

**Real Property, Probate & Trust Law Section of the State Bar of Texas**

**2021 Proposed Legislation Relating to Decedents' Estates  
(Revised)**

1. Section 1 of the proposed bill amends Texas Estates Code (TEC) Section 22.027 to expand, clean-up and modernize the definition of “person.”
2. Sections 2-7, 9, 12, 15, 27-30, 32-37, and 41-43 of the proposed bill amend TEC Sections 22.035, 51.052, 51.055, 51.056, 51.103, 56.002, 113.251, 202.051, 202.203, 308.002, 308.051, 308.053, 308.054, 356.654, 361.052, 362.005, 403.056, 404.0035, 452.006, 501.003, 505.005 and 505.101 to provide alternatives to registered or certified mail to meet notice requirements under the Code. The provisions allow the alternative of a “qualified delivery method,” which includes private delivery service that are available to the general public, as timely and reliable as United States mail, and keeps an electronic database of deliveries.
3. Section 8 of the proposed bill amends TEC Section 101.052 to clarify which community property assets of a married couple are subject to certain creditors’ claims when a spouse dies. This proposal does not change existing law.
4. Section 10 of the proposed bill repeals TEC Sections 123.052-123.056 and amends 123.051 to direct readers to Subchapter E, Chapter 112 of the Trust Code where the provisions of TEC Sections 123.051-123.056, which address effects of divorce on certain trust dispositions, are now more appropriately located.
5. Section 11 of the proposed bill amends TEC Section 202.005 to clarify that the required listing of estate property in an heirship proceeding only applies to property that would be governed by the judgment in the proceeding.
6. Sections 13 and 20 of the proposed bill amend TEC Sections 202.056 and 258.002 to allow certain persons to waive citation on behalf of a minor under the age of 16 and allow minors 16 years of age or older to waive citation in proceedings to declare heirship and in proceedings to probate a copy of a written will not produced in court. This modifies existing law, which requires personal service on all minors over the age of 12.
7. Section 14 of the proposed bill amends TEC Section 202.151 to clarify that an affidavit of heirship described by TEC Section 203.001 can serve as testimony in a proceeding to declare heirship. This would allow the Court to consider as evidence a sworn affidavit of heirship that has been of record for 5 or more years in the deed records of the county.
8. Sections 16, 17 and 19 of the proposed bill amend TEC Sections 256.052, 257.051 and 301.052 to remove the requirement for an applicant to list the last three digits of his or her social security number and driver’s license number in applications to probate wills and applications for letters testamentary or of administration.

9. Sections 20-26 of the proposed bill amend TEC Sections 305.001-305.003, 305.051-305.053 and 305.055 to allow a person to make an unsworn declaration in lieu of taking a sworn oath in order to qualify as a personal representative. This will allow greater flexibility for personal representatives to qualify if no notary or clerk is available to take their oath, or if it is inadvisable for health reasons for the personal representative to appear in person before the notary or clerk.
10. Section 31 of the proposed bill amends TEC Section 356.105(a) to apply existing provisions that address the sale of real estate in a dependent administration to the sale of personal property in a dependent administration. The amendments are not meant to make substantive changes to existing provisions.
11. Sections 38-40 of the proposed bill amend TEC Sections 453.003, 453.006 and 453.007 to remove references to community debts and community obligations, which are meaningless and misleading in the context of the administration of a decedent's estate.
12. Section 44 contains the effective date of the proposed bill.

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A BILL TO BE ENTITLED

1 AN ACT

2 relating to decedents' estates.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 22.027, Estates Code, is amended to  
5 read as follows:

6 22.027. PERSON. (a) "Person" includes ~~a natural person and a~~ an  
7 individual, corporation, organization, government or  
8 governmental subdivision or agency, business trust, personal  
9 representative of an estate, trustee of a trust, partnership,  
10 association, and any other legal entity.

11 (b) Except as otherwise provided by this code, the definition of  
12 "person" assigned by Section 311.005, Government Code, does not  
13 apply to any provision in this code.

14 (c) The definition of "person" in this Section does not effect  
15 any change to any laws relating to the unauthorized practice of  
16 law.

17 SECTION 2. Section 22.035, Estates Code, is added to read  
18 as follows:

19 22.035. QUALIFIED DELIVERY METHOD. "Qualified delivery method"  
20 for purposes of this Code includes:

- 21 (1) hand delivery, with courier's proof of delivery;  
22 (2) certified or registered mail, return receipt requested; and

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1 (3) any private delivery service designated by the United  
2 States

3 Secretary of the Treasury under authority of Section 7502 of the  
4 Internal Revenue Code of 1986.

5 SECTION 3. Section 51.052, Estates Code, is amended to  
6 read as follows:

7 §51.052. SERVICE BY MAIL. (a) The county clerk, or the personal  
8 representative if required by statute or court order, shall  
9 serve a citation or notice required or permitted to be served by  
10 regular mail by mailing the original citation or notice to the  
11 person to be cited or notified.

12 (b) Except as provided by Subsection (c), the county clerk shall  
13 issue a citation or notice required or permitted to be served by  
14 ~~registered or certified mail~~ a qualified delivery method and  
15 shall serve the citation or notice by ~~mailing~~ sending the  
16 original citation or notice by ~~registered or certified mail~~ a  
17 qualified delivery method.

18 (c) A personal representative shall issue a notice required to  
19 be given by the representative by ~~registered or certified mail~~ a  
20 qualified delivery method and shall serve the notice by ~~mailing~~  
21 sending the original notice by ~~registered or certified mail~~ a  
22 qualified delivery method.

23 (d) The county clerk or personal representative, as applicable,

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1 shall mail a citation or notice under Subsection (b) or (c) with  
2 an instruction to deliver the citation or notice to the  
3 addressee only and ~~with return receipt requested by a qualified~~  
4 delivery method. The clerk or representative, as applicable,

5 shall address the envelope containing the citation or notice to:

6 (1) the attorney of record in the proceeding for the person to  
7 be cited or notified; or

8 (2) the person to be cited or notified, if the citation or  
9 notice to the attorney is returned undelivered or the person to  
10 be cited or notified has no attorney of record in the  
11 proceeding.

12 (e) Service by mail or a qualified delivery method shall be made  
13 at least 20 days before the return day of the service, excluding  
14 the date of service. The date of service by mail is the date of  
15 mailing. The date of service by a qualified delivery method is  
16 the date of sending pursuant to such method.

