

1-1 By: Kuempel (Senate Sponsor - Zaffirini) H.B. No. 2207
1-2 (In the Senate - Received from the House May 5, 2017;
1-3 May 9, 2017, read first time and referred to Committee on State
1-4 Affairs; May 16, 2017, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 16, 2017, sent to printer.)

1-7 COMMITTEE VOTE

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

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2207 By: Zaffirini

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

1-21 relating to procedures and fees for the deposit and safekeeping of
1-22 wills.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section [252.001](#), Estates Code, is amended by
1-25 adding Subsection (a-1) and amending Subsection (b) to read as
1-26 follows:

1-27 (a-1) An attorney, business entity, or other person in
1-28 possession of a testator's will may deposit the will with the county
1-29 clerk of the county of the testator's last known residence if the
1-30 attorney, business entity, or other person is unable to maintain
1-31 custody of the will and, after a diligent search, the attorney,
1-32 business entity, or other person is not able to contact or locate
1-33 the testator. The attorney, business entity, or other person shall
1-34 provide to the county clerk at the time the will is deposited:

1-35 (1) the name and last known address of the testator;
1-36 and

1-37 (2) if the will names an executor, the name and last
1-38 known address, if available, of each executor named in the will,
1-39 including any alternate executors.

1-40 (b) The county clerk shall receive and keep a ~~the~~ will
1-41 deposited under this section on the payment of a \$5 fee.

1-42 SECTION 2. Section [252.002](#), Estates Code, is amended by
1-43 amending Subsection (b) and adding Subsection (c) to read as
1-44 follows:

1-45 (b) The wrapper of a will deposited under Section [252.001](#)(a)
1-46 must be endorsed with:

1-47 (1) "Will of," followed by the name, address, and
1-48 signature of the testator; and

1-49 (2) the name and current address of each person who is
1-50 to be notified of the deposit of the will after the testator's
1-51 death.

1-52 (c) The wrapper of a will deposited under Section
1-53 [252.001](#)(a-1) must be endorsed with:

1-54 (1) "Will of," followed by the name and last known
1-55 address of the testator; and

1-56 (2) if the will names an executor, the name and last
1-57 known address, if available, of each executor named in the will,
1-58 including any alternate executors.

1-59 SECTION 3. Section [252.101](#), Estates Code, is amended to
1-60 read as follows:

2-1 Sec. 252.101. NOTIFICATION BY COUNTY CLERK. A county clerk
2-2 shall notify~~[, by registered mail, return receipt requested,]~~ each
2-3 person named on the endorsement of the will wrapper that the will is
2-4 on deposit in the clerk's office if:

- 2-5 (1) an affidavit is submitted to the clerk stating
- 2-6 that the testator has died; or
- 2-7 (2) the clerk receives other notice or proof of the
- 2-8 testator's death sufficient to convince the clerk that the testator
- 2-9 has died.

2-10 SECTION 4. Section 252.104, Estates Code, is amended to
2-11 read as follows:

2-12 Sec. 252.104. NOTICE AND DELIVERY OF WILL TO EXECUTOR. If a
2-13 county clerk inspects a will under Section 252.103 and the will
2-14 names an executor, the clerk shall:

- 2-15 (1) notify the person named as executor~~[, by~~
- 2-16 ~~registered mail, return receipt requested,]~~ that the will is on
- 2-17 deposit with the clerk; and
- 2-18 (2) deliver, on request, the will to the person named
- 2-19 as executor.

2-20 SECTION 5. Section 252.105(a), Estates Code, is amended to
2-21 read as follows:

2-22 (a) If a county clerk inspects a will under Section 252.103,
2-23 the clerk shall notify ~~[by registered mail, return receipt~~

- 2-24 ~~requested,]~~ the devisees named in the will that the will is on
- 2-25 deposit with the clerk if:
- 2-26 (1) the will does not name an executor;
- 2-27 (2) the person named as executor in the will:
- 2-28 (A) has died; or
- 2-29 (B) fails to take the will before the 31st day
- 2-30 after the date the notice required by Section 252.104 is mailed to
- 2-31 the person; or
- 2-32 (3) the notice mailed to the person named as executor
- 2-33 is returned as undelivered.

