

1-1 By: Rodríguez S.B. No. 995
1-2 (In the Senate - Filed March 5, 2015; March 10, 2015, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 22, 2015, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 22, 2015,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Ellis	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Fraser	X		
1-15	Nelson	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 995 By: Ellis

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to decedents' estates.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 113.004(4), Estates Code, is amended to
1-24 read as follows:

1-25 (4) "P.O.D. account," including an account designated
1-26 as a transfer on death or T.O.D. account, means an account payable
1-27 on request to:

1-28 (A) one person during the person's lifetime and,
1-29 on the person's death, to one or more P.O.D. payees; or

1-30 (B) one or more persons during their lifetimes
1-31 and, on the death of all of those persons, to one or more P.O.D.
1-32 payees.

1-33 SECTION 2. Section 113.152, Estates Code, is amended by
1-34 adding Subsection (c) to read as follows:

1-35 (c) A guardian of the estate or an attorney in fact or agent
1-36 of an original payee may sign a written agreement described by
1-37 Subsection (a) on behalf of the original payee.

1-38 SECTION 3. Section 123.001, Estates Code, is amended to
1-39 read as follows:

1-40 Sec. 123.001. WILL PROVISIONS MADE BEFORE DISSOLUTION OF
1-41 MARRIAGE. (a) In this section:

1-42 (1) "Irrevocable trust" means a trust:

1-43 (A) for which the trust instrument was executed
1-44 before the dissolution of a testator's marriage; and

1-45 (B) that the testator was not solely empowered by
1-46 law or by the trust instrument to revoke.

1-47 (2) "Relative" [,"relative"] means an individual
1-48 related to another individual by:

1-49 (A) [~~(1)~~] consanguinity, as determined under
1-50 Section 573.022, Government Code; or

1-51 (B) [~~(2)~~] affinity, as determined under Section
1-52 573.024, Government Code.

1-53 (b) If, after the testator makes a will, the testator's
1-54 marriage is dissolved by divorce, annulment, or a declaration that
1-55 the marriage is void, unless the will expressly provides otherwise:

1-56 (1) all provisions in the will, including all
1-57 fiduciary appointments, shall be read as if the former spouse and
1-58 each relative of the former spouse who is not a relative of the
1-59 testator had failed to survive the testator; and

1-60 (2) all provisions in the will disposing of property

2-1 to an irrevocable trust in which a former spouse or a relative of a
 2-2 former spouse who is not a relative of the testator is a beneficiary
 2-3 or is nominated to serve as trustee or in another fiduciary capacity
 2-4 or that confers a general or special power of appointment on a
 2-5 former spouse or a relative of a former spouse who is not a relative
 2-6 of the testator shall be read to instead dispose of the property to
 2-7 a trust the provisions of which are identical to the irrevocable
 2-8 trust, except any provision in the irrevocable trust:

2-9 (A) conferring a beneficial interest or a general
 2-10 or special power of appointment to the former spouse or a relative
 2-11 of the former spouse who is not a relative of the testator shall be
 2-12 treated as if the former spouse and each relative of the former
 2-13 spouse who is not a relative of the testator had disclaimed the
 2-14 interest granted in the provision; and

2-15 (B) nominating the former spouse or a relative of
 2-16 the former spouse who is not a relative of the testator to serve as
 2-17 trustee or in another fiduciary capacity shall be treated as if the
 2-18 former spouse and each relative of the former spouse who is not a
 2-19 relative of the testator had died immediately before the
 2-20 dissolution of the marriage[, unless the will expressly provides
 2-21 otherwise].

2-22 (c) Subsection (b)(2) does not apply if one of the following
 2-23 provides otherwise:

2-24 (1) a court order; or

2-25 (2) an express provision of a contract relating to the
 2-26 division of the marital estate entered into between the testator
 2-27 and the testator's former spouse before, during, or after the
 2-28 marriage.

2-29 SECTION 4. Section 123.052(a), Estates Code, is amended to
 2-30 read as follows:

2-31 (a) The dissolution of the marriage revokes a provision in a
 2-32 trust instrument that was executed by a divorced individual before
 2-33 the divorced individual's marriage was dissolved and that:

2-34 (1) is a revocable disposition or appointment of
 2-35 property made to the divorced individual's former spouse or any
 2-36 relative of the former spouse who is not a relative of the divorced
 2-37 individual;

2-38 (2) revocably confers a general or special power of
 2-39 appointment on the divorced individual's former spouse or any
 2-40 relative of the former spouse who is not a relative of the divorced
 2-41 individual; or

2-42 (3) revocably nominates the divorced individual's
 2-43 former spouse or any relative of the former spouse who is not a
 2-44 relative of the divorced individual to serve:

2-45 (A) as a personal representative, trustee,
 2-46 conservator, agent, or guardian; or

2-47 (B) in another fiduciary or representative
 2-48 capacity.

2-49 SECTION 5. Chapter 123, Estates Code, is amended by adding
 2-50 Subchapter D to read as follows:

2-51 SUBCHAPTER D. EFFECT OF DISSOLUTION OF MARRIAGE ON CERTAIN
 2-52 MULTIPLE-PARTY ACCOUNTS

2-53 Sec. 123.151. DESIGNATION OF FORMER SPOUSE OR RELATIVE OF
 2-54 FORMER SPOUSE ON CERTAIN MULTIPLE-PARTY ACCOUNTS. (a) In this
 2-55 section:

2-56 (1) "Beneficiary," "multiple-party account," "P.O.D.
 2-57 account," and "P.O.D. payee" have the meanings assigned by Chapter
 2-58 113.

2-59 (2) "Public retirement system" has the meaning
 2-60 assigned by Section 802.001, Government Code.

2-61 (3) "Relative" has the meaning assigned by Section
 2-62 123.051.

2-63 (b) If, after a decedent designates a spouse or a relative
 2-64 of a spouse who is not a relative of the decedent as a P.O.D. payee
 2-65 or beneficiary, including alternative P.O.D. payee or beneficiary,
 2-66 on a P.O.D. account or other multiple-party account, the decedent's
 2-67 marriage is dissolved by divorce, annulment, or a declaration that
 2-68 the marriage is void, the designation provision on the account is
 2-69 not effective as to the former spouse or the former spouse's

3-1 relative unless:

3-2 (1) the court decree dissolving the marriage
3-3 designates the former spouse or the former spouse's relative as the
3-4 P.O.D. payee or beneficiary;

3-5 (2) the decedent redesignated the former spouse or the
3-6 former spouse's relative as the P.O.D. payee or beneficiary after
3-7 the marriage was dissolved; or

3-8 (3) the former spouse or the former spouse's relative
3-9 is designated to receive the proceeds or benefits in trust for, on
3-10 behalf of, or for the benefit of a child or dependent of either the
3-11 decedent or the former spouse.

3-12 (c) If a designation is not effective under Subsection (b),
3-13 a multiple-party account is payable to the named alternative P.O.D.
3-14 payee or beneficiary or, if an alternative P.O.D. payee or
3-15 beneficiary is not named, to the estate of the decedent.

