

By: Paxton

H.B. No. 394

A BILL TO BE ENTITLED

1 AN ACT

2 relating to changing the name of the procedure for probating a will
3 as a muniment of title.

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

5 SECTION 1. The heading to Section 89A, Texas Probate Code,
6 is amended to read as follows:

7 Sec. 89A. CONTENTS OF APPLICATION FOR PROBATE OF WILL
8 WITHOUT ADMINISTRATION [~~AS MUNIMENT OF TITLE~~].

9 SECTION 2. Sections 89A(a) and (c), Texas Probate Code, are
10 amended to read as follows:

11 (a) A written will shall, if within the control of the
12 applicant, be filed with the application for probate of a will
13 without administration [~~as a muniment of title~~], and shall remain
14 in the custody of the county clerk unless removed from the custody
15 of the clerk by order of a proper court. An application for probate
16 of a will without administration [~~as a muniment of title~~] shall
17 state:

18 (1) The name and domicile of each applicant.

19 (2) The name, age if known, and domicile of the
20 decedent, and the fact, time, and place of death.

21 (3) Facts showing that the court has venue.

22 (4) That the decedent owned real or personal property,
23 or both, describing the property generally, and stating its
24 probable value.

1 (5) The date of the will, the name and residence of the
2 executor named in the will, if any, and the names and residences of
3 the subscribing witnesses, if any.

4 (6) Whether a child or children born or adopted after
5 the making of such will survived the decedent, and the name of each
6 such survivor, if any.

7 (7) That there are no unpaid debts owing by the estate
8 of the testator, excluding debts secured by liens on real estate.

9 (8) Whether the decedent was ever divorced, and if so,
10 when and from whom.

11 (9) Whether the state, a governmental agency of the
12 state, or a charitable organization is named by the will as a
13 devisee.

14 The foregoing matters shall be stated and averred in the
15 application to the extent that they are known to the applicant, or
16 can with reasonable diligence be ascertained by the applicant, and
17 if any of such matters is not stated or averred in the application,
18 the application shall set forth the reason why such matter is not so
19 stated and averred.

20 (c) An application for probate of a nuncupative will without
21 administration [~~as muniment of title~~] shall contain all applicable
22 statements required with respect to written wills in the foregoing
23 subsections and also:

24 (1) The substance of testamentary words spoken.

25 (2) The names and residences of the witnesses thereto.

26 SECTION 3. Section 89B, Texas Probate Code, is amended to
27 read as follows:

1 Sec. 89B. PROOF REQUIRED FOR PROBATE OF [A] WILL WITHOUT
2 ADMINISTRATION [~~AS A MUNIMENT OF TITLE~~]. (a) General Proof.
3 Whenever an applicant seeks to probate a will without
4 administration [~~as a muniment of title~~], the applicant must first
5 prove to the satisfaction of the court:

6 (1) That the person is dead, and that four years have
7 not elapsed since the person's death and prior to the application;
8 and

9 (2) That the court has jurisdiction and venue over the
10 estate; and

11 (3) That citation has been served and returned in the
12 manner and for the length of time required by this Code; and

13 (4) That there are no unpaid debts owing by the estate
14 of the testator, excluding debts secured by liens on real estate.

15 (b) To obtain probate of a will without administration [~~as a~~
16 ~~muniment of title~~], the applicant must also prove to the
17 satisfaction of the court:

18 (1) If the will is not self-proved as provided by this
19 Code, that the testator, at the time of executing the will, was at
20 least 18 years of age, or was or had been lawfully married, or was a
21 member of the armed forces of the United States or of the
22 auxiliaries of the armed forces of the United States, or of the
23 Maritime Service of the United States, and was of sound mind; and

24 (2) If the will is not self-proved as provided by this
25 Code, that the testator executed the will with the formalities and
26 solemnities and under the circumstances required by law to make it a
27 valid will; and

1 (3) That such will was not revoked by the testator.

2 SECTION 4. Section 89C, Texas Probate Code, is amended to
3 read as follows:

4 Sec. 89C. PROBATE OF WILLS WITHOUT ADMINISTRATION [~~AS~~
5 ~~MUNIMENTS OF TITLE~~]. (a) In each instance where the court is
6 satisfied that a will should be admitted to probate, and where the
7 court is further satisfied that there are no unpaid debts owing by
8 the estate of the testator, excluding debts secured by liens on real
9 estate, or for other reason finds that there is no necessity for
10 administration upon such estate, the court may admit such will to
11 probate without administration [~~as a muniment of title~~].

12 (b) If a person who is entitled to property under the
13 provisions of the will cannot be ascertained solely by reference to
14 the will or if a question of construction of the will exists, on
15 proper application and notice as provided by Chapter 37, Civil
16 Practice and Remedies Code, the court may hear evidence and include
17 in the order probating the will without administration [~~as a~~
18 ~~muniment of title~~] a declaratory judgment construing the will or
19 determining those persons who are entitled to receive property
20 under the will and the persons' shares or interests in the estate.
21 The judgment is conclusive in any suit between any person omitted
22 from the judgment and a bona fide purchaser for value who has
23 purchased real or personal property after entry of the judgment
24 without actual notice of the claim of the omitted person to an
25 interest in the estate. Any person who has delivered property of
26 the decedent to a person declared to be entitled to the property
27 under the judgment or has engaged in any other transaction with the

1 person in good faith after entry of the judgment is not liable to
2 any person for actions taken in reliance on the judgment.

3 (c) The order admitting a will to probate without
4 administration [~~as a muniment of title~~] shall constitute sufficient
5 legal authority to all persons owing any money to the estate of the
6 decedent, having custody of any property, or acting as registrar or
7 transfer agent of any evidence of interest, indebtedness, property,
8 or right belonging to the estate, and to persons purchasing from or
9 otherwise dealing with the estate, for payment or transfer, without
10 liability, to the persons described in such will as entitled to
11 receive the particular asset without administration. The person or
12 persons entitled to property under the provisions of such wills
13 shall be entitled to deal with and treat the properties to which
14 they are so entitled in the same manner as if the record of title
15 thereof were vested in their names.