17 (f) A copy of a citation or notice served under Subsection (a),  
18 (b), or (c), together with a certificate of the person serving  
19 the citation or notice showing that the citation or notice was  
20 mailed and the date of the mailing, shall be filed and recorded.

21 A ~~returned~~ proof of delivery receipt for a citation or notice  
22 served under Subsection (b) or (c) shall be attached to the  
23 certificate.

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1 (g) If a citation or notice served by mail is returned  
2 undelivered, a new citation or notice shall be issued. Service  
3 of the new citation or notice must be made by posting.

4 SECTION 4. Section 51.055, Estates Code, is amended to  
5 read as follows:

6 §51.055. SERVICE ON PARTY'S ATTORNEY OF RECORD. (a) If a party  
7 is represented by an attorney of record in a probate proceeding,  
8 each citation or notice required to be served on the party in  
9 that proceeding shall be served instead on that attorney. A  
10 notice under this subsection may be served by delivery to the  
11 attorney in person or by a qualified delivery method.

12 (b) A notice may be served on an attorney of record under this  
13 section by:

- 14 (1) another party to the proceeding;  
15 (2) the attorney of record for another party to the proceeding;  
16 (3) the appropriate sheriff or constable; or  
17 (4) any other person competent to testify.

18 (c) Each of the following is prima facie evidence of the fact  
19 that service has been made under this section:

- 20 (1) the written statement of an attorney of record showing  
21 service;  
22 (2) the return of the officer showing service; and  
23 (3) the affidavit of any other person showing service.

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1 SECTION 5. Section 51.056, Estates Code, is amended to  
2 read as follows:

3 §51.056. SERVICE ON PERSONAL REPRESENTATIVE OR RECEIVER. Unless  
4 this title expressly provides for another method of service, the  
5 county clerk who issues a citation or notice required to be  
6 served on a personal representative or receiver shall serve the  
7 citation or notice by ~~mailing~~ sending the original citation or  
8 notice by ~~registered or certified mail~~ a qualified delivery  
9 method to:

- 10 (1) the representative's or receiver's attorney of record; or  
11 (2) the representative or receiver, if the representative or  
12 receiver does not have an attorney of record.

13 SECTION 6. Section 51.103 is amended to read as follows:

14 §51.103. PROOF OF SERVICE. (a) Proof of service in each case  
15 requiring citation or notice must be filed before the hearing.

16 (b) Proof of service consists of:

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

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

21 (3) if the service is made by mail:

22 (A) the certificate of the county clerk making the service, or  
23 the affidavit of the personal representative or other person

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1 making the service, stating that the citation or notice was  
2 mailed or sent and the date of the mailing or sending; and

3 (B) the ~~return~~ proof of delivery receipt attached to the  
4 certificate or affidavit, as applicable, if the ~~mailing~~ sending  
5 was by ~~registered or certified mail~~ a qualified delivery method  
6 and a receipt ~~has been returned~~ is available; and

7 (4) if the service is made by publication:

8 (A) an affidavit:

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

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

13 (iii) that states the date of publication on the public  
14 information Internet website maintained as required by Section  
15 72.034, Government Code; and

16 (B) an affidavit:

17 (i) made by the publisher of the newspaper in which the citation  
18 or notice was published or an employee of the publisher;

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

21 (iii) that states the date of publication printed on the  
22 newspaper in which the citation or notice was published.

23 SECTION 7. Section 56.002 is amended to read as follows:



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1 §56.002. RESIGNATION OF RESIDENT AGENT. (a) A resident agent of  
2 a personal representative may resign as resident agent by giving  
3 notice to the representative and filing with the court in which  
4 the probate proceeding is pending a statement titled  
5 "Resignation of Resident Agent" that states:

6 (1) the name of the representative;

7 (2) the representative's address most recently known by the  
8 resident agent;

9 (3) that notice of the resignation has been given to the  
10 representative and the date that notice was given; and

11 (4) that the representative has not designated a successor  
12 resident agent.

13 (b) The resident agent shall send, by ~~certified mail, return~~  
14 ~~receipt requested,~~ a qualified delivery method, a copy of a  
15 resignation statement filed under Subsection (a) to:

16 (1) the personal representative at the address most recently  
17 known by the resident agent; and

18 (2) each party in the case or the party's attorney or other  
19 designated representative of record.

20 (c) The resignation of a resident agent takes effect on the date  
21 the court enters an order accepting the resignation. A court may  
22 not enter an order accepting the resignation unless the resident  
23 agent complies with this section.

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1 SECTION 8. Section 101.052, Estates Code, is amended to  
2 read as follows:

3 §101.052. LIABILITY OF COMMUNITY PROPERTY FOR DEBTS ~~OF DECEASED~~  
4 ~~SPOUSE~~. (a) The community property ~~subject to~~ that was by law  
5 under the sole management, control, and disposition of a spouse  
6 or under the joint management, control, and disposition of a  
7 ~~spouse~~ the spouses during marriage continues to be subject to  
8 the liabilities of that spouse ~~on~~ upon the death of either  
9 spouse.

10 (b) The undivided one-half interest that the surviving  
11 spouse owned in community property that was by law under the  
12 sole management, control, and disposition of the deceased spouse  
13 during marriage is subject to the liabilities of the surviving  
14 spouse on the death of the deceased spouse.

15 (c) The undivided one-half interest that the deceased  
16 spouse owned in ~~any other nonexempt~~ community property that was  
17 by law under the sole management, control, and disposition of  
18 the surviving spouse during marriage passes to the deceased  
19 spouse's heirs or devisees charged with the ~~debts~~ liabilities of  
20 ~~that were enforceable against~~ the deceased spouse ~~before death~~.

21 (ed) This section does not prohibit the administration of  
22 community property under other provisions of this title relating  
23 to the administration of an estate.

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1 SECTION 9. Section 113.251, Estates Code, is added to read  
2 as follows:

3 §113.251. PLEDGE OF ACCOUNT. (a) A party to a multiple-party  
4 account may pledge the account or otherwise create a security  
5 interest in the account without the joinder of, as applicable, a  
6 P.O.D. payee, a beneficiary, a convenience signer, or any other  
7 party to a joint account, regardless of whether a right of  
8 survivorship exists.

9 (b) A convenience signer may not pledge or otherwise create a  
10 security interest in an account.

