

By: Hartnett

H.B. No. 2899

A BILL TO BE ENTITLED

AN ACT

relating to decedents' estates.

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

ARTICLE 1. AMENDMENTS TO TEXAS PROBATE CODE

SECTION 1.01. Section 34A, Texas Probate Code, is amended to read as follows:

Sec. 34A. ATTORNEYS AD LITEM. (a) Except as provided by Section 53(c) of this code, the judge of a probate court may appoint an attorney ad litem in any probate proceeding to represent the interests of:

- (1) a person having a legal disability;
- (2) ~~[]~~ a nonresident;
- (3) ~~[]~~ an unborn or unascertained person;
- (4) ~~[]~~ ~~or~~ an unknown or missing heir; or
- (5) an unknown or missing person entitled to property deposited in an account in the court's registry under Section 408(b) of this code ~~[in any probate proceeding]~~.

(b) Subject to Subsection (c) of this section, an ~~Each~~ attorney ad litem appointed under this section is entitled to reasonable compensation for services in the amount set by the court. The court shall:

- (1) tax the compensation ~~[and to be taxed]~~ as costs in the probate proceeding; or
- (2) for an attorney ad litem appointed to represent

1 the interests of an unknown or missing person described by
2 Subsection (a)(5) of this section, order that the compensation be
3 paid from money in the account described by that subdivision.

4 (c) The court order appointing an attorney ad litem to
5 represent the interests of an unknown or missing person described
6 by Subsection (a)(5) of this section must require the attorney ad
7 litem to conduct a search for the person. Compensation paid under
8 Subsection (b) of this section to the attorney ad litem may not
9 exceed 10 percent of the amount on deposit in the account described
10 by Subsection (a)(5) of this section on the date:

11 (1) the attorney ad litem reports to the court the
12 location of the previously unknown or missing person; or

13 (2) the money in the account is paid to the comptroller
14 as provided by Section 427 of this code.

15 SECTION 1.02. Section 48, Texas Probate Code, is amended by
16 adding Subsection (d) to read as follows:

17 (d) Notwithstanding Section 16.051, Civil Practice and
18 Remedies Code, a proceeding to declare heirship of a decedent may be
19 brought at any time after the decedent's death.

20 SECTION 1.03. Section 49(a), Texas Probate Code, is amended
21 to read as follows:

22 (a) Such proceedings may be instituted and maintained in any
23 of the instances enumerated above by the qualified personal
24 representative of the estate of such decedent, by any person or
25 persons claiming to be a secured or unsecured creditor or the owner
26 of the whole or a part of the estate of such decedent, or by the
27 guardian of the estate of a ward, if the proceedings are instituted

1 and maintained in the probate court in which the proceedings for the
2 guardianship of the estate were pending at the time of the death of
3 the ward. In such a case an application shall be filed in a proper
4 court stating the following information:

5 (1) the name of the decedent and the time and place of
6 death;

7 (2) the names and residences of the decedent's heirs,
8 the relationship of each heir to the decedent, and the true interest
9 of the applicant and each of the heirs in the estate of the
10 decedent;

11 (3) all the material facts and circumstances within
12 the knowledge and information of the applicant that might
13 reasonably tend to show the time or place of death or the names or
14 residences of all heirs, if the time or place of death or the names
15 or residences of all the heirs are not definitely known to the
16 applicant;

17 (4) a statement that all children born to or adopted by
18 the decedent have been listed;

19 (5) a statement that each marriage of the decedent has
20 been listed with the date of the marriage, the name of the spouse,
21 and if the marriage was terminated, the date and place of
22 termination, and other facts to show whether a spouse has had an
23 interest in the property of the decedent;

24 (6) whether the decedent died testate and if so, what
25 disposition has been made of the will;

26 (7) a general description of all the real and personal
27 property belonging to the estate of the decedent; and

1 (8) an explanation for the omission of any of the
2 foregoing information that is omitted from the application.