16 (d) Unless waived by the court, before the 181st day, or
17 such later day as may be extended by the court, after the date a will
18 is admitted to probate without administration [~~as a muniment of~~
19 ~~title~~], the applicant for probate of the will shall file with the
20 clerk of the court a sworn affidavit stating specifically the terms
21 of the will that have been fulfilled and the terms of the will that
22 have been unfulfilled. Failure of the applicant for probate of the
23 will to file such affidavit shall not otherwise affect title to
24 property passing under the terms of the will.

25 SECTION 5. Section 101.081, Government Code, is amended to
26 read as follows:

27 Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS. The

1 clerk of a statutory county court shall collect fees and costs as
2 follows:

3 (1) court cost in certain civil cases to establish and
4 maintain an alternative dispute resolution system, if authorized by
5 the county commissioners court (Sec. 152.004, Civil Practice and
6 Remedies Code) . . . not to exceed \$10;

7 (2) appellate judicial system filing fees:

8 (A) First or Fourteenth Court of Appeals District
9 (Sec. 22.2021, Government Code) . . . not more than \$5;

10 (B) Second Court of Appeals District (Sec.
11 22.2031, Government Code) . . . not more than \$5;

12 (C) Fourth Court of Appeals District (Sec.
13 22.2051, Government Code) . . . not more than \$5;

14 (D) Fifth Court of Appeals District (Sec.
15 22.2061, Government Code) . . . not more than \$5; and

16 (E) Thirteenth Court of Appeals District (Sec.
17 22.2141, Government Code) . . . not more than \$5;

18 (3) an official court reporter fee, County Court at
19 Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . \$3;

20 (4) a court reporter fee when testimony is taken in a
21 county court at law in McLennan County (Sec. 25.1572, Government
22 Code) . . . \$3;

23 (5) a stenographer fee, if a record or part of a record
24 is made:

25 (A) in a county court at law in Hidalgo County
26 (Sec. 25.1102, Government Code) . . . \$20; and

27 (B) in a county court at law in Nolan County (Sec.

- 1 25.1792, Government Code) . . . \$25;
- 2 (6) jury fee (Sec. 51.604, Government Code) . . . \$22;
- 3 (7) an additional filing fee:
- 4 (A) for each civil case filed to be used for
- 5 court-related purposes for the support of the judiciary, if
- 6 authorized by the county commissioners court (Sec. 51.702,
- 7 Government Code) . . . \$40;
- 8 (B) to fund the improvement of Dallas County
- 9 civil court facilities, if authorized by the county commissioners
- 10 court (Sec. 51.705, Government Code) . . . not more than \$15; and
- 11 (C) for filing any civil action or proceeding
- 12 requiring a filing fee, including an appeal, and on the filing of
- 13 any counterclaim, cross-action, intervention, interpleader, or
- 14 third-party action requiring a filing fee, to fund civil legal
- 15 services for the indigent (Sec. 133.153, Local Government Code)
- 16 . . . \$5;
- 17 (8) for filing an application for registration of
- 18 death (Sec. 193.007, Health and Safety Code) . . . \$1;
- 19 (9) fee for judge's services on an application for
- 20 court-ordered mental health services (Sec. 574.031, Health and
- 21 Safety Code) . . . not to exceed \$50;
- 22 (10) fee for prosecutor's services on an application
- 23 for court-ordered mental health services (Sec. 574.031, Health and
- 24 Safety Code) . . . not to exceed \$50;
- 25 (11) for filing a suit in Comal County (Sec. 152.0522,
- 26 Human Resources Code) . . . \$4;
- 27 (12) additional filing fee to fund contingency fund

1 for liability insurance, if authorized by the county commissioners
2 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

3 (13) civil court actions (Sec. 118.052, Local
4 Government Code):

5 (A) filing of original action (Secs. 118.052 and
6 118.053, Local Government Code):

7 (i) garnishment after judgment (Sec.
8 118.052, Local Government Code) . . . \$15; and

9 (ii) all others (Sec. 118.052, Local
10 Government Code) . . . \$40;

11 (B) filing of action other than original (Secs.
12 118.052 and 118.054, Local Government Code) . . . \$30; and

13 (C) services rendered after judgment in original
14 action (Secs. 118.052 and 118.0545, Local Government Code):

15 (i) abstract of judgment (Sec. 118.052,
16 Local Government Code) . . . \$5; and

17 (ii) execution, order of sale, writ, or
18 other process (Sec. 118.052, Local Government Code) . . . \$5;

19 (14) probate court actions (Sec. 118.052, Local
20 Government Code):

21 (A) probate original action (Secs. 118.052 and
22 118.055, Local Government Code):

23 (i) probate of a will with independent
24 executor, administration with will attached, administration of an
25 estate, probate of a will without administration, or guardianship
26 or receivership of an estate [~~, or muniment of title~~] (Sec. 118.052,
27 Local Government Code) . . . \$40;