11 (c) Not later than the 30th day after the date a security  
12 interest on a multiple-party account is perfected, a secured  
13 creditor that is a financial institution with accounts insured  
14 by the Federal Deposit Insurance Corporation shall provide  
15 written notice of the pledge of the account to any other party  
16 to the account who did not create the security interest. The  
17 notice must be sent by ~~registered or certified mail~~ a qualified  
18 delivery method to each other party at the last address the  
19 party provided to the depository bank.

20 (d) The financial institution is not required to provide the  
21 notice described by Subsection (c) to a P.O.D. payee,  
22 beneficiary, or convenience signer.

23 SECTION 10. Section 123.051, Estates Code, is amended to

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1 read as follows, and Sections 123.052, 123.053, 123.054, 123.055  
2 and 123.056, Estates Code, are repealed:

3 Section 123.051. Subchapter E. Chapter 112, Trust Code, governs  
4 the effects the dissolution of a marriage has on certain  
5 nontestamentary transfers.

6 SECTION 11. Section 202.005, Estates Code, is amended to  
7 read as follows:

8 §202.005. APPLICATION FOR PROCEEDING TO DECLARE HEIRSHIP. A  
9 person authorized by Section 202.004 to commence a proceeding to  
10 declare heirship must file an application in a court specified  
11 by Section 33.004 to commence the proceeding. The application  
12 must state:

- 13 (1) the decedent's name and date and place of death;
- 14 (2) the names and physical addresses where service can be had  
15 of the decedent's heirs, the relationship of each heir to the  
16 decedent, whether each heir is an adult or minor, and the true  
17 interest of the applicant and each of the heirs in the  
18 decedent's estate or in the trust, as applicable;
- 19 (3) if the date or place of the decedent's death or the name or  
20 physical address where service can be had of an heir is not  
21 definitely known to the applicant, all the material facts and  
22 circumstances with respect to which the applicant has knowledge  
23 and information that might reasonably tend to show the date or

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1 place of the decedent's death or the name or physical address  
2 where service can be had of the heir;

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

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

6 (A) the date of the marriage;

7 (B) the name of the spouse;

8 (C) the date and place of termination if the marriage was  
9 terminated; and

10 (D) other facts to show whether a spouse has had an interest in  
11 the decedent's property;

12 (6) whether the decedent died testate and, if so, what  
13 disposition has been made of the will;

14 (7) a general description of all property belonging to the  
15 decedent's estate subject to distribution pursuant to a judgment  
16 in the proceeding to declare heirship in this state or held in  
17 trust for the benefit of the decedent, as applicable; and

18 (8) an explanation for the omission from the application of any  
19 of the information required by this section.

20 SECTION 12. Section 202.051, Estates Code, is amended to  
21 read as follows:

22 §202.051. SERVICE OF CITATION BY MAIL WHEN RECIPIENT'S NAME AND  
23 ADDRESS ARE KNOWN OR ASCERTAINABLE. Except as provided by

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1 Section 202.054, citation in a proceeding to declare heirship  
2 must be served by ~~registered or certified mail~~ a qualified  
3 delivery method on:

4 (1) each distributee who is 12 years of age or older and whose  
5 name and address are known or can be ascertained through the  
6 exercise of reasonable diligence; and

7 (2) the parent, managing conservator, or guardian of each  
8 distributee who is younger than 12 years of age if the name and  
9 address of the parent, managing conservator, or guardian are  
10 known or can be reasonably ascertained.

11 SECTION 13. Section 202.056, Estates Code, is amended to  
12 read as follows:

13 §202.056. WAIVER OF SERVICE OF CITATION. (a) ~~Except as provided~~  
14 ~~by Subsection (b)(2),~~ a A distributee 16 years of age or older  
15 may waive citation required by this subchapter to be served on  
16 the distributee.

17 (b) A parent, managing conservator, guardian, attorney ad  
18 litem, or guardian ad litem of a ~~minor~~ distributee who is  
19 younger than 16 years of age may waive citation required by this  
20 subchapter to be served on the distributee.

21 ~~(1) is younger than 12 years of age may waive citation~~  
22 ~~required by this subchapter to be served on the distributee; and~~

23 ~~(2) is 12 years of age or older may not waive citation~~

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1 ~~required by this subchapter to served on the distributee.~~

2 SECTION 14. Section 202.151, Estates Code, is amended to  
3 read as follows:

4 §202.151. EVIDENCE IN PROCEEDING TO DECLARE HEIRSHIP. (a) The  
5 court may require that any testimony admitted as evidence in a  
6 proceeding to declare heirship be reduced to writing and  
7 subscribed and sworn to by the witnesses, respectively.

8 (a) Except as provided by Subsection (c) in a proceeding  
9 to  
10 declare heirship, testimony regarding the decedent's heirs and  
11 family history must be taken from two disinterested and credible  
12 witnesses in open court, by deposition in accordance with  
13 Section 51.203, by a statement of facts in an affidavit or  
14 instrument in accordance with Section 203.001, or in accordance  
15 with the Texas Rules of Civil Procedure.

16 (b) If it is shown to the court's satisfaction in a  
17 proceeding to declare heirship that, after a diligent search was  
18 made, only one disinterested and credible witness can be found  
19 who can make the required proof in the proceeding, the testimony  
20 of that witness must be taken in open court, by deposition in  
21 accordance with Section 51.203, by a statement of facts in an  
22 affidavit or instrument in accordance with section 203.001, or  
23 in accordance with the Texas Rules of Civil Procedure.

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1 SECTION 15. Section 202.203, Estates Code, is amended to  
2 read as follows:

3 §202.203. CORRECTION OF JUDGMENT AT REQUEST OF HEIR NOT PROPERLY  
4 SERVED. If an heir of a decedent who is the subject of a  
5 proceeding to declare heirship is not served with citation by  
6 ~~registered or certified mail~~ a qualified delivery method or  
7 personal service in the proceeding, the heir may:

8 (1) have the judgment in the proceeding corrected by bill of  
9 review:

10 (A) at any time, but not later than the fourth anniversary of  
11 the date of the judgment; or

12 (B) after the passage of any length of time, on proof of actual  
13 fraud; and

14 (2) recover the heir's just share of the property or the value  
15 of that share from:

16 (A) the heirs named in the judgment; and

17 (B) those who claim under the heirs named in the judgment and  
18 who are not bona fide purchasers for value.

