

1-1 By: Paxton (Senate Sponsor - Wentworth) H.B. No. 1460  
1-2 (In the Senate - Received from the House May 1, 2009;  
1-3 May 6, 2009, read first time and referred to Committee on  
1-4 Jurisprudence; May 14, 2009, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; May 14, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the contents of an application for probate of a written  
1-9 will.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 81(a), Texas Probate Code, is amended to  
1-12 read as follows:

1-13 (a) For Probate of a Written Will. A written will shall, if  
1-14 within the control of the applicant, be filed with the application  
1-15 for its probate, and shall remain in the custody of the county clerk  
1-16 unless removed therefrom by order of a proper court. An application  
1-17 for probate of a written will shall state:

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

1-19 (2) The name, age if known, and domicile of the  
1-20 decedent, and the fact, time, and place of death.

1-21 (3) Facts showing that the court has venue.

1-22 (4) That the decedent owned real or personal property,  
1-23 or both, describing the same generally, and stating its probable  
1-24 value.

1-25 (5) The date of the will, the name and residence of the  
1-26 executor named therein, if any, and if none be named, then the name  
1-27 and residence of the person to whom it is desired that letters be  
1-28 issued, and also the names and residences of the subscribing  
1-29 witnesses, if any.

1-30 (6) Whether a child or children born or adopted after  
1-31 the making of such will survived the decedent, and the name of each  
1-32 such survivor, if any.

1-33 (7) That such executor or applicant, or other person  
1-34 to whom it is desired that letters be issued, is not disqualified by  
1-35 law from accepting letters.

1-36 (8) Whether a marriage of the decedent was ever  
1-37 dissolved after the will was made, whether by divorce, annulment,  
1-38 or a declaration that the marriage was void [~~divorced~~], and if so,  
1-39 when and from whom.

1-40 (9) Whether the state, a governmental agency of the  
1-41 state, or a charitable organization is named by the will as a  
1-42 devisee.

1-43 The foregoing matters shall be stated and averred in the  
1-44 application to the extent that they are known to the applicant, or  
1-45 can with reasonable diligence be ascertained by him, and if any of  
1-46 such matters is not stated or averred in the application, the  
1-47 application shall set forth the reason why such matter is not so  
1-48 stated and averred.

1-49 SECTION 2. The changes in law made by this Act to Section  
1-50 81(a), Texas Probate Code, apply only to an application for probate  
1-51 of a written will that is filed on or after the effective date of  
1-52 this Act. An application for probate of a written will that is  
1-53 filed before the effective date of this Act is governed by the law  
1-54 in effect on the date the application was filed, and the former law  
1-55 is continued in effect for that purpose.

1-56 SECTION 3. This Act takes effect September 1, 2009.

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