- 1 (ii) community survivors (Sec. 118.052,
2 Local Government Code) . . . \$40;
- 3 (iii) small estates (Sec. 118.052, Local
4 Government Code) . . . \$40;
- 5 (iv) declarations of heirship (Sec.
6 118.052, Local Government Code) . . . \$40;
- 7 (v) mental health or chemical dependency
8 services (Sec. 118.052, Local Government Code) . . . \$40; and
- 9 (vi) additional, special fee (Secs. 118.052
10 and 118.064, Local Government Code) . . . \$5;
- 11 (B) services in pending probate action (Secs.
12 118.052 and 118.056, Local Government Code):
- 13 (i) filing an inventory and appraisalment
14 after the 120th day after the date of the initial filing of the
15 action (Sec. 118.052, Local Government Code) . . . \$25;
- 16 (ii) approving and recording bond (Sec.
17 118.052, Local Government Code) . . . \$3;
- 18 (iii) administering oath (Sec. 118.052,
19 Local Government Code) . . . \$2;
- 20 (iv) filing annual or final account of
21 estate (Sec. 118.052, Local Government Code) . . . \$25;
- 22 (v) filing application for sale of real or
23 personal property (Sec. 118.052, Local Government Code). . . \$25;
- 24 (vi) filing annual or final report of
25 guardian of a person (Sec. 118.052, Local Government Code) . . .
26 \$10; and
- 27 (vii) filing a document not listed under

1 this paragraph after the filing of an order approving the inventory
2 and appraisement or after the 120th day after the date of the
3 initial filing of the action, whichever occurs first (Secs. 118.052
4 and 191.007, Local Government Code), if more than 25 pages . . .
5 \$25;

6 (C) adverse probate action (Secs. 118.052 and
7 118.057, Local Government Code) . . . \$40; and

8 (D) claim against estate (Secs. 118.052 and
9 118.058, Local Government Code) . . . \$2;

10 (15) other fees (Sec. 118.052, Local Government Code):

11 (A) issuing document (Secs. 118.052 and 118.059,
12 Local Government Code):

13 (i) original document and one copy (Sec.
14 118.052, Local Government Code) . . . \$4; and

15 (ii) each additional set of an original and
16 one copy (Sec. 118.052, Local Government Code) . . . \$4;

17 (B) certified papers (Secs. 118.052 and 118.060,
18 Local Government Code):

19 (i) for the clerk's certificate (Sec.
20 118.052, Local Government Code) . . . \$5; and

21 (ii) a fee per page or part of a page (Sec.
22 118.052, Local Government Code) . . . \$1;

23 (C) noncertified papers, for each page or part of
24 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
25 \$1;

26 (D) letters testamentary, letter of
27 guardianship, letter of administration, or abstract of judgment

1 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

2 (E) safekeeping of wills (Secs. 118.052 and
3 118.062, Local Government Code) . . . \$5;

4 (F) mail service of process (Secs. 118.052 and
5 118.063, Local Government Code) . . . same as sheriff; and

6 (G) records management and preservation fee
7 (Secs. 118.052, 118.0546, and 118.0645, Local Government Code)
8 . . . \$5;

9 (16) additional filing fee to fund the courthouse
10 security fund, if authorized by the county commissioners court
11 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

12 (17) additional filing fee for filing documents not
13 subject to certain filing fees to fund the courthouse security
14 fund, if authorized by the county commissioners court (Sec.
15 291.008, Local Government Code) . . . \$1;

16 (18) additional filing fee to fund the courthouse
17 security fund in Webb County, if authorized by the county
18 commissioners court (Sec. 291.009, Local Government Code) . . . not
19 to exceed \$20;

20 (19) court cost in civil cases other than suits for
21 delinquent taxes to fund the county law library fund, if authorized
22 by the county commissioners court (Sec. 323.023, Local Government
23 Code) . . . not to exceed \$35;

24 (20) fee for deposit of a will with the county clerk
25 during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

26 (21) court cost for each special commissioner in an
27 eminent domain proceeding (Sec. 21.047, Property Code). . . as

1 taxed by the court, \$10 or more;

2 (22) fee for county attorney in a suit regarding a
3 railroad company's failure to keep roadbed and right-of-way in
4 proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . .
5 \$10;

6 (23) court fees and costs, if ordered by the court, for
7 a suit filed by an inmate in which an affidavit or unsworn
8 declaration of inability to pay costs is filed by the inmate (Sec.
9 14.006, Civil Practice and Remedies Code) . . . the lesser of:

10 (A) 20 percent of the preceding six months'
11 deposits to the inmate's trust account administered by the Texas
12 Department of Criminal Justice under Section 501.014, Government
13 Code; or

14 (B) the total amount of court fees and costs;

15 (24) monthly payment for remaining court fees and
16 costs after the initial payment for a suit in which an affidavit or
17 unsworn declaration of inability to pay costs is filed by the inmate
18 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser
19 of:

20 (A) 10 percent of that month's deposit to the
21 inmate's trust account administered by the Texas Department of
22 Criminal Justice under Section 501.014, Government Code; or

23 (B) the total amount of court fees and costs that
24 remain unpaid;

25 (25) the following costs not otherwise charged to the
26 inmate under Section 14.006, Civil Practice and Remedies Code, if
27 the inmate has previously filed an action dismissed as malicious or

1 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

2 (A) expenses of service of process;

3 (B) postage; and

4 (C) transportation, housing, or medical care
5 incurred in connection with the appearance of the inmate in the
6 court for any proceeding;

7 (26) the official court reporter's fee taxed as costs
8 in civil actions in a statutory county court:

9 (A) in Bexar County Courts at Law:

10 (i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12
11 (Sec. 25.0172, Government Code) . . . taxed in the same manner as
12 the fee is taxed in district court; and

13 (ii) No. 2 (Sec. 25.0172, Government Code)
14 . . . \$3;

15 (B) in Galveston County (Sec. 25.0862,
16 Government Code) . . . taxed in the same manner as the fee is taxed
17 in civil cases in the district courts; and

18 (C) in Parker County (Sec. 25.1862, Government
19 Code) . . . taxed in the same manner as the fee is taxed in civil
20 cases in the district courts;

21 (27) a stenographer's fee as costs in each civil,
22 criminal, and probate case in which a record is made by the official
23 court reporter in a statutory county court in Nolan County (Sec.
24 25.1792, Government Code) . . . \$25;