19 SECTION 16. Section 256.052, Estates Code, is amended to  
20 read as follows:

21 §256.052. CONTENTS OF APPLICATION FOR PROBATE OF WILL. (a) An  
22 application for the probate of a will must state and aver the  
23 following to the extent each is known to the applicant or can,



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1 with reasonable diligence, be ascertained by the applicant:

2 (1) each applicant's name and domicile;

3 ~~(1-a) the last three numbers of each applicant's driver's~~  
4 ~~license number and social security number, if the applicant has~~  
5 ~~been issued one;~~

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

8 (2-a) the last three numbers of the testator's driver's license  
9 number and social security number;

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

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

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

16 (6) the date of the will;

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

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

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

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

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

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

8 (b) If an applicant does not state or aver any matter required  
9 by Subsection (a) in the application, the application must state  
10 the reason the matter is not stated and averred.

11 SECTION 17. Section 257.051, Estates Code, is amended to  
12 read as follows:

13 §257.051. CONTENTS OF APPLICATION GENERALLY. (a) An application  
14 for the probate of a will as a muniment of title must state and  
15 aver the following to the extent each is known to the applicant  
16 or can, with reasonable diligence, be ascertained by the  
17 applicant:

18 (1) each applicant's name and domicile;

19 ~~(1-a) the last three numbers of each applicant's driver's~~  
20 ~~license number and social security number, if the applicant has~~  
21 ~~been issued one;~~

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

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1 (2-a) the last three numbers of the testator's driver's license  
2 number and social security number;

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

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

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

9 (6) the date of the will;

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

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

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

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

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

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

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1 (b) If an applicant does not state or aver any matter required  
2 by Subsection (a) in the application, the application must state  
3 the reason the matter is not stated and averred.

4 SECTION 18. Section 258.002, Estates Code, is amended to  
5 read as follows:

6 §258.002. CITATION ON APPLICATION FOR PROBATE OF WILL NOT  
7 PRODUCED IN COURT.

8 (a) On the filing of an application for the probate of a  
9 written will that cannot be produced in court, the clerk shall  
10 issue a citation to all parties interested in the estate. The  
11 citation must:

12 (1) Contain substantially the statements made in the  
13 application for probate;

14 (2) Identify the court that will act on the  
15 application; and

16 (3) State the time and place of the court's action on  
17 the application.

18 (b) The citation required by Subsection (a) shall be  
19 served

20 on the testator's heirs by personal service if the heirs are  
21 residents of this state and their addresses are known.

22 (c) Service of the citation required by Subsection (a) may  
23 be made by publication if:

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- 1           (1) The heirs are not residents of this state;  
2           (2) The names or addresses of the heirs are unknown;  
3                    or  
4           (3) The heirs are transient persons.

5           (d) An heir who is 16 years of age or older may waive  
6 citation required by this subchapter to be served on the heir.

7           (e) A parent, managing conservator, guardian, attorney ad  
8 litem, or guardian ad litem of the heir who is younger than 16  
9 years of age may waive citation required by this subchapter to  
10 be served on the heir.

11           SECTION 19. Section 301.052, Estates Code, is amended to  
12 read as follows:

13 §301.052. CONTENTS OF APPLICATION FOR LETTERS OF ADMINISTRATION.

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

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

18 ~~(1-a) the last three numbers of:~~

19 ~~(A) the applicant's driver's license number, if the applicant~~  
20 ~~has been issued one; and~~

21 ~~(B) the applicant's social security number, if the applicant has~~  
22 ~~been issued one;~~

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

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- 1 (2-a) if known by the applicant at the time the applicant files
- 2 the application, the last three numbers of the decedent's
- 3 driver's license number and social security number;
- 4 (3) the fact, date, and place of the decedent's death;
- 5 (4) facts necessary to show that the court with which the
- 6 application is filed has venue;
- 7 (5) whether the decedent owned property and, if so, include a
- 8 statement of the property's probable value;
- 9 (6) the name and address, if known, whether the heir is an adult
- 10 or minor, and the relationship to the decedent of each of the
- 11 decedent's heirs;
- 12 (7) if known by the applicant at the time the applicant files
- 13 the application, whether one or more children were born to or
- 14 adopted by the decedent and, if so, the name, birth date, and
- 15 place of birth of each child;
- 16 (8) if known by the applicant at the time the applicant files
- 17 the application, whether the decedent was ever divorced and, if
- 18 so, when and from whom;
- 19 (9) that a necessity exists for administration of the decedent's
- 20 estate and an allegation of the facts that show that necessity;
- 21 and
- 22 (10) that the applicant is not disqualified by law from acting
- 23 as administrator.

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 (b) If an applicant does not state the last three numbers of the  
2 decedent's driver's license number or social security number  
3 under Subsection (a)(2-a), the application must state the reason  
4 the numbers are not stated.

5 SECTION 20. Section 305.001, Estates Code, is amended to  
6 read as follows:

7 In this chapter:

8 (1) "Bond" means a bond required by this chapter to be  
9 given by a person appointed to serve as a personal  
10 representative.

11 (2) "Oath" means an oath ~~required by this chapter to~~ that  
12 may be taken by a person appointed to serve as a personal  
13 representative.

14 (3) "Declaration" means a declaration that may be made by  
15 a person appointed to serve as a personal representative.

16 SECTION 21. Section 305.002, Texas Estates Code, is  
17 amended to read as follows:

18 §305.002. MANNER OF QUALIFICATION OF PERSONAL REPRESENTATIVE.

19 (a) A personal representative, other than an executor described  
20 by Subsection (b), is considered to have qualified when the  
21 representative has:

By: \_\_\_\_\_

B. No. \_\_\_\_\_

- 1           (1)       taken and filed the oath prescribed by Subchapter  
2           B or made and filed the declaration prescribed by  
3           Subchapter B;  
4           (2)       filed the required bond with the clerk; and  
5           (3)       obtained the judge's approval of the bond.

6       (b)An executor who is not required to give a bond is considered  
7       to have qualified when the executor has taken and filed the oath  
8       prescribed by Subchapter B or made and filed the declaration  
9       prescribed by Subchapter B.

10       SECTION 22. Section 305.003, Estates Code, is amended to  
11       read as follows:

12       §305.003. PERIOD FOR TAKING OATH OR MAKING DECLARATION. An oath  
13       may be taken or a declaration may be made at any time before:

- 14       (1)       the 21st day after the date of the order granting  
15       letters testamentary or of administration, as applicable; or  
16       (2)       the letters testamentary or of administration, as  
17       applicable, are revoked for a failure to qualify within the  
18       period.