3-16 (d) A financial institution or other person obligated to pay
3-17 an account described by Subsection (b) that pays the account to the
3-18 former spouse or the former spouse's relative as P.O.D. payee or
3-19 beneficiary under a designation that is not effective under
3-20 Subsection (b) is liable for payment of the account to the person
3-21 provided by Subsection (c) only if:

3-22 (1) before payment of the account to the designated
3-23 P.O.D. payee or beneficiary, the payor receives written notice at
3-24 the home office or principal office of the payor from an interested
3-25 person that the designation of the P.O.D. payee or beneficiary is
3-26 not effective under Subsection (b); and

3-27 (2) the payor has not interpleaded the account funds
3-28 into the registry of a court of competent jurisdiction in
3-29 accordance with the Texas Rules of Civil Procedure.

3-30 (e) This section does not affect the right of a former
3-31 spouse to assert an ownership interest in an undivided
3-32 multiple-party account described by Subsection (b).

3-33 (f) This section does not apply to the disposition of a
3-34 beneficial interest in a retirement benefit or other financial plan
3-35 of a public retirement system.

3-36 SECTION 6. Section 201.051, Estates Code, is amended to
3-37 read as follows:

3-38 Sec. 201.051. MATERNAL INHERITANCE. (a) For purposes of
3-39 inheritance, a child is the child of the child's biological or
3-40 adopted mother, and the child and the child's issue shall inherit
3-41 from the child's mother and the child's maternal kindred, both
3-42 descendants, ascendants, and collateral kindred in all degrees, and
3-43 they may inherit from the child and the child's issue. However, if
3-44 a child has intended parents, as defined by Section 160.102, Family
3-45 Code, under a gestational agreement validated under Subchapter I,
3-46 Chapter 160, Family Code, the child is the child of the intended
3-47 mother and not the biological mother or gestational mother unless
3-48 the biological mother is also the intended mother.

3-49 (b) This section does not permit inheritance by a child for
3-50 whom no right of inheritance accrues under Section 201.056 or by the
3-51 child's issue.

3-52 SECTION 7. Section 201.052, Estates Code, is amended by
3-53 adding Subsection (f) to read as follows:

3-54 (f) This section does not permit inheritance by a child for
3-55 whom no right of inheritance accrues under Section 201.056 or by the
3-56 child's issue.

3-57 SECTION 8. Section 201.056, Estates Code, is amended to
3-58 read as follows:

3-59 Sec. 201.056. PERSONS NOT IN BEING. No right of inheritance
3-60 accrues to any person [~~other than to a child or lineal descendant of~~
3-61 ~~an intestate,~~] unless the person is born before, or is in gestation
3-62 at, [~~in being and capable in law to take as an heir at~~] the time of
3-63 the intestate's death and survives for at least 120 hours. A person
3-64 is:

3-65 (1) considered to be in gestation at the time of the
3-66 intestate's death if insemination or implantation occurs at or
3-67 before the time of the intestate's death; and

3-68 (2) presumed to be in gestation at the time of the
3-69 intestate's death if the person is born before the 301st day after

4-1 the date of the intestate's death.

4-2 SECTION 9. Section 202.005, Estates Code, is amended to
4-3 read as follows:

4-4 Sec. 202.005. APPLICATION FOR PROCEEDING TO DECLARE
4-5 HEIRSHIP. A person authorized by Section 202.004 to commence a
4-6 proceeding to declare heirship must file an application in a court
4-7 specified by Section 33.004 to commence the proceeding. The
4-8 application must state:

4-9 (1) the decedent's name and date [~~time~~] and place of
4-10 death;

4-11 (2) the names and physical addresses where service can
4-12 be had [~~residences~~] of the decedent's heirs, the relationship of
4-13 each heir to the decedent, whether each heir is an adult or minor,
4-14 and the true interest of the applicant and each of the heirs in the
4-15 decedent's estate or in the trust, as applicable;

4-16 (3) if the date [~~time~~] or place of the decedent's death
4-17 or the name or physical address where service can be had [~~residence~~]
4-18 of an heir is not definitely known to the applicant, all the
4-19 material facts and circumstances with respect to which the
4-20 applicant has knowledge and information that might reasonably tend
4-21 to show the date [~~time~~] or place of the decedent's death or the name
4-22 or physical address where service can be had [~~residence~~] of the
4-23 heir;

4-24 (4) that all children born to or adopted by the
4-25 decedent have been listed;

4-26 (5) that each of the decedent's marriages has been
4-27 listed with:

4-28 (A) the date of the marriage;

4-29 (B) the name of the spouse;

4-30 (C) the date and place of termination if the
4-31 marriage was terminated; and

4-32 (D) other facts to show whether a spouse has had
4-33 an interest in the decedent's property;

4-34 (6) whether the decedent died testate and, if so, what
4-35 disposition has been made of the will;

4-36 (7) a general description of all property belonging to
4-37 the decedent's estate or held in trust for the benefit of the
4-38 decedent, as applicable; and

4-39 (8) an explanation for the omission from the
4-40 application of any of the information required by this section.

4-41 SECTION 10. Section 202.055, Estates Code, is amended to
4-42 read as follows:

4-43 Sec. 202.055. SERVICE OF CITATION ON CERTAIN PERSONS NOT
4-44 REQUIRED. A party to a proceeding to declare heirship who executed
4-45 the application filed under Section 202.005, entered an appearance
4-46 in the proceeding, or waived citation under this subchapter is not
4-47 required to be served by any method.

4-48 SECTION 11. Section 202.056, Estates Code, is amended to
4-49 read as follows:

4-50 Sec. 202.056. WAIVER OF SERVICE OF CITATION. (a) Except
4-51 as provided by Subsection (b)(2), a distributee may waive citation
4-52 required by this subchapter to be served on the distributee.

4-53 (b) A parent, managing conservator, guardian, attorney ad
4-54 litem, or guardian ad litem of a minor distributee who:

4-55 (1) is younger than 12 years of age may waive citation
4-56 required by this subchapter to be served on the distributee; and

4-57 (2) is 12 years of age or older may not waive citation
4-58 required by this subchapter to be served on the distributee.

4-59 SECTION 12. Section 202.201(a), Estates Code, is amended to
4-60 read as follows:

4-61 (a) The judgment in a proceeding to declare heirship must
4-62 state:

4-63 (1) the names [~~and places of residence~~] of the heirs of
4-64 the decedent who is the subject of the proceeding; and

4-65 (2) the heirs' respective shares and interests in the
4-66 decedent's property.

4-67 SECTION 13. Subchapter B, Chapter 251, Estates Code, is
4-68 amended by adding Section 251.053 to read as follows:

4-69 Sec. 251.053. EXCEPTION FOR FOREIGN AND CERTAIN OTHER

5-1 WILLS. Section 251.051 does not apply to a written will executed in
5-2 compliance with:

5-3 (1) the law of the state or foreign country where the
5-4 will was executed, as that law existed at the time of the will's
5-5 execution; or

5-6 (2) the law of the state or foreign country where the
5-7 testator was domiciled or had a place of residence, as that law
5-8 existed at the time of the will's execution or at the time of the
5-9 testator's death.