25 (28) in Brazoria County, in matters of concurrent
26 jurisdiction with the district court, fees (Sec. 25.0222,
27 Government Code) . . . as prescribed by law for district judges

1 according to the nature of the matter;

2 (29) in Nueces County, in matters of concurrent
3 jurisdiction with the district court, with certain exceptions, fees
4 (Sec. 25.1802, Government Code) . . . equal to those in district
5 court cases;

6 (30) security deposit on filing, by any person other
7 than the personal representative of an estate, an application,
8 complaint, or opposition in relation to the estate, if required by
9 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the
10 proceeding;

11 (31) security deposit on filing, by any person other
12 than the guardian, attorney ad litem, or guardian ad litem, an
13 application, complaint, or opposition in relation to a guardianship
14 matter, if required by the clerk (Sec. 622, Texas Probate Code)
15 . . . probable cost of the guardianship proceeding;

16 (32) for a hearing or proceeding under the Texas
17 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as
18 costs (Secs. 571.017 and 571.018, Health and Safety Code) . . .
19 reasonable compensation to the following persons appointed under
20 the Texas Mental Health Code:

- 21 (A) attorneys;
- 22 (B) physicians;
- 23 (C) language interpreters;
- 24 (D) sign interpreters; and
- 25 (E) masters;

26 (33) for a hearing or proceeding under the Texas
27 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as

1 costs (Sec. 571.018, Health and Safety Code):

2 (A) attorney's fees;

3 (B) physician examination fees;

4 (C) expense of transportation to a mental health
5 facility or to a federal agency not to exceed \$50 if transporting
6 within the same county and not to exceed the reasonable cost of
7 transportation if transporting between counties;

8 (D) costs and salary supplements authorized
9 under Section 574.031, Health and Safety Code; and

10 (E) prosecutors' fees authorized under Section
11 574.031, Health and Safety Code;

12 (34) expenses of transporting certain patients from
13 the county of treatment to a hearing in the county in which the
14 proceedings originated (Sec. 574.008, Health and Safety Code) . . .
15 actual expenses unless certain arrangements are made to hold the
16 hearing in the county in which the patient is receiving services;

17 (35) expenses for expert witness testimony for an
18 indigent patient (Sec. 574.010, Health and Safety Code) . . . if
19 authorized by the court as reimbursement to the attorney ad litem,
20 court-approved expenses;

21 (36) fee for judge's services for holding a hearing on
22 an application for court-ordered mental health services (Sec.
23 574.031, Health and Safety Code) . . . as assessed by the judge, not
24 to exceed \$50;

25 (37) expenses to reimburse judge for holding a hearing
26 in a hospital or location other than the county courthouse (Sec.
27 574.031, Health and Safety Code) . . . reasonable and necessary

1 expenses as certified;

2 (38) fee for services of a prosecuting attorney,
3 including costs incurred for preparation of documents related to a
4 hearing on an application for court-ordered mental health services
5 (Sec. 574.031, Health and Safety Code) . . . as assessed by the
6 judge, not to exceed \$50; and

7 (39) a fee not otherwise listed in this section that is
8 required to be collected under Section 25.0008, Government Code
9 (Sec. 25.0008, Government Code), in a county other than Brazos,
10 Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore,
11 Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as
12 prescribed by law relating to county judges' fees.

13 SECTION 6. Section 101.101, Government Code, is amended to
14 read as follows:

15 Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS. The
16 clerk of a statutory probate court shall collect fees and costs as
17 follows:

18 (1) court cost in certain civil cases to establish and
19 maintain an alternative dispute resolution system, if authorized by
20 the county commissioners court (Sec. 152.004, Civil Practice and
21 Remedies Code) . . . not to exceed \$10;

22 (2) appellate judicial system filing fees:

23 (A) First or Fourteenth Court of Appeals District
24 (Sec. 22.2021, Government Code) . . . not more than \$5;

25 (B) Second Court of Appeals District (Sec.
26 22.2031, Government Code) . . . not more than \$5;

27 (C) Fourth Court of Appeals District (Sec.

1 22.2051, Government Code) . . . not more than \$5;

2 (D) Fifth Court of Appeals District (Sec.
3 22.2061, Government Code) . . . not more than \$5; and

4 (E) Thirteenth Court of Appeals District (Sec.
5 22.2141, Government Code) . . . not more than \$5;

6 (3) additional filing fees as follows:

7 (A) for certain cases to be used for
8 court-related purposes for support of the judiciary, if authorized
9 by the county commissioners court (Sec. 51.704, Government Code)
10 . . . \$40;

11 (B) to fund the improvement of Dallas County
12 civil court facilities, if authorized by the county commissioners
13 court (Sec. 51.705, Government Code) . . . not more than \$15; and

14 (C) for filing any civil action or proceeding
15 requiring a filing fee, including an appeal, and on the filing of
16 any counterclaim, cross-action, intervention, interpleader, or
17 third-party action requiring a filing fee to fund civil legal
18 services for the indigent (Sec. 133.153, Local Government Code)
19 . . . \$5;

20 (4) for filing an application for registration of
21 death (Sec. 193.007, Health and Safety Code) . . . \$1;

22 (5) fee for judge's services on an application for
23 court-ordered mental health services (Sec. 574.031, Health and
24 Safety Code) . . . not to exceed \$50;

25 (6) fee for prosecutor's services on an application
26 for court-ordered mental health services (Sec. 574.031, Health and
27 Safety Code) . . . not to exceed \$50;

1 (7) additional filing fee to fund contingency fund for
2 liability insurance, if authorized by the county commissioners
3 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

4 (8) probate court actions (Sec. 118.052, Local
5 Government Code):

6 (A) probate original action (Secs. 118.052 and
7 118.055, Local Government Code):

8 (i) probate of a will with independent
9 executor, administration with will attached, administration of an
10 estate, probate of a will without administration, or guardianship
11 or receivership of an estate [~~, or muniment of title~~] (Sec. 118.052,
12 Local Government Code) . . . \$40;