3 SECTION 1.04. Sections 53C(a) and (b), Texas Probate Code,
4 are amended to read as follows:

5 (a) This section applies in a proceeding to declare heirship
6 of a decedent only with respect to an individual who[+]

7 [~~(1) petitions the court for a determination of right~~
8 ~~of inheritance as authorized by Section 42(b) of this code; and~~

9 [~~(2)~~] claims to be a biological child of the
10 decedent[, ~~but with respect to whom a parent-child relationship~~
11 ~~with the decedent was not established as provided by Section~~
12 ~~160.201, Family Code,~~] or [who] claims inheritance through a
13 biological child of the decedent[, ~~if a parent-child relationship~~
14 ~~between the individual through whom the inheritance is claimed and~~
15 ~~the decedent was not established as provided by Section 160.201,~~
16 ~~Family Code~~].

17 (b) The presumption under Section 160.505, Family Code,
18 that applies in establishing a parent-child relationship also
19 applies in determining heirship in the probate court using the
20 results of genetic testing ordered with respect to an individual
21 described by Subsection (a) of this section, and the presumption
22 may be rebutted in the same manner provided by Section 160.505,
23 Family Code. [~~Unless the results of genetic testing of another~~
24 ~~individual who is an heir of the decedent are admitted as rebuttal~~
25 ~~evidence, the court shall find that the individual described by~~
26 ~~Subsection (a) of this section is an heir of the decedent if the~~
27 ~~results of genetic testing ordered under Section 53A of this~~

1 ~~chapter identify a tested individual who is an heir of the decedent~~
2 ~~as the ancestor of the individual described by Subsection (a) of~~
3 ~~this section.]~~

4 SECTION 1.05. Section 77, Texas Probate Code, is amended to
5 read as follows:

6 Sec. 77. ORDER OF PERSONS QUALIFIED TO SERVE. Letters
7 testamentary or of administration shall be granted to persons who
8 are qualified to act, in the following order:

9 (a) To the person named as executor in the will of the
10 deceased.

11 (b) To the surviving husband or wife.

12 (c) To the principal devisee or legatee of the testator.

13 (d) To any devisee or legatee of the testator.

14 (e) To the next of kin of the deceased, the nearest in order
15 of descent first, and so on, and next of kin includes a person and
16 his descendants who legally adopted the deceased or who have been
17 legally adopted by the deceased.

18 (f) To a creditor of the deceased.

19 (g) To any person of good character residing in the county
20 who applies therefor.

21 (h) To any other person not disqualified under the following
22 section [~~Section~~]. When persons [~~applicants~~] are equally entitled,
23 letters shall be granted to the person [~~applicant~~] who, in the
24 judgment of the court, is most likely to administer the estate
25 advantageously, or letters [~~they~~] may be granted to [~~any~~] two or
26 more of those persons [~~such applicants~~].

27 SECTION 1.06. Section 83(a), Texas Probate Code, is amended

1 to read as follows:

2 (a) Where Original Application Has Not Been Heard. If, after
3 an application for the probate of a will or for the appointment of a
4 general personal representative has been filed, and before such
5 application has been heard, an application for the probate of a will
6 of the decedent, not theretofore presented for probate, is filed,
7 the court shall hear both applications together and determine what
8 instrument, if any, should be admitted to probate, or whether the
9 decedent died intestate. The court may not sever or bifurcate the
10 proceeding on the applications.

11 SECTION 1.07. Section 149C, Texas Probate Code, is amended
12 by amending Subsection (a) and adding Subsections (a-1) and (a-2)
13 to read as follows:

14 (a) The [county] court, [~~as that term is defined by Section~~
15 ~~3 of this code,~~] on its own motion or on motion of any interested
16 person, after the independent executor has been cited by personal
17 service to answer at a time and place fixed in the notice, may
18 remove an independent executor when:

19 (1) the independent executor fails to return within
20 ninety days after qualification, unless such time is extended by
21 order of the court, an inventory of the property of the estate and
22 list of claims that have come to the independent executor's
23 knowledge;

24 (2) sufficient grounds appear to support belief that
25 the independent executor has misapplied or embezzled, or that the
26 independent executor is about to misapply or embezzle, all or any
27 part of the property committed to the independent executor's care;