5-10 SECTION 14. Section 251.1045(a), Estates Code, is amended
5-11 to read as follows:

5-12 (a) As an alternative to the self-proving of a will by the
5-13 affidavits of the testator and the attesting witnesses as provided
5-14 by Section 251.104, a will may be simultaneously executed,
5-15 attested, and made self-proved before an officer authorized to
5-16 administer oaths, and the testimony of the witnesses in the probate
5-17 of the will may be made unnecessary, with the inclusion in the will
5-18 of the following in form and contents substantially as follows:

5-19 I, _____, as testator, after being duly
5-20 sworn, declare to the undersigned witnesses and to the undersigned
5-21 authority that this instrument is my will, that I [~~have~~] willingly
5-22 make [made] and execute [executed] it in the presence of the
5-23 undersigned witnesses, all of whom are [~~were~~] present at the same
5-24 time, as my free act and deed, and that I request [~~have requested~~]
5-25 each of the undersigned witnesses to sign this will in my presence
5-26 and in the presence of each other. I now sign this will in the
5-27 presence of the attesting witnesses and the undersigned authority
5-28 on this _____ day of _____, 20_____.
5-29

5-30 _____
5-31 Testator

5-32 The undersigned, _____ and _____, each being at
5-33 least fourteen years of age, after being duly sworn, declare to the
5-34 testator and to the undersigned authority that the testator
5-35 declared to us that this instrument is the testator's will and that
5-36 the testator requested us to act as witnesses to the testator's will
5-37 and signature. The testator then signed this will in our presence,
5-38 all of us being present at the same time. The testator is eighteen
5-39 years of age or over (or being under such age, is or has been
5-40 lawfully married, or is a member of the armed forces of the United
5-41 States or of an auxiliary of the armed forces of the United States
5-42 or of the United States Maritime Service), and we believe the
5-43 testator to be of sound mind. We now sign our names as attesting
5-44 witnesses in the presence of the testator, each other, and the
5-45 undersigned authority on this _____ day of _____,
5-46 20_____.

5-47 _____
5-48 Witness

5-49 _____
5-50 Witness

5-51 Subscribed and sworn to before me by the said _____,
5-52 testator, and by the said _____ and _____,
5-53 witnesses, this _____ day of _____, 20_____.

5-54 (SEAL)

5-55 (Signed) _____

5-56 (Official Capacity of Officer)

5-57 SECTION 15. The heading to Section 253.001, Estates Code,
5-58 is amended to read as follows:

5-59 Sec. 253.001. COURT MAY NOT PROHIBIT CHANGING OR REVOKING A
5-60 WILL.

5-61 SECTION 16. Sections 253.001(b) and (c), Estates Code, are
5-62 amended to read as follows:

5-63 (b) A court may not prohibit a person from:

- 5-64 (1) executing a new will;
- 5-65 (2) executing [~~or~~] a codicil to an existing will; or
- 5-66 (3) revoking an existing will or codicil in whole or in
5-67 part.

5-68 (c) Any portion of a court order that purports to prohibit a
5-69 person from engaging in an action described by Subsection (b)
[executing a new will or a codicil to an existing will] is void and

6-1 may be disregarded without penalty or sanction of any kind.

6-2 SECTION 17. Section 254.005, Estates Code, is amended to
6-3 read as follows:

6-4 Sec. 254.005. FORFEITURE CLAUSE. (a) A provision in a
6-5 will that would cause a forfeiture of or void a devise or provision
6-6 in favor of a person for bringing any court action, including
6-7 contesting a will, is enforceable unless in a court action
6-8 determining whether the forfeiture clause should be enforced, the
6-9 person who brought the action contrary to the forfeiture clause
6-10 establishes by a preponderance of the evidence that:

- 6-11 (1) just cause existed for bringing the action; and
- 6-12 (2) the action was brought and maintained in good
6-13 faith.

6-14 (b) This section is not intended to and does not repeal any
6-15 law recognizing that forfeiture clauses generally will not be
6-16 construed to prevent a beneficiary from seeking to compel a
6-17 fiduciary to perform the fiduciary's duties, seeking redress
6-18 against a fiduciary for a breach of the fiduciary's duties, or
6-19 seeking a judicial construction of a will or trust.

6-20 SECTION 18. Subchapter G, Chapter 255, Estates Code, is
6-21 amended by adding Section 255.304 to read as follows:

6-22 Sec. 255.304. APPLICABILITY OF SUBCHAPTER. This subchapter
6-23 is applicable only to wills executed on or after September 1, 2005.

6-24 SECTION 19. Chapter 255, Estates Code, is amended by adding
6-25 Subchapters I and J to read as follows:

6-26 SUBCHAPTER I. CLASS GIFTS

6-27 Sec. 255.401. POSTHUMOUS CLASS GIFT MEMBERSHIP. (a) A
6-28 right to take as a member under a class gift does not accrue to any
6-29 person unless the person is born before, or is in gestation at, the
6-30 time of the testator's death and survives for at least 120 hours. A
6-31 person is:

- 6-32 (1) considered to be in gestation at the time of the
6-33 testator's death if insemination or implantation occurs at or
6-34 before the time of the testator's death; and
- 6-35 (2) presumed to be in gestation at the time of the
6-36 testator's death if the person was born before the 301st day after
6-37 the date of the testator's death.

6-38 (b) A provision in the testator's will that is contrary to
6-39 this section prevails over this section.

6-40 SUBCHAPTER J. JUDICIAL MODIFICATION OR REFORMATION
6-41 OF WILLS

6-42 Sec. 255.451. CIRCUMSTANCES UNDER WHICH WILL MAY BE
6-43 MODIFIED OR REFORMED. (a) On the petition of a personal
6-44 representative, a court may order that the terms of the will be
6-45 modified or reformed, that the personal representative be directed
6-46 or permitted to perform acts that are not authorized or that are
6-47 prohibited by the terms of the will, or that the personal
6-48 representative be prohibited from performing acts that are required
6-49 by the terms of the will, if:

- 6-50 (1) modification of administrative, nondispositive
6-51 terms of the will is necessary or appropriate to prevent waste or
6-52 impairment of the estate's administration;
- 6-53 (2) the order is necessary or appropriate to achieve
6-54 the testator's tax objectives or to qualify a distributee for
6-55 government benefits and is not contrary to the testator's intent;
6-56 or
- 6-57 (3) the order is necessary to correct a scrivener's
6-58 error in the terms of the will, even if unambiguous, to conform with
6-59 the testator's intent.

6-60 (b) An order described in Subsection (a)(3) may be issued
6-61 only if the testator's intent is established by clear and
6-62 convincing evidence.

6-63 Sec. 255.452. JUDICIAL DISCRETION. The court shall
6-64 exercise the court's discretion to order a modification or
6-65 reformation under this subchapter in the manner that conforms as
6-66 nearly as possible to the probable intent of the testator.