13 (ii) community survivors (Sec. 118.052,
14 Local Government Code) . . . \$40;

15 (iii) small estates (Sec. 118.052, Local
16 Government Code) . . . \$40;

17 (iv) declarations of heirship (Sec.
18 118.052, Local Government Code) . . . \$40;

19 (v) mental health or chemical dependency
20 services (Sec. 118.052, Local Government Code) . . . \$40; and

21 (vi) additional, special fee (Secs. 118.052
22 and 118.064, Local Government Code) . . . \$5;

23 (B) services in pending probate action (Secs.
24 118.052 and 118.056, Local Government Code):

25 (i) filing an inventory and appraisalment
26 after the 120th day after the date of the initial filing of the
27 action (Sec. 118.052, Local Government Code) . . . \$25;

- 1 (ii) approving and recording bond (Sec.
2 118.052, Local Government Code) . . . \$3;
- 3 (iii) administering oath (Sec. 118.052,
4 Local Government Code) . . . \$2;
- 5 (iv) filing annual or final account of
6 estate (Sec. 118.052, Local Government Code) . . . \$25;
- 7 (v) filing application for sale of real or
8 personal property (Sec. 118.052, Local Government Code) . . . \$25;
- 9 (vi) filing annual or final report of
10 guardian of a person (Sec. 118.052, Local Government Code) . . .
11 \$10; and
- 12 (vii) filing a document not listed under
13 this paragraph after the filing of an order approving the inventory
14 and appraisement or after the 120th day after the date of the
15 initial filing of the action, whichever occurs first (Secs. 118.052
16 and 191.007, Local Government Code), if more than 25 pages . . .
17 \$25;
- 18 (C) adverse probate action (Secs. 118.052 and
19 118.057, Local Government Code) . . . \$40; and
- 20 (D) claim against estate (Secs. 118.052 and
21 118.058, Local Government Code) . . . \$2;
- 22 (9) other fees (Sec. 118.052, Local Government Code):
23 (A) issuing document (Secs. 118.052 and 118.059,
24 Local Government Code):
25 (i) original document and one copy (Sec.
26 118.052, Local Government Code) . . . \$4; and
27 (ii) each additional set of an original and

1 one copy (Sec. 118.052, Local Government Code) . . . \$4;

2 (B) certified papers (Secs. 118.052 and 118.060,
3 Local Government Code):

4 (i) for the clerk's certificate (Sec.
5 118.052, Local Government Code) . . . \$5; and

6 (ii) a fee per page or part of a page (Sec.
7 118.052, Local Government Code) . . . \$1;

8 (C) noncertified papers, for each page or part of
9 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
10 \$1;

11 (D) letters testamentary, letter of
12 guardianship, letter of administration, or abstract of judgment
13 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

14 (E) safekeeping of wills (Secs. 118.052 and
15 118.062, Local Government Code) . . . \$5;

16 (F) mail service of process (Secs. 118.052 and
17 118.063, Local Government Code) . . . same as sheriff; and

18 (G) records management and preservation fee
19 (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5;

20 (10) fee for deposit of a will with the county clerk
21 during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

22 (11) court costs for each special commissioner in an
23 eminent domain proceeding (Sec. 21.047, Property Code) . . . as
24 taxed by the court, \$10 or more;

25 (12) jury fee for civil case (Sec. 51.604, Government
26 Code) . . . \$22;

27 (13) court cost in civil cases other than suits for

1 delinquent taxes to fund the county law library fund, if authorized
2 by the county commissioners court (Sec. 323.023, Local Government
3 Code) . . . not to exceed \$35;

4 (14) the expense of preserving the record as a court
5 cost, if imposed on a party by the referring court or associate
6 judge (Sec. 54.612, Government Code) . . . actual cost;

7 (15) security deposit on filing, by any person other
8 than the personal representative of an estate, an application,
9 complaint, or opposition in relation to the estate, if required by
10 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the
11 proceeding;

12 (16) security deposit on filing, by any person other
13 than the guardian, attorney ad litem, or guardian ad litem, an
14 application, complaint, or opposition in relation to a guardianship
15 matter, if required by the clerk (Sec. 622, Texas Probate Code)
16 . . . probable cost of the guardianship proceeding;

17 (17) for a hearing or proceeding under the Texas
18 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as
19 costs (Secs. 571.017 and 571.018, Health and Safety Code) . . .
20 reasonable compensation to the following persons appointed under
21 the Texas Mental Health Code:

- 22 (A) attorneys;
- 23 (B) physicians;
- 24 (C) language interpreters;
- 25 (D) sign interpreters; and
- 26 (E) masters;

27 (18) for a hearing or proceeding under the Texas

1 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as
2 costs (Sec. 571.018, Health and Safety Code):

3 (A) attorney's fees;

4 (B) physician examination fees;

5 (C) expense of transportation to a mental health
6 facility or to a federal agency not to exceed \$50 if transporting
7 within the same county and not to exceed the reasonable cost of
8 transportation if transporting between counties;

9 (D) costs and salary supplements authorized
10 under Section 574.031, Health and Safety Code; and

11 (E) prosecutors' fees authorized under Section
12 574.031, Health and Safety Code;

13 (19) expenses of transporting certain patients from
14 the county of treatment to a hearing in the county in which the
15 proceedings originated (Sec. 574.008, Health and Safety Code) . . .
16 actual expenses unless certain arrangements are made to hold the
17 hearing in the county in which the patient is receiving services;

18 (20) expenses for expert witness testimony for an
19 indigent patient (Sec. 574.010, Health and Safety Code) . . . if
20 authorized by the court as reimbursement to the attorney ad litem,
21 court-approved expenses;

22 (21) fee for judge's services for holding a hearing on
23 an application for court-ordered mental health services (Sec.
24 574.031, Health and Safety Code) . . . as assessed by the judge, not
25 to exceed \$50;

26 (22) expenses to reimburse judge for holding a hearing
27 in a hospital or location other than the county courthouse (Sec.