19       SECTION 23. Section 305.051, Estates Code, is amended to  
20       read as follows:

21       §305.051. OATH OR DECLARATION OF EXECUTOR OR ADMINISTRATOR WITH  
22       WILL ANNEXED.



By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 (a) Before the issuance of letters testamentary or letters of  
2 administration with will annexed, the person named as executor  
3 or appointed as administrator with will annexed shall:

- 4           (1) take and subscribe an oath ~~in substantially the~~  
5           ~~following form:~~ as prescribed in subsection (b); or  
6           (2) make a declaration as prescribed in subsection  
7           (c).

8 (b) An oath taken by a person named as executor or appointed as  
9 administrator with will annexed shall be in substantially the  
10 following form:

11           I do solemnly swear that the writing offered for probate is  
12 the last will of \_\_\_\_\_ (insert name of testator), so far  
13 as I know or believe, and that I will well and truly  
14 perform all the duties of \_\_\_\_\_ (insert "executor of the  
15 will" or "administrator with will annexed," as applicable)  
16 for the estate of \_\_\_\_\_ (insert name of testator).

17 (c) A declaration made by a person named as executor or  
18 appointed as administrator with will annexed shall be in  
19 substantially the following form:

20           My name is \_\_\_\_\_ (insert name of executor or  
21           administrator with will annexed as it appears on the order  
22           appointing the person appointed as executor or  
23           administrator with will annexed), my date of birth is  
24           \_\_\_\_\_ (insert date of birth of "executor of the will" or  
25           "administrator with will annexed," as applicable), and my  
26           address is \_\_\_\_\_ (insert Street, City, State, Zip Code,

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1       and Country of "executor of the will" or "administrator  
2       with will annexed," as applicable). I declare under  
3       penalty of perjury that the writing offered for probate is  
4       the last will of \_\_\_\_\_ (insert name of testator), so far  
5       as I know or believe. I also solemnly declare that I will  
6       well and truly perform all the duties of \_\_\_\_\_ (insert  
7       "executor of the will" or "administrator with will  
8       annexed," as applicable) for the estate of \_\_\_\_\_ (insert  
9       name of testator).

10       SECTION 24. Section 305.052, Estates Code, is amended to  
11 read as follows:

12       §305.052. OATH OR DECLARATION OF ADMINISTRATOR.       (a)  
13 Before the issuance of letters of administration, the person  
14 appointed as administrator shall:

- 15               (1) take and subscribe an oath in ~~substantially the~~  
16               following form: as prescribed in subsection (b);  
17               or  
18               (2) make a declaration in substantially the form  
19               prescribed in subsection (c).

20       (b) An oath taken by a person appointed as administrator  
21 shall be in substantially the following form:

22 I do solemnly swear that \_\_\_\_\_ (insert name of decedent),  
23 deceased, died \_\_\_\_\_ (insert "without leaving any lawful  
24 will" or "leaving a lawful will, but the executor named in  
25 the will is dead or has failed to offer the will for

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 probate and to accept and qualify as executor, within the  
2 period required," as applicable), so far as I know or  
3 believe, and that I will well and truly perform all the  
4 duties of \_\_\_\_\_ administrator of the estate of \_\_\_\_\_  
5 (insert name of testator).

6 (c) A declaration made by a person appointed as  
7 administrator shall be in substantially the following form:

8 My name is \_\_\_\_\_ (insert name of administrator as it  
9 appears on the order appointing the person appointed as  
10 administrator), my date of birth is \_\_\_\_\_ (insert date of  
11 birth of "administrator"), and my address is \_\_\_\_\_  
12 (insert Street, City, State, Zip Code, and Country of  
13 "administrator"). I declare under penalty of perjury that  
14 \_\_\_\_\_ (insert name of decedent), deceased, died  
15 (insert "without leaving any lawful will" or "leaving a  
16 lawful will, but the executor named in the will is dead or  
17 has failed to offer the will for probate and to accept and  
18 qualify as executor, within the period required," as  
19 applicable), so far as I know or believe. I also solemnly  
20 declare that I will well and truly perform all the duties  
21 of \_\_\_\_\_ administrator of the estate of \_\_\_\_\_ (insert  
22 name of decedent).

23 SECTION 25. Section 305.053, Estates Code, is amended to  
24 read as follows:

25 §305.053. OATH OR DECLARATION OF TEMPORARY ADMINISTRATOR. (a)

26 Before the issuance of temporary letters of administration,  
27 the person appointed as temporary administrator shall ~~take and~~

By: \_\_\_\_\_

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1 ~~subscribe an oath in substantially the following form:~~

2           (1) take and subscribe an oath as prescribed in  
3           subsection (b); or

4           (2) make a declaration in substantially the form  
5           prescribed in subsection (c).

6           (b) An oath taken by a person appointed as temporary  
7           administrator shall be in substantially the following form:

8           I do solemnly swear that I will well and truly perform all  
9           the duties of temporary administrator of the estate of  
10          \_\_\_\_\_ (insert name of decedent), deceased, in accordance  
11          with the law, and with the order of the court appointing me  
12          as temporary administrator.

13          (c) A declaration made by a person appointed as  
14          administrator shall be in substantially the following form:

15          My name is \_\_\_\_\_ (insert name of temporary administrator  
16          as it appears on the order appointing the person appointed  
17          as administrator), my date of birth is \_\_\_\_\_ (insert date  
18          of birth of "temporary administrator"), and my address is  
19          \_\_\_\_\_ (insert Street, City, State, Zip Code, and Country  
20          of "temporary administrator"). I solemnly declare that I  
21          will well and truly perform all the duties of temporary  
22          administrator of the estate of \_\_\_\_\_ (insert name of  
23          decedent), in accordance with the law, and with the order  
24          of the court appointing me as temporary administrator.

25          SECTION 26. Section 305.055, Estates Code, is amended to  
26          read as follows:

By: \_\_\_\_\_

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1 §305.055. FILING AND RECORDING OF OATH OR DECLARATION. An oath  
2 or declaration shall be:

- 3 (1) filed with the clerk of the court granting the  
4 letters testamentary or of administration, as  
5 applicable; and  
6 (2) recorded in the judge's probate docket.