1 (3) the independent executor fails to make an
2 accounting which is required by law to be made;

3 (4) the independent executor fails to timely file the
4 affidavit or certificate required by Section 128A of this code;

5 (5) the independent executor is proved to have been
6 guilty of gross misconduct or gross mismanagement in the
7 performance of the independent executor's duties; or

8 (6) the independent executor becomes an incapacitated
9 person, or is sentenced to the penitentiary, or from any other cause
10 becomes incapable of [~~legally incapacitated from~~] properly
11 performing the independent executor's fiduciary duties.

12 (a-1) The court, on its own motion or on the motion of any
13 interested person, and after the independent executor has been
14 cited by certified mail, return receipt requested, to answer at a
15 time and place stated in the citation, may remove an independent
16 executor who is appointed under the provisions of this code if the
17 independent executor:

18 (1) subject to Subsection (a-2)(1) of this section,
19 fails to qualify in the manner and period required by law;

20 (2) subject to Subsection (a-2)(2) of this section,
21 fails to return not later than the 90th day after the date the
22 independent executor qualifies an inventory of the estate property
23 and a list of claims that have come to the independent executor's
24 knowledge, unless the period is extended by court order;

25 (3) cannot be served with notices or other processes
26 because the:

27 (A) independent executor's location is unknown;

1 (B) independent executor is eluding service; or

2 (C) independent executor is a nonresident of this
3 state who does not have a resident agent to accept service of
4 process in a probate proceeding or other action relating to the
5 estate; or

6 (4) subject to Subsection (a-2)(3) of this section,
7 has misapplied, embezzled, or removed from the state, or is about to
8 misapply, embezzle, or remove from the state, all or any part of the
9 property committed to the independent executor's care.

10 (a-2) The court may remove an independent executor:

11 (1) under Subsection (a-1)(1) of this section only if
12 the independent executor fails to qualify on or before the 30th day
13 after the date the court sends a notice by certified mail, return
14 receipt requested, to the independent executor's last known address
15 and to the last known address of the independent executor's
16 attorney, notifying the independent executor and attorney of the
17 court's intent to remove the independent executor for failure to
18 qualify in the manner and period required by law;

19 (2) under Subsection (a-1)(2) of this section only if
20 the independent executor fails to file an inventory and list of
21 claims as required by law on or before the 30th day after the date
22 the court sends a notice by certified mail, return receipt
23 requested, to the independent executor's last known address and to
24 the last known address of the independent executor's attorney,
25 notifying the independent executor and attorney of the court's
26 intent to remove the independent executor for failure to file the
27 inventory and list of claims; and

1 (3) under Subsection (a-1)(4) of this section only on
2 presentation of clear and convincing evidence given under oath of
3 the misapplication, embezzlement, or removal from this state of
4 property as described by that subdivision.

5 SECTION 1.08. Part 1, Chapter VIII, Texas Probate Code, is
6 amended by adding Section 254 to read as follows:

7 Sec. 254. PENALTY FOR FAILURE TO TIMELY FILE INVENTORY,
8 APPRAISEMENT, AND LIST OF CLAIMS. (a) This section applies only to
9 a personal representative, including an independent executor or
10 administrator, who does not file an inventory, appraisal, and
11 list of claims within the period prescribed by Section 250 of this
12 code or any extension granted by the court.

13 (b) Any person interested in the estate on written
14 complaint, or the court on the court's own motion, may have a
15 personal representative to whom this section applies cited to file
16 the inventory, appraisal, and list of claims and show cause for
17 the failure to timely file.

18 (c) If the personal representative does not file the
19 inventory, appraisal, and list of claims after being cited or
20 does not show good cause for the failure to timely file, the court
21 on hearing may fine the representative in an amount not to exceed
22 \$1,000.

23 (d) The personal representative and the representative's
24 sureties, if any, are liable for any fine imposed under this section
25 and for all damages and costs sustained by the representative's
26 failure. The fine, damages, and costs may be recovered in any court
27 of competent jurisdiction.