6-67 Sec. 255.453. RETROACTIVE EFFECT. The court may direct
6-68 that an order described by this subchapter has retroactive effect.

6-69 Sec. 255.454. POWERS CUMULATIVE. This subchapter does not

7-1 limit a court's powers under other law, including the power to
7-2 modify, reform, or terminate a testamentary trust under Section
7-3 112.054, Property Code.

7-4 Sec. 255.455. DUTIES AND LIABILITY OF PERSONAL
7-5 REPRESENTATIVE UNDER SUBCHAPTER. (a) This subchapter does not
7-6 create or imply a duty for a personal representative to:

7-7 (1) petition a court for modification or reformation
7-8 of a will, to be directed or permitted to perform acts that are not
7-9 authorized or that are prohibited by the terms of the will, or to be
7-10 prohibited from performing acts that are required by the terms of
7-11 the will;

7-12 (2) inform devisees about the availability of relief
7-13 under this subchapter; or

7-14 (3) review the will or other evidence to determine
7-15 whether any action should be taken under this subchapter.

7-16 (b) A personal representative is not liable for failing to
7-17 file a petition under Section 255.451.

7-18 SECTION 20. Sections 256.003(a) and (b), Estates Code, are
7-19 amended to read as follows:

7-20 (a) Except as provided by Section 501.001 with respect to a
7-21 foreign will, a [A] will may not be admitted to probate after the
7-22 fourth anniversary of the testator's death unless it is shown by
7-23 proof that the applicant for the probate of the will was not in
7-24 default in failing to present the will for probate on or before the
7-25 fourth anniversary of the testator's death.

7-26 (b) Except as provided by Section 501.006 with respect to a
7-27 foreign will, letters [Letters] testamentary may not be issued if a
7-28 will is admitted to probate after the fourth anniversary of the
7-29 testator's death.

7-30 SECTION 21. Section 256.051(a), Estates Code, is amended to
7-31 read as follows:

7-32 (a) An executor named in a will, an independent
7-33 administrator designated by all of the distributees of the decedent
7-34 under Section 401.002(b), or an interested person may file an
7-35 application with the court for an order admitting a will to probate,
7-36 whether the will is:

- 7-37 (1) written or unwritten;
- 7-38 (2) in the applicant's possession or not;
- 7-39 (3) lost;
- 7-40 (4) destroyed; or
- 7-41 (5) outside of this state.

7-42 SECTION 22. Section 256.052(a), Estates Code, is amended to
7-43 read as follows:

7-44 (a) An application for the probate of a will must state and
7-45 aver the following to the extent each is known to the applicant or
7-46 can, with reasonable diligence, be ascertained by the applicant:

- 7-47 (1) each applicant's name and domicile;
- 7-48 (2) the testator's name, domicile, and, if known, age,
- 7-49 on the date of the testator's death;
- 7-50 (3) the fact, date [time], and place of the testator's
- 7-51 death;
- 7-52 (4) facts showing that the court with which the
- 7-53 application is filed has venue;
- 7-54 (5) that the testator owned property, including a
- 7-55 statement generally describing the property and the property's
- 7-56 probable value;
- 7-57 (6) the date of the will;
- 7-58 (7) the name, state of residence, and physical address
- 7-59 where service can be had of the executor named in the will or other
- 7-60 person to whom the applicant desires that letters be issued;
- 7-61 (8) the name of each subscribing witness to the will,
- 7-62 if any;

7-63 (9) whether one or more children born to or adopted by

7-64 the testator after the testator executed the will survived the
7-65 testator and, if so, the name of each of those children;

7-66 (10) whether a marriage of the testator was ever

7-67 dissolved after the will was made and, if so, when and from whom;

7-68 (11) whether the state, a governmental agency of the

7-69 state, or a charitable organization is named in the will as a

8-1 devisee; and

8-2 (12) that the executor named in the will, the
8-3 applicant, or another person to whom the applicant desires that
8-4 letters be issued is not disqualified by law from accepting the
8-5 letters.

8-6 SECTION 23. Section 256.054, Estates Code, is amended to
8-7 read as follows:

8-8 Sec. 256.054. ADDITIONAL APPLICATION REQUIREMENTS WHEN NO
8-9 WILL IS PRODUCED. In addition to the requirements for an
8-10 application under Section 256.052, if an applicant for the probate
8-11 of a will cannot produce the will in court, the application must
8-12 state:

8-13 (1) the reason the will cannot be produced;

8-14 (2) the contents of the will, as far as known; and

8-15 (3) the name~~[, age, marital status,]~~ and address, if
8-16 known, whether the person is an adult or minor, and the relationship
8-17 to the testator, if any, of:

8-18 (A) each devisee;

8-19 (B) each person who would inherit as an heir of
8-20 the testator in the absence of a valid will; and

8-21 (C) in the case of partial intestacy, each heir
8-22 of the testator.

8-23 SECTION 24. Sections 256.152(b) and (c), Estates Code, are
8-24 amended to read as follows:

8-25 (b) A will that is self-proved as provided by Subchapter C,
8-26 Chapter 251, ~~that [or, if executed in another state or a foreign~~
8-27 ~~country,]~~ is self-proved in accordance with the law ~~[laws]~~ of
8-28 another [the] state or foreign country where the will was executed,
8-29 as that law existed at the time of the will's execution, or that is
8-30 self-proved in accordance with the law of another state or foreign
8-31 country where the testator was domiciled or had a place of
8-32 residence, as that law existed at the time of the will's execution
8-33 or the time of the testator's death, [of the testator's domicile at
8-34 the time of the execution] is not required to have any additional
8-35 proof that the will was executed with the formalities and
8-36 solemnities and under the circumstances required to make the will
8-37 valid.

8-38 (c) As an alternative to Subsection (b), a will ~~[executed in~~
8-39 ~~another state or a foreign country]~~ is considered self-proved
8-40 without further evidence of the law of any [the other] state or
8-41 foreign country if:

8-42 (1) the will was executed in another state or a foreign
8-43 country or the testator was domiciled or had a place of residence in
8-44 another state or a foreign country at the time of the will's
8-45 execution or the time of the testator's death; and

8-46 (2) the will, or an affidavit of the testator and
8-47 attesting witnesses attached or annexed to the will, provides that:

8-48 (A) ~~[(1)]~~ the testator declared that the
8-49 testator signed the instrument as the testator's will, the testator
8-50 signed it willingly or willingly directed another to sign for the
8-51 testator, the testator executed the will as the testator's free and
8-52 voluntary act for the purposes expressed in the instrument, the
8-53 testator is of sound mind and under no constraint or undue
8-54 influence, and the testator is eighteen years of age or over or, if
8-55 under that age, was or had been lawfully married, or was then a
8-56 member of the armed forces of the United States, an auxiliary of the
8-57 armed forces of the United States, or the United States Maritime
8-58 Service; and

8-59 (B) ~~[(2)]~~ the witnesses declared that the
8-60 testator signed the instrument as the testator's will, the testator
8-61 signed it willingly or willingly directed another to sign for the
8-62 testator, each of the witnesses, in the presence and hearing of the
8-63 testator, signed the will as witness to the testator's signing, and
8-64 to the best of their knowledge the testator was of sound mind and
8-65 under no constraint or undue influence, and the testator was
8-66 eighteen years of age or over or, if under that age, was or had been
8-67 lawfully married, or was then a member of the armed forces of the
8-68 United States, an auxiliary of the armed forces of the United
8-69 States, or the United States Maritime Service.

