

By: Paxton

H.B. No. 1461

A BILL TO BE ENTITLED

AN ACT

relating to the contents of an application for probate of a will as a muniment of title.

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

SECTION 1. Section 89A(a), Texas Probate Code, is amended to read as follows:

(a) A written will shall, if within the control of the applicant, be filed with the application for probate as a muniment of title, and shall remain in the custody of the county clerk unless removed from the custody of the clerk by order of a proper court. An application for probate of a will as a muniment of title shall state:

(1) The name and domicile of each applicant.

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

(3) Facts showing that the court has venue.

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

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

(6) Whether a child or children born or adopted after the making of such will survived the decedent, and the name of each

1 such survivor, if any.

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

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

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

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

17 SECTION 2. The changes in law made by this Act to Section
18 89A(a), Texas Probate Code, apply only to an application for
19 probate of a will as a muniment of title filed on or after the
20 effective date of this Act. An application for probate of a will as
21 a muniment of title filed before the effective date of this Act is
22 governed by the law in effect on the date the application was filed,
23 and the former law is continued in effect for that purpose.

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