7 SECTION 27. Section 308.002, Estates Code, is amended to  
8 read as follows:

9 §308.002. REQUIRED NOTICE TO CERTAIN BENEFICIARIES AFTER PROBATE  
10 OF WILL. (a) Except as provided by Subsection (c), not later  
11 than the 60th day after the date of an order admitting a  
12 decedent's will to probate, the personal representative of the  
13 decedent's estate, including an independent executor or  
14 independent administrator, shall give notice that complies with  
15 Section 308.003 to each beneficiary named in the will whose  
16 identity and address are known to the representative or, through  
17 reasonable diligence, can be ascertained. If, after the 60th day  
18 after the date of the order, the representative becomes aware of  
19 the identity and address of a beneficiary who was not given  
20 notice on or before the 60th day, the representative shall give  
21 the notice as soon as possible after becoming aware of that  
22 information.

23 (b) Notwithstanding the requirement under Subsection (a) that

By: \_\_\_\_\_

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1 the personal representative give the notice to the beneficiary,  
2 the representative shall give the notice with respect to a  
3 beneficiary described by this subsection as follows:

4 (1) if the beneficiary is a trustee of a trust, to the trustee,  
5 unless the representative is the trustee, in which case the  
6 representative shall, except as provided by Subsection (b-1),  
7 give the notice to the person or class of persons first eligible  
8 to receive the trust income, to be determined for purposes of  
9 this subdivision as if the trust were in existence on the date  
10 of the decedent's death;

11 (2) if the beneficiary has a court-appointed guardian or  
12 conservator, to that guardian or conservator;

13 (3) if the beneficiary is a minor for whom no guardian or  
14 conservator has been appointed, to a parent of the minor; and

15 (4) if the beneficiary is a charity that for any reason cannot  
16 be notified, to the attorney general.

17 (b-1) The personal representative is not required to give the  
18 notice otherwise required by Subsection (b)(1) to a person  
19 eligible to receive trust income at the sole discretion of the  
20 trustee of a trust if:

21 (1) the representative has given the notice to an ancestor of  
22 the person who has a similar interest in the trust; and

23 (2) no apparent conflict exists between the ancestor and the

By: \_\_\_\_\_

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1 person eligible to receive trust income.

2 (c) A personal representative is not required to give the notice  
3 otherwise required by this section to a beneficiary who:

4 (1) has made an appearance in the proceeding with respect to the  
5 decedent's estate before the will was admitted to probate;

6 (2) is entitled to receive aggregate gifts under the will with  
7 an estimated value of \$2,000 or less;

8 (3) has received all gifts to which the beneficiary is entitled  
9 under the will not later than the 60th day after the date of the  
10 order admitting the decedent's will to probate; or

11 (4) has received a copy of the will that was admitted to probate  
12 or a written summary of the gifts to the beneficiary under the  
13 will and has waived the right to receive the notice in an  
14 instrument that:

15 (A) either acknowledges the receipt of the copy of the will or  
16 includes the written summary of the gifts to the beneficiary  
17 under the will;

18 (B) is signed by the beneficiary; and

19 (C) is filed with the court.

20 (d) The notice required by this section must be sent by  
21 ~~registered or certified mail, return receipt requested~~ a  
22 qualified delivery method.

23 SECTION 28. Section 308.051, Estates Code, is amended to

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 read as follows:

2 §308.051. REQUIRED NOTICE REGARDING PRESENTMENT OF CLAIMS IN  
3 GENERAL. (a) Within one month after receiving letters  
4 testamentary or of administration, a personal representative of  
5 an estate shall provide notice requiring each person who has a  
6 claim against the estate to present the claim within the period  
7 prescribed by law by:

8 (1) having the notice published in a newspaper of general  
9 circulation in the county in which the letters were issued; and

10 (2) if the decedent remitted or should have remitted taxes  
11 administered by the comptroller, sending the notice to the  
12 comptroller by ~~certified or registered mail~~ a qualified delivery  
13 method.

14 (b) Notice provided under Subsection (a) must include:

15 (1) the date the letters testamentary or of administration were  
16 issued to the personal representative;

17 (2) the address to which a claim may be presented; and

18 (3) an instruction of the representative's choice that the claim  
19 be addressed in care of:

20 (A) the representative;

21 (B) the representative's attorney; or

22 (C) "Representative, Estate of \_\_\_\_\_" (naming the estate).

23 (c) If there is no newspaper of general circulation in the



By: \_\_\_\_\_

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1 county in which the letters testamentary or of administration  
2 were issued, the notice must be posted and the return made and  
3 filed as otherwise required by this title.

4 SECTION 29. Section 308.053, Estates Code, is amended to  
5 read as follows:

6 §308.053. REQUIRED NOTICE TO SECURED CREDITOR. (a) Within two  
7 months after receiving letters testamentary or of  
8 administration, a personal representative of an estate shall  
9 give notice of the issuance of the letters to each person the  
10 representative knows to have a claim for money against the  
11 estate that is secured by estate property.

12 (b) Within a reasonable period after a personal representative  
13 obtains actual knowledge of the existence of a person who has a  
14 secured claim for money against the estate and to whom notice  
15 was not previously given, the representative shall give notice  
16 to the person of the issuance of the letters testamentary or of  
17 administration.

18 (c) Notice provided under this section must be:

19 (1) sent by ~~certified or registered mail, return receipt~~  
20 ~~requested~~ a qualified delivery method; and

21 (2) addressed to the record holder of the claim at the record  
22 holder's last known post office address.

23 (d) The following shall be filed with the clerk of the court in

By: \_\_\_\_\_

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1 which the letters testamentary or of administration were issued:

2 (1) a copy of each notice and of each ~~return~~ proof of delivery  
3 receipt; and

4 (2) the personal representative's affidavit stating:

5 (A) that the notice was mailed as required by law; and

6 (B) the name of the person to whom the notice was mailed, if  
7 that name is not shown on the notice or receipt.

8 SECTION 30. Section 308.054, Estates Code, is amended to  
9 read as follows:

10 §308.054. PERMISSIVE NOTICE TO UNSECURED CREDITOR. (a) At any  
11 time before an estate administration is closed, a personal  
12 representative may give notice by ~~certified or registered mail,~~  
13 ~~return receipt requested,~~ a qualified delivery method to an  
14 unsecured creditor who has a claim for money against the estate.

15 (b) Notice given under Subsection (a) must:

16 (1) expressly state that the creditor must present the claim  
17 before the 121st day after the date of the receipt of the notice  
18 or the claim is barred, if the claim is not barred by the  
19 general statutes of limitation; and

20 (2) include:

21 (A) the date the letters testamentary or of administration held  
22 by the personal representative were issued to the  
23 representative;

By: \_\_\_\_\_

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- 1 (B) the address to which the claim may be presented; and  
2 (C) an instruction of the representative's choice that the claim  
3 be addressed in care of:  
4 (i) the representative;  
5 (ii) the representative's attorney; or  
6 (iii) "Representative, Estate of \_\_\_\_\_" (naming the estate).

