

1-1 By: Paxton (Senate Sponsor - Wentworth) H.B. No. 1461
1-2 (In the Senate - Received from the House May 6, 2009;
1-3 May 7, 2009, read first time and referred to Committee on
1-4 Jurisprudence; May 21, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 21, 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 will as
1-9 a muniment of title.

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

1-11 SECTION 1. Section 89A(a), Texas Probate Code, is amended
1-12 to read as follows:

1-13 (a) A written will shall, if within the control of the
1-14 applicant, be filed with the application for probate as a muniment
1-15 of title, and shall remain in the custody of the county clerk unless
1-16 removed from the custody of the clerk by order of a proper court. An
1-17 application for probate of a will as a muniment of title shall
1-18 state:

1-19 (1) The name and domicile of each applicant.

1-20 (2) The name, age if known, and domicile of the
1-21 decedent, and the fact, time, and place of death.

1-22 (3) Facts showing that the court has venue.

1-23 (4) That the decedent owned real or personal property,
1-24 or both, describing the property generally, and stating its
1-25 probable value.

1-26 (5) The date of the will, the name and residence of the
1-27 executor named in the will, if any, and the names and residences of
1-28 the subscribing witnesses, if any.

1-29 (6) Whether a child or children born or adopted after
1-30 the making of such will survived the decedent, and the name of each
1-31 such survivor, if any.

1-32 (7) That there are no unpaid debts owing by the estate
1-33 of the testator, excluding debts secured by liens on real estate.

1-34 (8) Whether a marriage of the decedent was ever
1-35 dissolved after the will was made, whether by divorce, annulment,
1-36 or a declaration that the marriage was void [~~divorced~~], and if so,
1-37 when and from whom.

1-38 (9) Whether the state, a governmental agency of the
1-39 state, or a charitable organization is named by the will as a
1-40 devisee.

1-41 The foregoing matters shall be stated and averred in the
1-42 application to the extent that they are known to the applicant, or
1-43 can with reasonable diligence be ascertained by the applicant, and
1-44 if any of such matters is not stated or averred in the application,
1-45 the application shall set forth the reason why such matter is not so
1-46 stated and averred.

1-47 SECTION 2. The changes in law made by this Act to Section
1-48 89A(a), Texas Probate Code, apply only to an application for
1-49 probate of a will as a muniment of title filed on or after the
1-50 effective date of this Act. An application for probate of a will as
1-51 a muniment of title filed before the effective date of this Act is
1-52 governed by the law in effect on the date the application was filed,
1-53 and the former law is continued in effect for that purpose.

1-54 SECTION 3. This Act takes effect September 1, 2009.

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