9-1 SECTION 25. Section 257.051(a), Estates Code, is amended to
 9-2 read as follows:
 9-3 (a) An application for the probate of a will as a muniment of
 9-4 title must state and aver the following to the extent each is known
 9-5 to the applicant or can, with reasonable diligence, be ascertained
 9-6 by the applicant:
 9-7 (1) each applicant's name and domicile;
 9-8 (2) the testator's name, domicile, and, if known, age,
 9-9 on the date of the testator's death;
 9-10 (3) the fact, date [~~time~~], and place of the testator's
 9-11 death;
 9-12 (4) facts showing that the court with which the
 9-13 application is filed has venue;
 9-14 (5) that the testator owned property, including a
 9-15 statement generally describing the property and the property's
 9-16 probable value;
 9-17 (6) the date of the will;
 9-18 (7) the name, state of [~~and~~] residence, and physical
 9-19 address where service can be had of the [~~of~~];
 9-20 [~~(A) any~~] executor named in the will;
 9-21 (8) the name of [~~and~~]
 9-22 [~~(B)~~] each subscribing witness to the will, if
 9-23 any;
 9-24 (9) [~~(8)~~] whether one or more children born to or
 9-25 adopted by the testator after the testator executed the will
 9-26 survived the testator and, if so, the name of each of those
 9-27 children;
 9-28 (10) [~~(9)~~] that the testator's estate does not owe an
 9-29 unpaid debt, other than any debt secured by a lien on real estate;
 9-30 (11) [~~(10)~~] whether a marriage of the testator was
 9-31 ever dissolved after the will was made and, if so, when and from
 9-32 whom; and
 9-33 (12) [~~(11)~~] whether the state, a governmental agency
 9-34 of the state, or a charitable organization is named in the will as a
 9-35 devisee.

9-36 SECTION 26. Section 257.053, Estates Code, is amended to
 9-37 read as follows:

9-38 Sec. 257.053. ADDITIONAL APPLICATION REQUIREMENTS WHEN NO
 9-39 WILL IS PRODUCED. In addition to the requirements for an
 9-40 application under Section 257.051, if an applicant for the probate
 9-41 of a will as a muniment of title cannot produce the will in court,
 9-42 the application must state:

- 9-43 (1) the reason the will cannot be produced;
- 9-44 (2) the contents of the will, to the extent known; and
- 9-45 (3) the name [~~, age, marital status,~~] and address, if
 9-46 known, whether the person is an adult or minor, and the relationship
 9-47 to the testator, if any, of:
 - 9-48 (A) each devisee;
 - 9-49 (B) each person who would inherit as an heir of
 9-50 the testator in the absence of a valid will; and
 - 9-51 (C) in the case of partial intestacy, each heir
 9-52 of the testator.

9-53 SECTION 27. Section 301.002(a), Estates Code, is amended to
 9-54 read as follows:

9-55 (a) Except as provided by Subsection (b) and Section 501.006
 9-56 with respect to a foreign will, an application for the grant of
 9-57 letters testamentary or of administration of an estate must be
 9-58 filed not later than the fourth anniversary of the decedent's
 9-59 death.

9-60 SECTION 28. Section 301.051, Estates Code, is amended to
 9-61 read as follows:

9-62 Sec. 301.051. ELIGIBLE APPLICANTS FOR LETTERS. An executor
 9-63 named in a will, an independent administrator designated by all of
 9-64 the distributees of the decedent under Section 401.002(b) or
 9-65 401.003, or an interested person may file an application with the
 9-66 court for:

- 9-67 (1) the appointment of the executor named in the will;
- 9-68 or
- 9-69 (2) the appointment of an administrator, if:

(A) there is a will, but:

(i) no executor is named in the will; or

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

(B) there is no will.

SECTION 29. Section 301.052, Estates Code, is amended to read as follows:

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

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

(3) the fact, date [~~time~~], 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 [~~age, marital status,~~] 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.

SECTION 30. Section 301.151, Estates Code, is amended to read as follows:

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 Section 301.002(b) with respect to administration necessary to receive or recover property due a decedent's estate, and Section 501.006 with respect to a foreign will, 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.

SECTION 31. Section 308.004(a), Estates Code, is amended to read as follows:

(a) Not later than the 90th day after the date of an order admitting a will to probate, the personal representative shall file with the clerk of the court in which the decedent's estate is pending a sworn affidavit of the representative or a certificate signed by the representative's attorney stating:

(1) for each beneficiary to whom notice was required to be given under this subchapter, the name [~~and address~~] of the beneficiary to whom the representative gave the notice or, for a beneficiary described by Section 308.002(b), the name [~~and address~~] of the beneficiary and of the person to whom the notice was given;

(2) the name [~~and address~~] of each beneficiary to whom notice was not required to be given under Section 308.002(c)(2),

(3), or (4);

11-1 (3) the name of each beneficiary whose identity or
 11-2 address could not be ascertained despite the representative's
 11-3 exercise of reasonable diligence; and

11-4 (4) any other information necessary to explain the
 11-5 representative's inability to give the notice to or for any
 11-6 beneficiary as required by this subchapter.

11-7 SECTION 32. Section 309.001, Estates Code, is amended to
 11-8 read as follows:

11-9 Sec. 309.001. APPOINTMENT OF APPRAISERS. (a) At any time
 11-10 after letters testamentary or of administration are granted, the
 11-11 court, for good cause, on the court's own motion or on the motion of
 11-12 an interested person [~~party~~] shall appoint at least one but not more
 11-13 than three disinterested persons who are residents of the county in
 11-14 which the letters were granted to appraise the estate property.

11-15 (b) [~~At any time after letters testamentary or of~~
 11-16 ~~administration are granted, the court, for good cause shown, on the~~
 11-17 ~~court's own motion or on the motion of an interested person shall~~
 11-18 ~~appoint at least one but not more than three disinterested persons~~
 11-19 ~~who are residents of the county in which the letters were granted to~~
 11-20 ~~appraise the estate property.~~

11-21 [~~(c)~~] If the court makes an appointment under Subsection (a)
 11-22 [~~or (b)~~] and part of the estate is located in a county other than the
 11-23 county in which the letters were granted, the court, if the court
 11-24 considers necessary, may appoint at least one but not more than
 11-25 three disinterested persons who are residents of the county in
 11-26 which the relevant part of the estate is located to appraise the
 11-27 estate property located in that county.