7 SECTION 31. Section 356.105(a), Estates Code, is amended  
8 to read as follows:

9 (a) A successful bid or contract for the sale of estate personal  
10 property shall be reported to the court. The laws regulating  
11 the approval or disapproval of a sale of real estate apply to  
12 the sale, except that a conveyance is not required.

13 SECTION 32. Section 356.654, Estates Code, is amended to  
14 read as follows:

15 §356.654. EXCEPTION: BEST INTEREST OF ESTATE. (a) Subject to  
16 Subsection (b), the personal representative of an estate,  
17 including an independent administrator, may purchase estate  
18 property on the court's determination that the sale is in the  
19 estate's best interest.

20 (b) Before purchasing estate property as authorized by  
21 Subsection (a), the personal representative shall give notice of  
22 the purchase by ~~certified mail, return receipt requested,~~ a  
23 qualified delivery method unless the court requires another form

By: \_\_\_\_\_

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1 of notice, to:

2 (1) each distributee of the estate; and

3 (2) each creditor whose claim remains unsettled after being  
4 presented within six months of the date letters testamentary or  
5 of administration are originally granted.

6 (c) The court may require additional notice or allow for the  
7 waiver of the notice required for a sale made under this  
8 section.

9 SECTION 33. Section 361.052, Estates Code, is amended to  
10 read as follows:

11 §361.052. REMOVAL WITH NOTICE. (a) The court may remove a  
12 personal representative on the court's own motion, or on the  
13 complaint of any interested person, after the representative has  
14 been cited by personal service to answer at a time and place  
15 fixed in the notice, if:

16 (1) sufficient grounds appear to support a belief that the  
17 representative has misapplied, embezzled, or removed from the  
18 state, or is about to misapply, embezzle, or remove from the  
19 state, all or part of the property entrusted to the  
20 representative's care;

21 (2) the representative fails to return any account required by  
22 law to be made;

23 (3) the representative fails to obey a proper order of the court

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 that has jurisdiction with respect to the performance of the  
2 representative's duties;

3 (4) the representative is proved to have been guilty of gross  
4 misconduct, or mismanagement in the performance of the  
5 representative's duties;

6 (5) the representative:

7 (A) becomes incapacitated;

8 (B) is sentenced to the penitentiary; or

9 (C) from any other cause, becomes incapable of properly  
10 performing the duties of the representative's trust; or

11 (6) the representative, as executor or administrator, fails to  
12 make a final settlement by the third anniversary of the date  
13 letters testamentary or of administration are granted, unless  
14 that period is extended by the court on a showing of sufficient  
15 cause supported by oath.

16 (b) If a personal representative, as executor or administrator,  
17 fails to timely file the affidavit or certificate required by  
18 Section 308.004, the court, on the court's own motion, may  
19 remove the personal representative after providing 30 days'  
20 written notice to the personal representative to answer at a  
21 time and place set in the notice, by ~~certified mail, return~~  
22 ~~receipt requested,~~ a qualified delivery method to:

23 (1) the representative's last known address; and

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 (2) the last known address of the representative's attorney of  
2 record.

3 SECTION 34. Section 362.005, Estates Code, is amended to  
4 read as follows:

5 §362.005. CITATION AND NOTICE ON PRESENTATION OF ACCOUNT. (a) On  
6 the presentation of an account for final settlement by a  
7 temporary or permanent personal representative, the county clerk  
8 shall issue citation to the persons and in the manner provided  
9 by Subsection (b).

10 (b) Citation issued under Subsection (a) must:

11 (1) contain:

12 (A) a statement that an account for final settlement has been  
13 presented;

14 (B) the time and place the court will consider the account; and

15 (C) a statement requiring the person cited to appear and contest  
16 the account, if the person wishes to contest the account; and

17 (2) be given to each heir or distributee of the decedent by  
18 ~~certified mail, return receipt requested,~~ a qualified delivery  
19 method unless the court by written order directs another method  
20 of service to be given.

21 (c) The personal representative shall also provide to each  
22 person entitled to citation under Subsection (b) a copy of the  
23 account for final settlement either by:

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 (1) ~~certified mail, return receipt requested~~ a qualified  
2 delivery method; or

3 (2) electronic delivery, including facsimile or e-mail.

4 (d) The court by written order shall require additional notice  
5 if the court considers the additional notice necessary.

6 (e) The court may allow the waiver of citation of an account for  
7 final settlement in a proceeding concerning a decedent's estate.

8 (f) The personal representative shall file an affidavit sworn to  
9 by the personal representative or a certificate signed by the  
10 personal representative's attorney stating:

11 (1) that the citation was given as required by this section;

12 (2) the name of each person to whom the citation was given, if  
13 the person's name is not shown on the proof of delivery;

14 (3) the name of each person executing a waiver of citation; and

15 (4) that each person entitled to citation was provided a copy of  
16 the account for final settlement, indicating the method of  
17 delivery for each person.

18 SECTION 35. Section 403.056, Estates Code, is amended to  
19 read as follows:

20 §403.056. NOTICES REQUIRED BY CREDITORS. (a) Notice to the  
21 independent executor required by Sections 403.052 and 403.055  
22 must be contained in:

23 (1) a written instrument that complies with Section 355.004 and

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 is hand-delivered with proof of receipt, or ~~mailed by certified~~  
2 ~~mail, return receipt requested, with proof of receipt~~ sent by a  
3 qualified delivery method, to the independent executor or the  
4 executor's attorney;

5 (2) a pleading filed in a lawsuit with respect to the claim; or

6 (3) a written instrument that complies with Section 355.004 or  
7 pleading filed in the court in which the administration of the  
8 estate is pending.

9 (b) This section does not exempt a creditor who elects matured  
10 secured status from the filing requirements of Section 403.052,  
11 to the extent those requirements are applicable.