1 SECTION 1.09. Section 407, Texas Probate Code, is amended
2 to read as follows:

3 Sec. 407. CITATION AND NOTICE UPON PRESENTATION OF ACCOUNT
4 FOR FINAL SETTLEMENT. Upon the filing of an account for final
5 settlement by temporary or permanent personal representatives of
6 the estates of decedents, citation shall contain a statement that
7 such final account has been filed, the time and place when it will
8 be considered by the court, and a statement requiring the person or
9 persons cited to appear and contest the same if they see proper.
10 Such citation shall be issued by the county clerk to the persons and
11 in the manner set out below.

12 1. Citation [~~In case of the estates of deceased~~
13 ~~persons, notice~~] shall be given [~~by the personal representative~~] to
14 each heir or beneficiary of the decedent by certified mail, return
15 receipt requested, unless another method of service [~~type of~~
16 ~~notice~~] is directed by the court by written order. The citation
17 [~~notice~~] must include a copy of the account for final settlement.

18 2. If the court deems further additional notice
19 necessary, it shall require the same by written order. In its
20 discretion, the court may allow the waiver of citation [~~notice~~] of
21 an account for final settlement in a proceeding concerning a
22 decedent's estate.

23 SECTION 1.10. Sections 408(b), (c), and (d), Texas Probate
24 Code, are amended to read as follows:

25 (b) Distribution of Remaining Property. Upon final
26 settlement of an estate, if there be any of such estate remaining in
27 the hands of the personal representative, the court shall order

1 that a partition and distribution be made among the persons
2 entitled to receive such estate. The court shall order the
3 representative to deposit in an account in the court's registry any
4 remaining estate property that is money and to which a person who is
5 unknown or missing is entitled. In addition, the court shall order
6 the representative to sell, on terms the court determines are best,
7 remaining estate property that is not money and to which a person
8 who is unknown or missing is entitled. The court shall order the
9 representative to deposit the sale proceeds in an account in the
10 court's registry. The court shall hold money deposited in an
11 account under this subsection until the court renders:

12 (1) an order requiring money in the account to be paid
13 to the previously unknown or missing person who is entitled to the
14 money; or

15 (2) another order regarding the disposition of the
16 money.

17 (c) Discharge of Representative When No Property Remains.
18 If, upon such settlement, there be none of the estate remaining in
19 the hands of the representative, the representative [~~he~~] shall be
20 discharged from the representative's [~~his~~] trust and the estate
21 ordered closed.

22 (d) Discharge When Estate Fully Administered. Whenever the
23 representative of an estate has fully administered the same in
24 accordance with this code [~~Code~~] and the orders of the court, and
25 the representative's [~~his~~] final account has been approved, and the
26 representative [~~he~~] has delivered all of said estate remaining in
27 the representative's [~~his~~] hands to the person or persons entitled

1 to receive the same, it shall be the duty of the court to enter an
2 order discharging such representative from the representative's
3 ~~[his]~~ trust, and declaring the estate closed.

4 SECTION 1.11. Section 427, Texas Probate Code, is amended
5 to read as follows:

6 Sec. 427. WHEN ESTATES TO BE PAID INTO STATE TREASURY. If
7 any person entitled to a portion of an estate, except a resident
8 minor without a guardian, does ~~[shall]~~ not demand the person's
9 ~~[his]~~ portion, including any portion deposited in an account in the
10 court's registry under Section 408(b) of this code, from the
11 executor or administrator within six months after an order of court
12 approving the report of commissioners of partition, or within six
13 months after the settlement of the final account of an executor or
14 administrator, as the case may be, the court by written order shall
15 require the executor or administrator to pay so much of said portion
16 as is in money to the comptroller; and such portion as is in other
17 property the court ~~[he]~~ shall order the executor or administrator
18 to sell on such terms as the court thinks best, and, when the
19 proceeds of such sale are collected, the court shall order the same
20 to be paid to the comptroller, in all such cases allowing the
21 executor or administrator reasonable compensation for the
22 executor's or administrator's ~~[his]~~ services. A suit to recover
23 proceeds of the sale is governed by Section 433 of this code ~~[Code]~~.