11-28 SECTION 33. Section 309.056, Estates Code, is amended by
 11-29 amending Subsections (b) and (c) and adding Subsection (b-1) to
 11-30 read as follows:

11-31 (b) Notwithstanding Sections 309.051 and 309.052, or any
 11-32 contrary provision in a decedent's will that does not specifically
 11-33 prohibit the filing of an affidavit described by this subsection,
 11-34 if there are no unpaid debts, except for secured debts, taxes, and
 11-35 administration expenses, at the time the inventory is due,
 11-36 including any extensions, an independent executor may file with the
 11-37 court clerk, in lieu of the inventory, appraisement, and list of
 11-38 claims, an affidavit stating that all debts, except for secured
 11-39 debts, taxes, and administration expenses, are paid and that all
 11-40 beneficiaries other than those described by Subsection (b-1) have
 11-41 received a verified, full, and detailed inventory and appraisement.
 11-42 The affidavit in lieu of the inventory, appraisement, and list of
 11-43 claims must be filed within the 90-day period prescribed by Section
 11-44 309.051(a), unless the court grants an extension.

11-45 (b-1) Absent a written request by a beneficiary, an
 11-46 independent executor is not required to provide a verified, full,
 11-47 and detailed inventory and appraisement to a beneficiary who:

11-48 (1) is entitled to receive aggregate devises under the
 11-49 will with an estimated value of \$2,000 or less;

11-50 (2) has received all devises to which the beneficiary
 11-51 is entitled under the will on or before the date an affidavit under
 11-52 this section is filed; or

11-53 (3) has waived in writing the beneficiary's right to
 11-54 receive a verified, full, and detailed inventory and appraisement.

11-55 (c) If the independent executor files an affidavit in lieu
 11-56 of the inventory, appraisement, and list of claims as authorized
 11-57 under Subsection (b):

11-58 (1) any person interested in the estate, including a
 11-59 possible heir of the decedent, [~~or~~] a beneficiary under a prior will
 11-60 of the decedent, or a beneficiary described by Subsection (b-1), is
 11-61 entitled to receive a copy of the inventory, appraisement, and list
 11-62 of claims from the independent executor on written request;

11-63 (2) the independent executor may provide a copy of the
 11-64 inventory, appraisement, and list of claims to any person the
 11-65 independent executor believes in good faith may be a person
 11-66 interested in the estate without liability to the estate or its
 11-67 beneficiaries; and

11-68 (3) a person interested in the estate may apply to the
 11-69 court for an order compelling compliance with Subdivision (1), and

12-1 the court, in its discretion, may compel the independent executor
 12-2 to provide a copy of the inventory, appraisalment, and list of claims
 12-3 to the interested person or may deny the application.

12-4 SECTION 34. Section [352.052](#)(b), Estates Code, is amended to
 12-5 read as follows:

12-6 (b) A person designated as a devisee in or beneficiary of a
 12-7 will or an alleged will [~~or as administrator with the will or~~
 12-8 ~~alleged will annexed,~~] who, for the purpose of having the will or
 12-9 alleged will admitted to probate, defends the will or alleged will
 12-10 or prosecutes any proceeding in good faith and with just cause,
 12-11 whether or not successful, may be allowed out of the estate the
 12-12 person's necessary expenses and disbursements in those
 12-13 proceedings, including reasonable attorney's fees.

12-14 SECTION 35. Sections [353.051](#)(a) and (b), Estates Code, are
 12-15 amended to read as follows:

12-16 (a) Unless an application and verified affidavit are filed
 12-17 as provided by Subsection (b), immediately after the inventory,
 12-18 appraisalment, and list of claims of an estate are approved or after
 12-19 the affidavit in lieu of the inventory, appraisalment, and list of
 12-20 claims is filed, the court by order shall set aside:

12-21 (1) the homestead for the use and benefit of the
 12-22 decedent's surviving spouse and minor children; and

12-23 (2) all other exempt [estate] property described by
 12-24 Section [42.002](#)(a), Property Code, [~~that is exempt from execution or~~
 12-25 ~~forced sale by the constitution and laws of this state]~~ for the use
 12-26 and benefit of the decedent's:

12-27 (A) surviving spouse and minor children;

12-28 (B) unmarried adult children remaining with the
 12-29 decedent's family; and

12-30 (C) each other adult child who is incapacitated.

12-31 (b) Before the inventory, appraisalment, and list of claims
 12-32 of an estate are approved or, if applicable, before the affidavit in
 12-33 lieu of the inventory, appraisalment, and list of claims is filed:

12-34 (1) the decedent's surviving spouse or any other
 12-35 person authorized to act on behalf of the decedent's minor children
 12-36 may apply to the court to have exempt property described by
 12-37 Subsection (a), including the homestead, set aside by filing an
 12-38 application and a verified affidavit listing all exempt property
 12-39 that the applicant claims is exempt property described by
 12-40 Subsection (a); and

12-41 (2) any of the decedent's unmarried adult children
 12-42 remaining with the decedent's family, any other adult child of the
 12-43 decedent who is incapacitated, or a person who is authorized to act
 12-44 on behalf of the adult incapacitated child may apply to the court to
 12-45 have all exempt property described by Subsection (a), other than
 12-46 the homestead, set aside by filing an application and a verified
 12-47 affidavit listing all the exempt property, other than the
 12-48 homestead, that the applicant claims is exempt property described
 12-49 by Subsection (a).

12-50 SECTION 36. Section [353.052](#), Estates Code, is amended by
 12-51 amending Subsection (a) and adding Subsection (a-1) to read as
 12-52 follows:

12-53 (a) This section only applies to exempt property described
 12-54 by Section [353.051](#)(a).

12-55 (a-1) The executor or administrator of an estate shall
 12-56 deliver, without delay, exempt property that has been set aside for
 12-57 the decedent's surviving spouse and children in accordance with
 12-58 this section.

12-59 SECTION 37. Section [353.053](#)(a), Estates Code, is amended to
 12-60 read as follows:

12-61 (a) If all or any of the specific articles of exempt
 12-62 property described by Section [353.051](#)(a) [~~from execution or forced~~
 12-63 ~~sale by the constitution and laws of this state]~~ are not among the
 12-64 decedent's effects, the court shall make, in lieu of the articles
 12-65 not among the effects, a reasonable allowance to be paid to the
 12-66 decedent's surviving spouse and children as provided by Section
 12-67 [353.054](#).

12-68 SECTION 38. Sections [353.153](#) and [353.154](#), Estates Code, are
 12-69 amended to read as follows:

13-1 Sec. 353.153. TITLE TO PROPERTY OF INSOLVENT ESTATE. If on
 13-2 final settlement an estate proves to be insolvent, the decedent's
 13-3 surviving spouse and children have absolute title to all property
 13-4 and allowances set aside or paid to them under this title. The
 13-5 distributees are entitled to distribution of any remaining exempt
 13-6 property held by the executor or administrator in the same manner as
 13-7 other estate property. The property and allowances set aside or
 13-8 paid to the decedent's surviving spouse or children, and any
 13-9 remaining exempt property held by the executor or administrator,
 13-10 may not be taken for any of the estate debts except as provided by
 13-11 Section 353.155.