12 SECTION 36. Section 404.0035, Estates Code, is amended to  
13 read as follows:

14 §404.0035. REMOVAL OF INDEPENDENT EXECUTOR WITH NOTICE. (a) The  
15 probate court, on the court's own motion, may remove an  
16 independent executor appointed under this subtitle after  
17 providing 30 days' written notice of the court's intention to  
18 the independent executor, requiring answering at a time and  
19 place set in the notice, by ~~certified mail, return receipt~~  
20 ~~requested~~ a qualified delivery method, to the independent  
21 executor's last known address and to the last known address of  
22 the independent executor's attorney of record, if the  
23 independent executor:



By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 (1) neglects to qualify in the manner and time required by law;

2 (2) fails to return, before the 91st day after the date the  
3 independent executor qualifies, either an inventory of the  
4 estate property and a list of claims that have come to the  
5 independent executor's knowledge or an affidavit in lieu of the  
6 inventory, appraisement, and list of claims, unless that  
7 deadline is extended by court order; or

8 (3) fails to timely file the affidavit or certificate required  
9 by Section 308.004.

10 (b) The probate court, on its own motion or on motion of any  
11 interested person, after the independent executor has been cited  
12 by personal service to answer at a time and place set in the  
13 notice, may remove an independent executor when:

14 (1) the independent executor fails to make an accounting which  
15 is required by law to be made;

16 (2) the independent executor is proved to have been guilty of  
17 gross misconduct or gross mismanagement in the performance of  
18 the independent executor's duties;

19 (3) the independent executor becomes an incapacitated person, or  
20 is sentenced to the penitentiary, or from any other cause  
21 becomes legally incapacitated from properly performing the  
22 independent executor's fiduciary duties; or

23 (4) the independent executor becomes incapable of properly

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 performing the independent executor's fiduciary duties due to a  
2 material conflict of interest.

3 SECTION 37. Section 452.006, Estates Code, is amended to  
4 read as follows:

5 §452.006. NOTICE OF APPOINTMENT. (a) On the date the county  
6 clerk issues letters of temporary administration:

7 (1) the county clerk shall post on the courthouse door a notice  
8 of the appointment to all interested persons; and

9 (2) the appointee shall notify, by ~~certified mail, return~~  
10 ~~receipt requested~~ a qualified delivery method, the decedent's  
11 known heirs of the appointment.

12 (b) A notice required under Subsection (a) must state that:

13 (1) an heir or other interested person may request a hearing to  
14 contest the appointment not later than the 15th day after the  
15 date the letters of temporary administration are issued;

16 (2) if no contest is made during the period specified by the  
17 notice, the appointment continues for the period specified in  
18 the order appointing a temporary administrator; and

19 (3) the court may make the appointment permanent.

20 SECTION 38. Section 453.003, Estates Code, is amended to  
21 read as follows:

22 453.003. GENERAL POWERS OF SURVIVING SPOUSE IF NO  
23 ADMINISTRATION IS PENDING. (a) If there is no qualified

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 executor or administrator of a deceased spouse's estate, the  
2 surviving spouse, as the surviving partner of the marital  
3 partnership, may:

4 (1) sue and be sued to recover community property;

5 (2) sell, mortgage, lease, and otherwise dispose of community  
6 property to pay ~~community~~ debts for which some community  
7 property is liable for payment;

8 (3) collect claims due to the community estate; and

9 (4) exercise other powers as necessary to:

10 (A) preserve the community property;

11 (B) discharge ~~community~~ obligations for which some community  
12 property is liable for payment; and

13 (C) wind up community affairs.

14 (b) This section does not affect the disposition of the  
15 deceased spouse's property.

16 SECTION 39. Section 453.006, Estates Code, is amended to  
17 read as follows:

18 453.006. ACCOUNT OF ~~COMMUNITY~~ DEBTS AND DISPOSITION OF  
19 COMMUNITY PROPERTY. (a) The surviving spouse shall keep a

20 fair and full account and statement of:

21 (1) all ~~community~~ debts and expenses paid by the  
22 surviving spouse; and

23 (2) the disposition made of the community property.

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 (b) The surviving spouse or personal representative shall keep  
2 a separate, distinct account of all ~~community~~ debts allowed or  
3 paid in the administration and settlement of an estate described  
4 by Sections 101.052(a) and (b).

5 SECTION 40. Section 453.007, Estates Code, is amended to  
6 read as follows:

7 453.007. DELIVERY OF COMMUNITY ESTATE ON FINAL PARTITION. On  
8 final partition of the community estate, the surviving spouse  
9 shall deliver to the deceased spouse's heirs or devisees their  
10 interest in the estate, and the increase in and profits of the  
11 interest after deducting from the interest:

- 12 (1) the proportion of the ~~community~~ debts chargeable  
13 to the interest;  
14 (2) unavoidable losses;  
15 (3) necessary and reasonable expenses; and  
16 (4) a reasonable commission for the management of the  
17 interest.

18 SECTION 41. Section 501.003, Estates Code, is amended to  
19 read as follows:

20 §501.003. CITATION AND NOTICE.

21 (a) Citation or notice is not required for an application  
22 described by Section 501.002(a).

23 (b) For an application described by Section 501.002(b), a

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 citation shall be issued and served by ~~registered or certified~~  
2 ~~mail~~ qualified delivery method on each devisee and heir  
3 identified in the application.

4 SECTION 42. Section 505.005, Estates Code, is amended to  
5 read as follows:

6 §505.005. SERVICE OF NOTICE OR PROCESS ON SECRETARY OF STATE.

7 (a) On receipt of a notice or process described by Section  
8 505.004(a)(2), the secretary of state shall promptly forward the  
9 notice or process by ~~registered or certified mail~~ qualified  
10 delivery method to the officer, agent, or other person  
11 designated by the foreign corporate fiduciary under Section  
12 505.004 to receive the notice or process.

13 (b) Service of notice or process described by Section  
14 505.004(a)(2) on the secretary of state as agent for a foreign  
15 corporate fiduciary has the same effect as if personal service  
16 had been had in this state on the foreign corporate fiduciary.

17 SECTION 43. Section 505.101, Estates Code, is amended to  
18 read as follows:

19 §505.101. SUIT TO RECOVER DEBT. (a) On giving notice by  
20 ~~registered or certified mail~~ a qualified delivery method to all  
21 creditors of a decedent in this state who have filed a claim  
22 against the decedent's estate for a debt due to the creditor, a  
23 foreign executor or administrator of a person who was a

By: \_\_\_\_\_

B. No. \_\_\_\_\_

1 nonresident at the time of death may maintain a suit in this  
2 state for the recovery of debts due to the decedent.

3 (b) The plaintiff's letters testamentary or of administration  
4 granted by a competent tribunal, properly authenticated, must be  
5 filed with the

6 SECTION 44. This Act takes effect September 1, 2021.