24 SECTION 1.12. Sections 29 and 53C(c), Texas Probate Code,
25 are repealed.

26 SECTION 1.13. (a) Except as otherwise provided by this
27 section, the changes in law made by this article apply to the estate

1 of a decedent that is pending or commenced on or after September 1,
2 2011, regardless of the date of the decedent's death.

3 (b) The changes in law made by this article to Section
4 49(a), Texas Probate Code, apply only to an application for
5 determination of heirship filed on or after September 1, 2011. An
6 application for determination of heirship filed before that date is
7 governed by the law in effect on the date the application was filed,
8 and the former law is continued in effect for that purpose.

9 (c) The changes in law made by this article to Section 77,
10 Texas Probate Code, apply only to an application for the grant of
11 letters testamentary or of administration of a decedent's estate
12 filed on or after September 1, 2011. An application for the grant
13 of letters testamentary or of administration of a decedent's estate
14 filed before that date is governed by the law in effect on the date
15 the application was filed, and the former law is continued in effect
16 for that purpose.

17 (d) The changes in law made by this article to Section
18 83(a), Texas Probate Code, apply only to an application for the
19 probate of a will or administration of the estate of a decedent that
20 is pending or filed on or after September 1, 2011.

21 (e) The changes in law made by this article to Sections
22 53C(a) and (b), Texas Probate Code, apply only to a proceeding to
23 declare heirship commenced on or after September 1, 2011. A
24 proceeding to declare heirship commenced before that date is
25 governed by the law in effect on the date the proceeding was
26 commenced, and the former law is continued in effect for that
27 purpose.

ARTICLE 2. AMENDMENTS TO ESTATES CODE

SECTION 2.01. Section 53.104, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 53.104. APPOINTMENT OF ATTORNEYS AD LITEM. (a) Except as provided by Section 202.009(b), the judge of a probate court may appoint an attorney ad litem in any probate proceeding to represent the interests of:

- (1) a person who has a legal disability;
- (2) a nonresident;
- (3) an unborn or unascertained person; ~~[or]~~
- (4) an unknown or missing heir; or
- (5) an unknown or missing person entitled to property

deposited in an account in the court's registry under Section 362.011(b).

(b) Subject to Subsection (c), an [An] attorney ad litem appointed under this section is entitled to reasonable compensation for services provided in the amount set by the court. The court shall:

(1) tax the compensation[~~, to be taxed~~] as costs in the probate proceeding; or

(2) for an attorney ad litem appointed to represent the interests of an unknown or missing person described by Subsection (a)(5), order that the compensation be paid from money in the account described by that subdivision.

(c) The court order appointing an attorney ad litem to represent the interests of an unknown or missing person described by Subsection (a)(5) must require the attorney ad litem to conduct a

1 search for the person. Compensation paid under Subsection (b) to
2 the attorney ad litem may not exceed 10 percent of the amount on
3 deposit in the account described by Subsection (a)(5) on the date:

4 (1) the attorney ad litem reports to the court the
5 location of the previously unknown or missing person; or

6 (2) the money in the account is paid to the comptroller
7 as provided by Section 551.001.

8 SECTION 2.02. Subchapter A, Chapter 202, Estates Code, as
9 effective January 1, 2014, is amended by adding Section 202.0025 to
10 read as follows:

11 Sec. 202.0025. ACTION BROUGHT AFTER DECEDENT'S DEATH.
12 Notwithstanding Section 16.051, Civil Practice and Remedies Code, a
13 proceeding to declare heirship of a decedent may be brought at any
14 time after the decedent's death.