1 574.031, Health and Safety Code) . . . reasonable and necessary
2 expenses as certified;

3 (23) fee for services of a prosecuting attorney,
4 including costs incurred for preparation of documents related to a
5 hearing on an application for court-ordered mental health services
6 (Sec. 574.031, Health and Safety Code) . . . as assessed by the
7 judge, not to exceed \$50; and

8 (24) a fee not otherwise listed in this section that is
9 required to be collected under Section 25.0029, Government Code
10 (Sec. 25.0029, Government Code) . . . as prescribed by law relating
11 to county judges' fees.

12 SECTION 7. Section 101.121, Government Code, is amended to
13 read as follows:

14 Sec. 101.121. COUNTY COURT FEES AND COSTS. The clerk of a
15 county court shall collect:

16 (1) fee for hearing on application for a license to
17 manufacture, distribute, store, or sell beer (Sec. 61.31, Alcoholic
18 Beverage Code) . . . \$5;

19 (2) court cost in certain civil cases to establish and
20 maintain an alternative dispute resolution system, if authorized by
21 the county commissioners court (Sec. 152.004, Civil Practice and
22 Remedies Code) . . . not to exceed \$10;

23 (3) appellate judicial system filing fees:

24 (A) First or Fourteenth Court of Appeals District
25 (Sec. 22.2021, Government Code) . . . not more than \$5;

26 (B) Second Court of Appeals District (Sec.
27 22.2031, Government Code) . . . not more than \$5;

1 (C) Fourth Court of Appeals District (Sec.
2 22.2051, Government Code) . . . not more than \$5;

3 (D) Fifth Court of Appeals District (Sec.
4 22.2061, Government Code) . . . not more than \$5; and

5 (E) Thirteenth Court of Appeals District (Sec.
6 22.2141, Government Code) . . . not more than \$5;

7 (4) a jury fee (Sec. 51.604, Government Code) . . .
8 \$22;

9 (5) a filing fee in each civil case filed to be used
10 for court-related purposes for the support of the judiciary (Sec.
11 51.703, Government Code) . . . \$40;

12 (6) for filing an application for registration of
13 death (Sec. 193.007, Health and Safety Code) . . . \$1;

14 (7) fee for judge's services on an application for
15 court-ordered mental health services (Sec. 574.031, Health and
16 Safety Code) . . . not to exceed \$50;

17 (8) fee for prosecutor's services on an application
18 for court-ordered mental health services (Sec. 574.031, Health and
19 Safety Code) . . . not to exceed \$50;

20 (9) additional filing fee to fund contingency fund for
21 liability insurance, if authorized by the county commissioners
22 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

23 (10) civil court actions (Sec. 118.052, Local
24 Government Code):

25 (A) filing of original action (Secs. 118.052 and
26 118.053, Local Government Code):

27 (i) garnishment after judgment (Sec.

1 118.052, Local Government Code) . . . \$15; and

2 (ii) all others (Sec. 118.052, Local
3 Government Code) . . . \$40;

4 (B) filing of action other than original (Secs.
5 118.052 and 118.054, Local Government Code) . . . \$30; and

6 (C) services rendered after judgment in original
7 action (Secs. 118.052 and 118.0545, Local Government Code):

8 (i) abstract of judgment (Sec. 118.052,
9 Local Government Code) . . . \$5; and

10 (ii) execution, order of sale, writ, or
11 other process (Sec. 118.052, Local Government Code) . . . \$5;

12 (11) probate court actions (Sec. 118.052, Local
13 Government Code):

14 (A) probate original action (Secs. 118.052 and
15 118.055, Local Government Code):

16 (i) probate of a will with independent
17 executor, administration with will attached, administration of an
18 estate, probate of a will without administration, or guardianship
19 or receivership of an estate [~~, or muniment of title~~] (Sec. 118.052,
20 Local Government Code) . . . \$40;

21 (ii) community survivors (Sec. 118.052,
22 Local Government Code) . . . \$40;

23 (iii) small estates (Sec. 118.052, Local
24 Government Code) . . . \$40;

25 (iv) declarations of heirship (Sec.
26 118.052, Local Government Code) . . . \$40;

27 (v) mental health or chemical dependency

1 services (Sec. 118.052, Local Government Code) . . . \$40; and

2 (vi) additional, special fee (Secs. 118.052
3 and 118.064, Local Government Code) . . . \$5;

4 (B) services in pending probate action (Secs.
5 118.052 and 118.056, Local Government Code):

6 (i) filing an inventory and appraisement
7 after the 120th day after the date of the initial filing of the
8 action (Sec. 118.052, Local Government Code) . . . \$25;

9 (ii) approving and recording bond (Sec.
10 118.052, Local Government Code) . . . \$3;

11 (iii) administering oath (Sec. 118.052,
12 Local Government Code) . . . \$2;

13 (iv) filing annual or final account of
14 estate (Sec. 118.052, Local Government Code) . . . \$25;

15 (v) filing application for sale of real or
16 personal property (Sec. 118.052, Local Government Code) . . . \$25;

17 (vi) filing annual or final report of
18 guardian of a person (Sec. 118.052, Local Government Code) . . .
19 \$10; and

20 (vii) filing a document not listed under
21 this paragraph after the filing of an order approving the inventory
22 and appraisement or after the 120th day after the date of the
23 initial filing of the action, whichever occurs first (Secs. 118.052
24 and 191.007, Local Government Code), if more than 25 pages . . .
25 \$25;

26 (C) adverse probate action (Secs. 118.052 and
27 118.057, Local Government Code) . . . \$40; and