13-12 Sec. 353.154. CERTAIN PROPERTY NOT CONSIDERED IN
 13-13 DETERMINING SOLVENCY. In determining whether an estate is solvent
 13-14 or insolvent, the exempt property set aside for the decedent's
 13-15 surviving spouse or children, any allowance made in lieu of that
 13-16 exempt property, ~~and~~ the family allowance under Subchapter C, and
 13-17 any remaining exempt property held by the executor or administrator
 13-18 may not be estimated or considered as estate assets.

13-19 SECTION 39. Section 401.002, Estates Code, is amended to
 13-20 read as follows:

13-21 Sec. 401.002. CREATION IN TESTATE ESTATE BY AGREEMENT.
 13-22 (a) Except as provided in Section 401.001(b), if a decedent's will
 13-23 names an executor but the will does not provide for independent
 13-24 administration as provided in Section 401.001(a), all of the
 13-25 distributees of the decedent may agree on the advisability of
 13-26 having an independent administration and collectively designate in
 13-27 the application for probate of the decedent's will, or in one or
 13-28 more separate documents consenting to the application for probate
 13-29 of the decedent's will, the executor named in the will to serve as
 13-30 independent executor and request ~~[in the application]~~ that no other
 13-31 action shall be had in the probate court in relation to the
 13-32 settlement of the decedent's estate other than the probating and
 13-33 recording of the decedent's will and the return of an inventory,
 13-34 appraisement, and list of claims of the decedent's estate. In such
 13-35 case the probate court shall enter an order granting independent
 13-36 administration and appointing the person, firm, or corporation
 13-37 designated by the distributees ~~[in the application]~~ as independent
 13-38 executor, unless the court finds that it would not be in the best
 13-39 interest of the estate to do so.

13-40 (b) Except as provided in Section 401.001(b), in situations
 13-41 where no executor is named in the decedent's will, or in situations
 13-42 where each executor named in the will is deceased or is disqualified
 13-43 to serve as executor or indicates by affidavit filed with the
 13-44 application for administration of the decedent's estate the
 13-45 executor's inability or unwillingness to serve as executor, all of
 13-46 the distributees of the decedent may agree on the advisability of
 13-47 having an independent administration and collectively designate in
 13-48 the application for probate of the decedent's will, or in one or
 13-49 more separate documents consenting to the application for probate
 13-50 of the decedent's will, a qualified person, firm, or corporation to
 13-51 serve as independent administrator and request ~~[in the application]~~
 13-52 that no other action shall be had in the probate court in relation
 13-53 to the settlement of the decedent's estate other than the probating
 13-54 and recording of the decedent's will and the return of an inventory,
 13-55 appraisement, and list of claims of the decedent's estate. In such
 13-56 case the probate court shall enter an order granting independent
 13-57 administration and appointing the person, firm, or corporation
 13-58 designated by the distributees ~~[in the application]~~ as independent
 13-59 administrator, unless the court finds that it would not be in the
 13-60 best interest of the estate to do so.

13-61 SECTION 40. Section 401.003(a), Estates Code, is amended to
 13-62 read as follows:

13-63 (a) All of the distributees of a decedent dying intestate
 13-64 may agree on the advisability of having an independent
 13-65 administration and collectively designate in the application for
 13-66 administration of the decedent's estate, or in one or more
 13-67 documents consenting to the application for administration of the
 13-68 decedent's estate, a qualified person, firm, or corporation to
 13-69 serve as independent administrator and request ~~[in the application]~~

14-1 that no other action shall be had in the probate court in relation
 14-2 to the settlement of the decedent's estate other than the return of
 14-3 an inventory, appraisal, and list of claims of the decedent's
 14-4 estate. In such case the probate court shall enter an order
 14-5 granting independent administration and appointing the person,
 14-6 firm, or corporation designated by the distributees [~~in the~~
 14-7 ~~application~~] as independent administrator, unless the court finds
 14-8 that it would not be in the best interest of the estate to do so.

14-9 SECTION 41. Sections 401.004(c) and (h), Estates Code, are
 14-10 amended to read as follows:

14-11 (c) If a distributee is an incapacitated person, the
 14-12 guardian of the person of the distributee may consent to the
 14-13 creation of an independent administration [~~sign the application~~] on
 14-14 behalf of the distributee. If the probate court finds that either
 14-15 the granting of independent administration or the appointment of
 14-16 the person, firm, or corporation designated by the distributees [~~in~~
 14-17 ~~the application~~] as independent executor would not be in the best
 14-18 interest of the incapacitated person, then, notwithstanding
 14-19 anything to the contrary in Section 401.002 or 401.003, the court
 14-20 may not enter an order granting independent administration of the
 14-21 estate. If a distributee who is an incapacitated person has no
 14-22 guardian of the person, the probate court may appoint a guardian ad
 14-23 litem to act [~~make application~~] on behalf of the incapacitated
 14-24 person if the court considers such an appointment necessary to
 14-25 protect the interest of the distributees. Alternatively, if the
 14-26 distributee who is an incapacitated person is a minor and has no
 14-27 guardian of the person, the natural guardian or guardians of the
 14-28 minor may consent on the minor's behalf if there is no conflict of
 14-29 interest between the minor and the natural guardian or guardians.

14-30 (h) If a distributee of a decedent's estate dies and if by
 14-31 virtue of the distributee's death the distributee's share of the
 14-32 decedent's estate becomes payable to the distributee's estate, the
 14-33 deceased distributee's personal representative may consent to the
 14-34 [~~sign the application for~~] independent administration of the
 14-35 decedent's estate under Section 401.002 or 401.003 and under
 14-36 Subsection (c).

14-37 SECTION 42. Section 401.006, Estates Code, is amended to
 14-38 read as follows:

14-39 Sec. 401.006. GRANTING POWER OF SALE BY AGREEMENT. In a
 14-40 situation in which a decedent does not have a will, or a decedent's
 14-41 will does not contain language authorizing the personal
 14-42 representative to sell property or contains language that is not
 14-43 sufficient to grant the representative that authority, the court
 14-44 may include in an order appointing an independent executor [~~under~~
 14-45 ~~Section 401.002 or 401.003~~] any general or specific authority
 14-46 regarding the power of the independent executor to sell property
 14-47 that may be consented to by the beneficiaries who are to receive any
 14-48 interest in the property in the application for independent
 14-49 administration or for the appointment of an independent executor or
 14-50 in their consents to the independent administration or to the
 14-51 appointment of an independent executor. The independent executor,
 14-52 in such event, may sell the property under the authority granted in
 14-53 the court order without the further consent of those beneficiaries.

14-54 SECTION 43. Section 452.051(a), Estates Code, is amended to
 14-55 read as follows:

14-56 (a) If a contest related to probating a will or granting
 14-57 letters testamentary or of administration is pending, the court may
 14-58 appoint a temporary administrator, with powers limited as the
 14-59 circumstances of the case require.