2-34 SECTION 6. Section 252.151, Estates Code, is amended to
2-35 read as follows:

2-36 Sec. 252.151. DEPOSIT HAS NO LEGAL SIGNIFICANCE. The
2-37 provisions of Subchapter A providing for the deposit of a will with
2-38 a county clerk ~~[during the lifetime of a testator]~~ are solely for
2-39 the purpose of providing a safe and convenient repository for a
2-40 will. For purposes of probate, a will deposited as provided by
2-41 Subchapter A may not be treated differently than a will that has not
2-42 been deposited.

2-43 SECTION 7. Section 252.201, Estates Code, is amended to
2-44 read as follows:

2-45 Sec. 252.201. WILL DELIVERY. (a) On receiving notice of a
2-46 testator's death, the person who has custody of the testator's will
2-47 shall deliver the will to the clerk of the court that has
2-48 jurisdiction of the testator's estate.

2-49 (b) The clerk of the court shall handle the will in the same
2-50 manner prescribed by Subchapter A for a will deposited under
2-51 Section 252.001 other than collection of a fee under Section
2-52 252.001(b).

2-53 SECTION 8. Subchapter E, Chapter 252, Estates Code, is
2-54 amended by adding Section 252.2015 to read as follows:

2-55 Sec. 252.2015. NOTICE AND DELIVERY OF WILL TO EXECUTOR OR
2-56 DEVISEES. (a) On the deposit of a will under Section 252.201 that
2-57 names an executor, the clerk of the court shall:

- 2-58 (1) notify the person named as executor in the manner
- 2-59 prescribed by Section 252.104; and
- 2-60 (2) deliver, on request, the will to the person named
- 2-61 as executor.

2-62 (b) On the deposit of a will under Section 252.201, the
2-63 clerk of the court shall notify the devisees named in the will in
2-64 the manner prescribed by Section 252.105(a) if:

- 2-65 (1) the will does not name an executor;
- 2-66 (2) the person named as executor in the will:
- 2-67 (A) has died; or
- 2-68 (B) fails to take the will before the 31st day
- 2-69 after the date the notice required by Subsection (a) is mailed to

3-1 the person; or
 3-2 (3) the notice mailed to the person named as executor
 3-3 is returned as undelivered.

3-4 (c) On request, the clerk of the court shall deliver the
 3-5 will to any or all of the devisees notified under Subsection (b).

3-6 SECTION 9. Section 101.0815, Government Code, is amended to
 3-7 read as follows:

3-8 Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS:
 3-9 ESTATES CODE. The clerk of a statutory county court shall collect
 3-10 fees and costs under the Estates Code as follows:

3-11 (1) fee for deposit of a will with the county clerk by
 3-12 a testator or another person for a testator during the testator's
 3-13 lifetime or by an attorney, business entity, or other person unable
 3-14 to maintain custody of a testator's will and unable to contact or
 3-15 locate the testator (Sec. 252.001, Estates Code) . . . \$5;

3-16 (2) security deposit on filing, by any person other
 3-17 than the personal representative of an estate, an application,
 3-18 complaint, or opposition in relation to the estate, if required by
 3-19 the clerk (Sec. 53.052, Estates Code) . . . probable cost of the
 3-20 proceeding;

3-21 (3) fee on filing an application, complaint, petition,
 3-22 or other paper in a guardianship proceeding, which includes a
 3-23 deposit for payment to an attorney ad litem (Sec. 1052.051, Estates
 3-24 Code) . . . cost of filing and payment of attorney ad litem;

3-25 (4) security deposit on filing, by any person other
 3-26 than the guardian, attorney ad litem, or guardian ad litem, an
 3-27 application, complaint, or opposition in relation to a guardianship
 3-28 matter, if required by the clerk (Sec. 1053.052, Estates Code)
 3-29 . . . probable cost of the guardianship proceeding;

3-30 (5) nonrefundable fee to cover the cost of
 3-31 administering Subchapter G, Chapter 1104, Estates Code
 3-32 (Sec. 1104.303, Estates Code) . . . \$40; and

3-33 (6) costs for attorney ad litem appointed to pursue
 3-34 the restoration of a ward's capacity or modification of the ward's
 3-35 guardianship (Sec. 1202.102, Estates Code) . . . reasonable
 3-36 compensation.