1 (D) claim against estate (Secs. 118.052 and
2 118.058, Local Government Code) . . . \$2;

3 (12) other fees (Sec. 118.052, Local Government Code):

4 (A) issuing document (Secs. 118.052 and 118.059,
5 Local Government Code):

6 (i) original document and one copy (Sec.
7 118.052, Local Government Code) . . . \$4; and

8 (ii) each additional set of an original and
9 one copy (Sec. 118.052, Local Government Code) . . . \$4;

10 (B) certified papers (Secs. 118.052 and 118.060,
11 Local Government Code):

12 (i) for the clerk's certificate (Sec.
13 118.052, Local Government Code) . . . \$5; and

14 (ii) a fee per page or part of a page (Sec.
15 118.052, Local Government Code) . . . \$1;

16 (C) noncertified papers, for each page or part of
17 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
18 \$1;

19 (D) letters testamentary, letter of
20 guardianship, letter of administration, or abstract of judgment
21 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

22 (E) safekeeping of wills (Secs. 118.052 and
23 118.062, Local Government Code) . . . \$5;

24 (F) mail service of process (Secs. 118.052 and
25 118.063, Local Government Code) . . . same as sheriff; and

26 (G) records management and preservation fee
27 (Secs. 118.052, 118.0546, and 118.0645, Local Government Code)

1 . . . \$5;

2 (13) deposit on filing petition requesting permission
3 to create a municipal civic center authority (Sec. 281.013, Local
4 Government Code) . . . \$200;

5 (14) additional filing fee to fund the courthouse
6 security fund, if authorized by the county commissioners court
7 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

8 (15) additional filing fee for filing documents not
9 subject to certain filing fees to fund the courthouse security
10 fund, if authorized by the county commissioners court (Sec.
11 291.008, Local Government Code) . . . \$1;

12 (16) additional filing fee to fund the courthouse
13 security fund in Webb County, if authorized by the county
14 commissioners court (Sec. 291.009, Local Government Code) . . . not
15 to exceed \$20;

16 (17) court cost in civil cases other than suits for
17 delinquent taxes to fund the county law library fund, if authorized
18 by the county commissioners court (Sec. 323.023, Local Government
19 Code) . . . not to exceed \$35;

20 (18) fee for deposit of a will with the county clerk
21 during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

22 (19) fee for county attorney in a suit regarding a
23 railroad company's failure to keep roadbed and right-of-way in
24 proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . .
25 \$10;

26 (20) appeal bond from a petitioner or taxpayer in a
27 water control and preservation district (Art. 7818, Vernon's Texas

1 Civil Statutes) . . . \$100;

2 (21) additional filing fee for filing any civil action
3 or proceeding requiring a filing fee, including an appeal, and on
4 the filing of any counterclaim, cross-action, intervention,
5 interpleader, or third-party action requiring a filing fee, to fund
6 civil legal services for the indigent (Sec. 133.153, Local
7 Government Code) . . . \$5;

8 (22) court fees and costs, if ordered by the court, for
9 a suit filed by an inmate in which an affidavit or unsworn
10 declaration of inability to pay costs is filed by the inmate (Sec.
11 14.006, Civil Practice and Remedies Code) . . . the lesser of:

12 (A) 20 percent of the preceding six months'
13 deposits to the inmate's trust account administered by the Texas
14 Department of Criminal Justice under Section 501.014, Government
15 Code; or

16 (B) the total amount of court fees and costs;

17 (23) monthly payment for remaining court fees and
18 costs after the initial payment for a suit in which an affidavit or
19 unsworn declaration of inability to pay costs is filed by the inmate
20 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser
21 of:

22 (A) 10 percent of that month's deposit to the
23 inmate's trust account administered by the Texas Department of
24 Criminal Justice under Section 501.014, Government Code; or

25 (B) the total amount of court fees and costs that
26 remain unpaid;

27 (24) the following costs not otherwise charged to the

1 inmate under Section 14.006, Civil Practice and Remedies Code, if
2 the inmate has previously filed an action dismissed as malicious or
3 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

4 (A) expenses of service of process;

5 (B) postage; and

6 (C) transportation, housing, or medical care
7 incurred in connection with the appearance of the inmate in the
8 court for any proceeding;

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

14 (26) security deposit on filing, by any person other
15 than the guardian, attorney ad litem, or guardian ad litem, an
16 application, complaint, or opposition in relation to a guardianship
17 matter, if required by the clerk (Sec. 622, Texas Probate Code)
18 . . . probable cost of the guardianship proceeding;

19 (27) for a hearing or proceeding under the Texas
20 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as
21 costs (Secs. 571.017 and 571.018, Health and Safety Code) . . .
22 reasonable compensation to the following persons appointed under
23 the Texas Mental Health Code:

24 (A) attorneys;

25 (B) physicians;

26 (C) language interpreters;

27 (D) sign interpreters; and

1 (E) masters;

2 (28) for a hearing or proceeding under the Texas
3 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as
4 costs (Sec. 571.018, Health and Safety Code):

5 (A) attorney's fees;

6 (B) physician examination fees;

7 (C) expense of transportation to a mental health
8 facility or to a federal agency not to exceed \$50 if transporting
9 within the same county and not to exceed the reasonable cost of
10 transportation if transporting between counties;

11 (D) costs and salary supplements authorized
12 under Section 574.031, Health and Safety Code; and

13 (E) prosecutors' fees authorized under Section
14 574.031, Health and Safety Code;

15 (29) expenses of transporting certain patients from
16 the county of treatment to a hearing in the county in which the
17 proceedings originated (Sec. 574.008, Health and Safety Code) . . .
18 actual expenses unless certain arrangements are made to hold the
19 hearing in the county in which the patient is receiving services;

20 (30) expenses for expert witness testimony for an
21 indigent patient (Sec. 574.010, Health and Safety Code) . . . if
22 authorized by the court as reimbursement to the attorney ad litem,
23 court-approved expenses;

24 (31) fee for judge's services for holding a hearing on
25 an application for court-ordered mental health services (Sec.
26 574.031, Health and Safety Code) . . . as assessed by the judge, not
27 to exceed \$50;

1 (32) expenses to reimburse judge for holding a hearing
2 in a hospital or location other than the county courthouse (Sec.
3 574.031, Health and Safety Code) . . . reasonable and necessary
4 expenses as certified; and

5 (33) fee for services of a prosecuting attorney,
6 including costs incurred for preparation of documents related to a
7 hearing on an application for court-ordered mental health services
8 (Sec. 574.031, Health and Safety Code) . . . as assessed by the
9 judge, not to exceed \$50.

