authorized by:
 - (A) Chapter 107, Family Code;
 - (B) Subtitle B, Title 6, Health and Safety Code;
 - (C) Subtitle C, Title 7, Health and Safety Code;
 - (D) Subtitle D, Title 7, Health and Safety Code;
 - (E) Subtitle E, Title 7, Health and Safety Code;
 - (F) Chapter 1054, Estates [~~V, Texas Probate~~] Code; or
 - (G) any other law; or
- (5) a personal representative of the patient, if the patient is deceased.

(c) – (d) [No change.]

TAX CODE

Sec. 1.04. DEFINITIONS.

In this title:

(1) – (19) [No change.]

(20) "Heir property" means real property:

(A) owned by one or more individuals, at least one of whom claims the property as the individual's residence homestead; and

(B) acquired by the owner or owners by will, transfer on death deed, or intestacy, regardless of whether the interests of the owners are recorded in the real property records of the county in which the property is located.

(21) "Heir property owner" means an owner of heir property who claims the property as the individual's residence homestead.

Sec. 5.061. EXPLANATION OF INFORMATION RELATED TO HEIR PROPERTY.

The comptroller shall prepare and electronically publish a pamphlet that provides information to assist heir property owners in applying for a residence homestead exemption authorized by Chapter 11. The pamphlet must include:

(1) a list of the residence homestead exemptions authorized by Chapter 11;

(2) a description of the process for applying for an exemption as prescribed by Section 11.43;

(3) a description of the documents an owner is required by Section 11.43(o) to submit with an application to demonstrate the owner's ownership of an interest in heir property;

(4) contact information for the division of the State Bar of Texas from which a person may obtain a listing of individuals and organizations available to provide free or reduced-fee legal assistance; and

(5) a general description of the process by which an owner may record the owner's interest in heir property in the real property records of the county in which the property is located.

Sec. 11.13. RESIDENCE HOMESTEAD.

(a) – (g) [No change.]

(h) Joint, community, or successive owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption but may choose either. A person may not receive an exemption under this section for more than one residence homestead in the same year. An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole recipient of any exemption granted to the owner for the residence homestead by or pursuant to this section.

(i) – (r) [No change.]

Sec. 11.26. LIMITATION OF SCHOOL TAX ON HOMESTEADS OF ELDERLY OR DISABLED.

(a) – (o) [No change.]

(p) An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section.

Sec. 11.261. LIMITATION OF COUNTY, MUNICIPAL, OR JUNIOR COLLEGE DISTRICT

TAX ON HOMESTEADS OF DISABLED AND ELDERLY.

(a) – (m) [No change.]

(n) An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section.

Sec. 11.41. PARTIAL OWNERSHIP OF EXEMPT PROPERTY.

(a) – (b) [No change.]

(c) An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section.

Sec. 11.43. APPLICATION FOR EXEMPTION.

(a) – (n) [No change.]

(o) The application form for a residence homestead [an] exemption [authorized by Section 11.13] must require an applicant [for an exemption under Subsection (c) or (d) of that section] who is not specifically identified on a deed or other appropriate instrument recorded in the [applicable] real property records of the county in which the property is located as an owner of the residence homestead, including an heir property owner, to provide:

(1) an affidavit [or other compelling evidence] establishing the applicant's ownership of an interest in the property;

(2) a copy of the death certificate of the prior owner of the property, if the applicant is an heir property owner;

(3) a copy of the most recent utility bill for the property, if the applicant is an heir property owner; and

(4) a citation of any court record relating to the applicant's ownership of the property if available [homestead].

(o-1) The application form for a residence homestead exemption may not require an heir property owner to provide a copy of an instrument recorded in

the real property records of the county in which the property is located.

(o-2) The application form for a residence homestead exemption must require:

(1) an applicant who is an heir property owner to state that the property for which the application is submitted is heir property; and

(2) each owner of an interest in heir property who occupies the property as the owner's principal residence, other than the applicant, to provide an affidavit that authorizes the submission of the application.

Sec. 11.49. LEGAL TITLE NOT AFFECTED.

(a) The grant or denial of an application by an heir property owner for a residence homestead exemption under this chapter does not affect the legal title of the property subject to the application and does not operate to transfer title to that property.

(b) An appraisal district, chief appraiser, appraisal review board, or county assessor-collector may not be made a party to a proceeding to adjudicate ownership of property described by Subsection (a) except as prescribed by this title.

Sec. 33.06. DEFERRED COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY OR DISABLED PERSON OR DISABLED VETERAN.

(a) – (g) [No change.]

(h) An heir property owner who qualifies heir property as the owner's residence homestead under Chapter 11 is considered the sole owner of the property for the purposes of this section.

Sec. 33.065. DEFERRED COLLECTION OF TAXES ON APPRECIATING RESIDENCE HOMESTEAD.

(a) – (i) [No change.]

(j) An heir property owner who qualifies heir property as the owner's residence homestead under Chapter 11 is considered the sole owner of the property for the purposes of this section.