3-37 SECTION 10. Section 101.1014, Government Code, is amended
 3-38 to read as follows:

3-39 Sec. 101.1014. STATUTORY PROBATE COURT FEES AND COSTS:
 3-40 ESTATES CODE. The clerk of a statutory probate court shall collect
 3-41 fees and costs under the Estates Code as follows:

3-42 (1) fee for deposit of a will with the county clerk by
 3-43 a testator or another person for a testator during the testator's
 3-44 lifetime or by an attorney, business entity, or other person unable
 3-45 to maintain custody of a testator's will and unable to contact or
 3-46 locate the testator (Sec. 252.001, Estates Code) . . . \$5;

3-47 (2) security deposit on filing, by any person other
 3-48 than the personal representative of an estate, an application,
 3-49 complaint, or opposition in relation to the estate, if required by
 3-50 the clerk (Sec. 53.052, Estates Code) . . . probable cost of the
 3-51 proceeding;

3-52 (3) fee on filing an application, complaint, petition,
 3-53 or other paper in a guardianship proceeding, which includes a
 3-54 deposit for payment to an attorney ad litem (Sec. 1052.051, Estates
 3-55 Code) . . . cost of filing and payment of attorney ad litem;

3-56 (4) security deposit on filing, by any person other
 3-57 than the guardian, attorney ad litem, or guardian ad litem, an
 3-58 application, complaint, or opposition in relation to a guardianship
 3-59 matter, if required by the clerk (Sec. 1053.052, Estates Code)
 3-60 . . . probable cost of the guardianship proceeding;

3-61 (5) nonrefundable fee to cover the cost of
 3-62 administering Subchapter G, Chapter 1104, Estates Code
 3-63 (Sec. 1104.303, Estates Code) . . . \$40; and

3-64 (6) costs for attorney ad litem appointed to pursue
 3-65 the restoration of a ward's capacity or modification of the ward's
 3-66 guardianship (Sec. 1202.102, Estates Code) . . . reasonable
 3-67 compensation.

3-68 SECTION 11. Section 101.1215, Government Code, is amended
 3-69 to read as follows:

4-1 Sec. 101.1215. COUNTY COURT FEES AND COSTS: ESTATES CODE.
4-2 The clerk of a county court shall collect the following fees and
4-3 costs under the Estates Code:

4-4 (1) fee for deposit of a will with the county clerk by
4-5 a testator or another person for a testator during the testator's
4-6 lifetime or by an attorney, business entity, or other person unable
4-7 to maintain custody of a testator's will and unable to contact or
4-8 locate the testator (Sec. 252.001, Estates Code) . . . \$5;

4-9 (2) security deposit on filing, by any person other
4-10 than the personal representative of an estate, an application,
4-11 complaint, or opposition in relation to the estate, if required by
4-12 the clerk (Sec. 53.052, Estates Code) . . . probable cost of the
4-13 proceeding;

4-14 (3) fee on filing an application, complaint, petition,
4-15 or other paper in a guardianship proceeding, which includes a
4-16 deposit for payment to an attorney ad litem (Sec. 1052.051, Estates
4-17 Code) . . . cost of filing and payment of attorney ad litem;

4-18 (4) security deposit on filing, by any person other
4-19 than the guardian, attorney ad litem, or guardian ad litem, an
4-20 application, complaint, or opposition in relation to a guardianship
4-21 matter, if required by the clerk (Sec. 1053.052, Estates Code)
4-22 . . . probable cost of the guardianship proceeding;

4-23 (5) nonrefundable fee to cover the cost of
4-24 administering Subchapter G, Chapter 1104, Estates Code
4-25 (Sec. 1104.303, Estates Code) . . . \$40; and

4-26 (6) costs for attorney ad litem appointed to pursue
4-27 the restoration of a ward's capacity or modification of the ward's
4-28 guardianship (Sec. 1202.102, Estates Code) . . . reasonable
4-29 compensation.

4-30 SECTION 12. Section 118.052, Local Government Code, is
4-31 amended to read as follows:

4-32 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court
4-33 shall collect the following fees for services rendered to any
4-34 person:

4-35 (1) CIVIL COURT ACTIONS

4-36 (A) Filing of Original Action (Sec. 118.053):
4-37 (i) Garnishment after judgment . . . \$15.00
4-38 (ii) All others . . . \$40.00

4-39 (B) Filing of Action Other than Original (Sec.
4-40 118.054) . . . \$30.00

4-41 (C) Services Rendered After Judgment in Original
4-42 Action (Sec. 118.0545):
4-43 (i) Abstract of judgment . . . \$ 5.00
4-44 (ii) Execution, order of sale, writ, or
4-45 other process . . . \$ 5.00

