

By: Paxton

H.B. No. 1460

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the contents of an application for probate of a written
3 will.

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

5 SECTION 1. Section 81(a), Texas Probate Code, is amended to
6 read as follows:

7 (a) For Probate of a Written Will. A written will shall, if
8 within the control of the applicant, be filed with the application
9 for its probate, and shall remain in the custody of the county clerk
10 unless removed therefrom by order of a proper court. An application
11 for probate of a written will shall state:

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

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

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

16 (4) That the decedent owned real or personal property,
17 or both, describing the same generally, and stating its probable
18 value.

19 (5) The date of the will, the name and residence of the
20 executor named therein, if any, and if none be named, then the name
21 and residence of the person to whom it is desired that letters be
22 issued, and also the names and residences of the subscribing
23 witnesses, if any.

24 (6) Whether a child or children born or adopted after

1 the making of such will survived the decedent, and the name of each
2 such survivor, if any.

3 (7) That such executor or applicant, or other person
4 to whom it is desired that letters be issued, is not disqualified by
5 law from accepting letters.

6 (8) Whether a marriage of the decedent was ever
7 dissolved after the will was made, whether by divorce, annulment,
8 or a declaration that the marriage was void [~~divorced~~], and if so,
9 when and from whom.

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

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

19 SECTION 2. The changes in law made by this Act to Section
20 81(a), Texas Probate Code, apply only to an application for probate
21 of a written will that is filed on or after the effective date of
22 this Act. An application for probate of a written will that is
23 filed before the effective date of this Act is governed by the law
24 in effect on the date the application was filed, and the former law
25 is continued in effect for that purpose.

26 SECTION 3. This Act takes effect September 1, 2009.