10 SECTION 8. Section 118.052, Local Government Code, is
11 amended to read as follows:

12 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court
13 shall collect the following fees for services rendered to any
14 person:

15 (1) CIVIL COURT ACTIONS

16 (A) Filing of Original Action (Sec. 118.053):

17 (i) Garnishment after judgment . . . \$15.00

18 (ii) All others . . . \$40.00

19 (B) Filing of Action Other than Original (Sec.
20 118.054) . . . \$30.00

21 (C) Services Rendered After Judgment in Original
22 Action (Sec. 118.0545):

23 (i) Abstract of judgment . . . \$5.00

24 (ii) Execution, order of sale, writ, or
25 other process . . . \$5.00

26 (2) PROBATE COURT ACTIONS

27 (A) Probate Original Action (Sec. 118.055):

- 1 (i) Probate of a will with independent
2 executor, administration with will attached, administration of an
3 estate, probate of a will without administration, or guardianship
4 or receivership of an estate [~~, or muniment of title~~] . . . \$40.00
- 5 (ii) Community survivors . . . \$40.00
- 6 (iii) Small estates . . . \$40.00
- 7 (iv) Declarations of heirship . . . \$40.00
- 8 (v) Mental health or chemical dependency
9 services . . . \$40.00
- 10 (vi) Additional, special fee (Sec. 118.064)
11 . . . \$5.00
- 12 (B) Services in Pending Probate Action (Sec.
13 118.056):
- 14 (i) Filing an inventory and appraisalment
15 after the 120th day after the date of the initial filing of the
16 action . . . \$25.00
- 17 (ii) Approving and recording bond . . .
18 \$3.00
- 19 (iii) Administering oath . . . \$2.00
- 20 (iv) Filing annual or final account of
21 estate . . . \$25.00
- 22 (v) Filing application for sale of real or
23 personal property . . . \$25.00
- 24 (vi) Filing annual or final report of
25 guardian of a person . . . \$10.00
- 26 (vii) Filing a document not listed under
27 this paragraph after the filing of an order approving the inventory

1 and appraisement or after the 120th day after the date of the
2 initial filing of the action, whichever occurs first, if more than
3 25 pages . . . \$25.00

4 (C) Adverse Probate Action (Sec. 118.057) . . .
5 \$40.00

6 (D) Claim Against Estate (Sec. 118.058) . . .
7 \$2.00

8 (3) OTHER FEES

9 (A) Issuing Document (Sec. 118.059):
10 original document and one copy . . . \$4.00
11 each additional set of an original and one copy
12 . . . \$4.00

13 (B) Certified Papers (Sec. 118.060):
14 for the clerk's certificate . . . \$5.00
15 plus a fee per page or part of a page of . . . \$1.00

16 (C) Noncertified Papers (Sec. 118.0605):
17 for each page or part of a page . . . \$1.00

18 (D) Letters Testamentary, Letter of
19 Guardianship, Letter of Administration, or Abstract of Judgment
20 (Sec. 118.061) . . . \$2.00

21 (E) Safekeeping of Wills (Sec. 118.062) . . .
22 \$5.00

23 same as

24 (F) Mail Service of Process (Sec. 118.063) . . .
25 sheriff

26 (G) Records Management and Preservation Fee
27 . . . \$5.00

1 SECTION 9. Section 118.055(d), Local Government Code, is
2 amended to read as follows:

3 (d) Except as otherwise provided, the fees listed in this
4 section are total fees. The fee for probate of a will with
5 independent executor, administration with a will attached,
6 administration of an estate, probate of a will without
7 administration, or guardianship or receivership of an estate [~~or~~
8 ~~muniment of title~~] is for services rendered from the initiating of
9 the action until either an order approving the inventory and
10 appraisal is filed or the 120th day after the date on which the
11 action is filed, whichever occurs first.

12 SECTION 10. Section 74.501(d), Property Code, is amended to
13 read as follows:

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

17 (1) the reported owner of the property;

18 (2) if the reported owner died testate:

19 (A) the appropriate legal beneficiaries of the
20 owner as provided by the last will and testament of the owner that
21 has been accepted into probate or filed with the application for
22 probate of a will without administration [~~as a muniment of title~~];
23 or

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

26 (3) if the reported owner died intestate:

27 (A) the legal heirs of the owner as provided by

1 Section 38, Texas Probate Code; or

2 (B) the court-appointed administrator of the
3 owner's estate;

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

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

10 (6) if the reported owner is a corporation:

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

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

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

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

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

22 (C) the corporation's bankruptcy trustee; or

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

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

27 SECTION 11. A reference in a law, rule, or standard of this

1 state to a probate of a will as a muniment of title means a probate
2 of a will without administration.

3 SECTION 12. The changes in law made by this Act apply only
4 to an application for the probate of a will that is filed on or after
5 the effective date of this Act. An application for the probate of a
6 will that is filed before the effective date of this Act is governed
7 by the law in effect on the date the application was filed, and the
8 former law is continued in effect for that purpose.

9 SECTION 13. This Act takes effect September 1, 2007.