4-46 (2) PROBATE COURT ACTIONS

4-47 (A) Probate Original Action (Sec. 118.055):
4-48 (i) Probate of a will with independent
4-49 executor, administration with will attached, administration of an
4-50 estate, guardianship or receivership of an estate, or muniment of
4-51 title . . . \$40.00

4-52 (ii) Community survivors . . . \$40.00

4-53 (iii) Small estates . . . \$40.00

4-54 (iv) Declarations of heirship . . . \$40.00

4-55 (v) Mental health or chemical dependency
4-56 services . . . \$40.00

4-57 (vi) Additional, special fee (Sec. 118.064)
4-58 . . . \$ 5.00

4-59 (B) Services in Pending Probate Action (Sec.
4-60 118.056):

4-61 (i) Filing an inventory and appraisal as
4-62 provided by Section 118.056(d) . . . \$25.00

4-63 (ii) Approving and recording bond . . .
4-64 \$ 3.00

4-65 (iii) Administering oath . . . \$ 2.00

4-66 (iv) Filing annual or final account of
4-67 estate . . . \$25.00

4-68 (v) Filing application for sale of real or
4-69 personal property . . . \$25.00

5-1 (vi) Filing annual or final report of
5-2 guardian of a person . . . \$10.00
5-3 (vii) Filing a document not listed under
5-4 this paragraph after the filing of an order approving the inventory
5-5 and appraisal or after the 120th day after the date of the
5-6 initial filing of the action, whichever occurs first, if more than
5-7 25 pages . . . \$25.00
5-8 (C) Adverse Probate Action (Sec. 118.057) . . .
5-9 \$40.00
5-10 (D) Claim Against Estate (Sec. 118.058) . . .
5-11 \$10.00
5-12 (E) Supplemental Court-Initiated Guardianship
5-13 Fee in Probate Original Actions and Adverse Probate Actions
5-14 (Sec. 118.067) . . . \$20.00
5-15 (F) Supplemental Public Probate Administrator
5-16 Fee For Counties That Have Appointed a Public Probate Administrator
5-17 (Sec. 118.068) . . . \$10.00
5-18 (3) OTHER FEES
5-19 (A) Issuing Document (Sec. 118.059):
5-20 original document and one copy . . . \$ 4.00
5-21 each additional set of an original and one copy . . . \$ 4.00
5-22 (B) Certified Papers (Sec. 118.060):
5-23 for the clerk's certificate . . . \$ 5.00
5-24 plus a fee per page or part of a page of . . . \$ 1.00
5-25 (C) Noncertified Papers (Sec. 118.0605):
5-26 for each page or part of a page . . . \$ 1.00
5-27 (D) Letters Testamentary, Letter of
5-28 Guardianship, Letter of Administration, or Abstract of Judgment
5-29 (Sec. 118.061) . . . \$ 2.00
5-30 (E) Deposit and Safekeeping of Wills (Sec.
5-31 118.062) . . . \$ 5.00
5-32 (F) Mail Service of Process (Sec. 118.063) . . .
5-33 same as sheriff
5-34 (G) Records Management and Preservation Fee
5-35 . . . \$ 5.00
5-36 (H) Records Technology and Infrastructure Fee if
5-37 authorized by the commissioners court of the county (Sec. 118.026)
5-38 . . . \$ 2.00
5-39 SECTION 13. Section 118.062, Local Government Code, is
5-40 amended to read as follows:
5-41 Sec. 118.062. DEPOSIT AND SAFEKEEPING OF WILLS. The fee for
5-42 "Deposit and Safekeeping of Wills" under Section 118.052(3) is for
5-43 receiving [filing] and keeping wills deposited [held] for
5-44 safekeeping. The fee must be paid at the time the will is deposited
5-45 with the county clerk [filed].
5-46 SECTION 14. Sections 252.001 and 252.201, Estates Code, as
5-47 amended by this Act, and Section 252.2015, Estates Code, as added by
5-48 this Act, apply to a will deposited with or delivered to a clerk
5-49 described by those sections on or after the effective date of this
5-50 Act. A will deposited with or delivered to a clerk described by
5-51 those sections before the effective date of this Act is governed by
5-52 the law in effect on the date the will was deposited or delivered,
5-53 and the former law is continued in effect for that purpose.
5-54 SECTION 15. This Act takes effect September 1, 2017.

5-55 * * * * *