14-60 SECTION 44. Subtitle J, Title 2, Estates Code, is amended by
 14-61 adding Chapter 456 to read as follows:

14-62 CHAPTER 456. DISBURSEMENT AND CLOSING OF LAWYER TRUST OR ESCROW
 14-63 ACCOUNTS

14-64 Sec. 456.001. DEFINITION. In this chapter, "eligible
 14-65 institution" means a financial institution or investment company in
 14-66 which a lawyer has established an escrow or trust account for
 14-67 purposes of holding client funds or the funds of third persons that
 14-68 are in the lawyer's possession in connection with representation as
 14-69 required by the Texas Disciplinary Rules of Professional Conduct.

15-1 Sec. 456.002. AUTHORITY TO DESIGNATE LAWYER ON CERTAIN
 15-2 TRUST OR ESCROW ACCOUNTS. (a) When administering the estate of a
 15-3 deceased lawyer who established one or more trust or escrow
 15-4 accounts for client funds or the funds of third persons that are in
 15-5 the lawyer's possession in connection with representation as
 15-6 required by the Texas Disciplinary Rules of Professional Conduct,
 15-7 the personal representative may hire through written agreement a
 15-8 lawyer authorized to practice in this state to:

15-9 (1) be the authorized signer on the trust or escrow
 15-10 account;

15-11 (2) determine who is entitled to receive the funds in
 15-12 the account;

15-13 (3) disburse the funds to the appropriate persons or
 15-14 to the decedent's estate; and

15-15 (4) close the account.

15-16 (b) If the personal representative is a lawyer authorized to
 15-17 practice in this state, the personal representative may state that
 15-18 fact and disburse the trust or escrow account funds of a deceased
 15-19 lawyer in accordance with Subsection (a).

15-20 (c) An agreement under Subsection (a) or a statement under
 15-21 Subsection (b) must be made in writing, and a copy of the agreement
 15-22 or statement must be delivered to each eligible institution in
 15-23 which the trust or escrow accounts were established.

15-24 Sec. 456.003. DUTY OF ELIGIBLE INSTITUTIONS. Within a
 15-25 reasonable time after receiving a copy of a written agreement under
 15-26 Section 456.002(a) or a statement from a personal representative
 15-27 under Section 456.002(b) and instructions from the lawyer
 15-28 identified in the agreement or statement, as applicable, regarding
 15-29 how to disburse the funds or close a trust or escrow account, an
 15-30 eligible institution shall disburse the funds and close the account
 15-31 in compliance with the instructions.

15-32 Sec. 456.004. LIABILITY OF ELIGIBLE INSTITUTIONS. An
 15-33 eligible institution is not liable for any act respecting an
 15-34 account taken in compliance with this chapter.

15-35 Sec. 456.005. RULES. The supreme court may adopt rules
 15-36 regarding the administration of funds in a trust or escrow account
 15-37 subject to this chapter.

15-38 SECTION 45. Section 501.001, Estates Code, is amended to
 15-39 read as follows:

15-40 Sec. 501.001. AUTHORITY FOR ANCILLARY PROBATE OF FOREIGN
 15-41 WILL. The written will of a testator who was not domiciled in this
 15-42 state at the time of the testator's death may be admitted to probate
 15-43 at any time in this state if:

15-44 (1) the will would affect any property in this state;
 15-45 and

15-46 (2) proof is presented that the will stands probated
 15-47 or otherwise established in any state of the United States or a
 15-48 foreign nation.

15-49 SECTION 46. Section 501.006(a), Estates Code, is amended to
 15-50 read as follows:

15-51 (a) On application, an executor named in a foreign will
 15-52 admitted to ancillary probate in this state in accordance with this
 15-53 chapter is entitled to receive ancillary letters testamentary on
 15-54 proof made to the court that:

15-55 (1) the executor has qualified to serve as executor in
 15-56 the jurisdiction in which the will was previously admitted to
 15-57 probate or otherwise established; ~~and~~

15-58 (2) the executor is not disqualified from serving in
 15-59 that capacity in this state; and

15-60 (3) if the will is admitted to ancillary probate in
 15-61 this state after the fourth anniversary of the testator's death,
 15-62 the executor continues to serve in that capacity in the
 15-63 jurisdiction in which the will was previously admitted to probate
 15-64 or otherwise established.

15-65 SECTION 47. The addition by this Act of Section 255.304,
 15-66 Estates Code, and the amendment by this Act of Sections 113.004(4),
 15-67 251.1045(a), 253.001(b) and (c), 254.005, 256.003(a), 353.051(a)
 15-68 and (b), 353.052, 353.053(a), 353.153, 353.154, 452.051(a), and
 15-69 501.001, Estates Code, is intended to clarify rather than change

16-1 existing law.

16-2 SECTION 48. Section 113.152(c), Estates Code, as added by
16-3 this Act, applies to a P.O.D. account held by a financial
16-4 institution on or after the effective date of this Act, regardless
16-5 of the date on which the account was opened.

16-6 SECTION 49. Sections 201.051, 201.052, 201.056,
16-7 308.004(a), 309.056, and 352.052(b), Estates Code, as amended by
16-8 this Act, and Section 251.053 and Subchapter I, Chapter 255,
16-9 Estates Code, as added by this Act, apply only to the estate of a
16-10 decedent who dies on or after the effective date of this Act. The
16-11 estate of a decedent who dies before the effective date of this Act
16-12 is governed by the law in effect on the date of the decedent's
16-13 death, and the former law is continued in effect for that purpose.

16-14 SECTION 50. Sections 123.001 and 123.052(a), Estates Code,
16-15 as amended by this Act, and Subchapter D, Chapter 123, Estates Code,
16-16 as added by this Act, apply only to an individual whose marriage is
16-17 dissolved on or after the effective date of this Act.

16-18 SECTION 51. Sections 202.005, 202.055, 202.056,
16-19 202.201(a), and 257.053, Estates Code, as amended by this Act,
16-20 apply to an action filed or other proceeding commenced on or after
16-21 the effective date of this Act. An action filed or other proceeding
16-22 commenced before that date is governed by the law in effect on the
16-23 date the action was filed or the proceeding was commenced, and the
16-24 former law is continued in effect for that purpose.

16-25 SECTION 52. Subchapter J, Chapter 255, and Chapter 456,
16-26 Estates Code, as added by this Act, and Sections 309.001, 401.002,
16-27 401.003(a), 401.004(c) and (h), and 401.006, Estates Code, as
16-28 amended by this Act, apply to the administration of the estate of a
16-29 decedent that is pending or commenced on or after the effective date
16-30 of this Act.

16-31 SECTION 53. Sections 256.003(b), 256.051(a), 256.052(a),
16-32 256.054, 256.152(b) and (c), 257.051(a), 301.002(a), 301.051,
16-33 301.052, 301.151, and 501.006(a), Estates Code, as amended by this
16-34 Act, apply only to an application for the probate of a will or
16-35 administration of a decedent's estate that is filed on or after the
16-36 effective date of this Act. An application for the probate of a
16-37 will or administration of a decedent's estate filed before that
16-38 date is governed by the law in effect on the date the application
16-39 was filed, and the former law is continued in effect for that
16-40 purpose.

16-41 SECTION 54. This Act takes effect September 1, 2015.

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