15 SECTION 2.03. Section 202.004, Estates Code, as effective
16 January 1, 2014, is amended to read as follows:

17 Sec. 202.004. PERSONS WHO MAY COMMENCE PROCEEDING TO
18 DECLARE HEIRSHIP. A proceeding to declare heirship of a decedent
19 may be commenced and maintained under a circumstance specified by
20 Section 202.002 by:

21 (1) the personal representative of the decedent's
22 estate;

23 (2) a person claiming to be a secured or unsecured
24 creditor or the owner of all or part of the decedent's estate; or

25 (3) if the decedent was a ward with respect to whom a
26 guardian of the estate had been appointed, the guardian of the
27 estate, provided that the proceeding is commenced and maintained in

1 the probate court in which the proceedings for the guardianship of
2 the estate were pending at the time of the decedent's death.

3 SECTION 2.04. Sections 204.151 and 204.152, Estates Code,
4 as effective January 1, 2014, are amended to read as follows:

5 Sec. 204.151. APPLICABILITY OF SUBCHAPTER. This subchapter
6 applies in a proceeding to declare heirship of a decedent only with
7 respect to an individual who[+]

8 [~~(1)~~] petitions the court for a determination of right
9 of inheritance as authorized by Section 201.052(c); and

10 [~~(2)~~] claims[+]

11 [~~(A)~~] to be a biological child of the decedent or
12 claims [~~, but with respect to whom a parent-child relationship with~~
13 ~~the decedent was not established as provided by Section 160.201,~~
14 ~~Family Code; or~~

15 [~~(B)~~] to inherit through a biological child of
16 the decedent [~~, if a parent-child relationship between the~~
17 ~~individual through whom the inheritance is claimed and the decedent~~
18 ~~was not established as provided by Section 160.201, Family Code].~~

19 Sec. 204.152. PRESUMPTION; [REQUIRED FINDINGS IN ABSENCE
20 OF] REBUTTAL [EVIDENCE]. The presumption under Section 160.505,
21 Family Code, that applies in establishing a parent-child
22 relationship also applies in determining heirship in the probate
23 court using the results of genetic testing ordered with respect to
24 an individual described by Section 204.151, and the presumption may
25 be rebutted in the same manner provided by Section 160.505, Family
26 Code. [~~Unless the results of genetic testing of another individual~~
27 ~~who is an heir of the decedent who is the subject of a proceeding to~~

1 ~~declare heirship to which this subchapter applies are admitted as~~
2 ~~rebuttal evidence, the court shall find that the individual~~
3 ~~described by Section 204.151:~~

4 ~~[(1) is an heir of the decedent, if the results of~~
5 ~~genetic testing ordered under Subchapter B identify a tested~~
6 ~~individual who is an heir of the decedent as the ancestor of the~~
7 ~~individual described by Section 204.151, or~~

8 ~~[(2) is not an heir of the decedent, if the results of~~
9 ~~genetic testing ordered under Subchapter B exclude a tested~~
10 ~~individual who is an heir of the decedent as the ancestor of the~~
11 ~~individual described by Section 204.151.]~~

12 SECTION 2.05. Section 256.101, Estates Code, as effective
13 January 1, 2014, is amended to read as follows:

14 Sec. 256.101. PROCEDURE ON FILING OF SECOND APPLICATION
15 WHEN ORIGINAL APPLICATION HAS NOT BEEN HEARD. (a) If, after an
16 application for the probate of a decedent's will or the appointment
17 of a personal representative for the decedent's estate has been
18 filed but before the application is heard, an application is filed
19 for the probate of a will of the same decedent that has not
20 previously been presented for probate, the court shall:

21 (1) hear both applications together; and

22 (2) determine:

23 (A) if both applications are for the probate of a
24 will, which will should be admitted to probate, if either, or
25 whether the decedent died intestate; or

26 (B) if only one application is for the probate of
27 a will, whether the will should be admitted to probate or whether

1 the decedent died intestate.

2 (b) The court may not sever or bifurcate the proceeding on
3 the applications described in Subsection (a).

4 SECTION 2.06. Section 304.001(c), Estates Code, as
5 effective January 1, 2014, is amended to read as follows:

6 (c) If persons [~~applicants for letters testamentary or of~~
7 ~~administration~~] are equally entitled to letters testamentary or of
8 administration [~~the letters~~], the court:

9 (1) shall grant the letters to the person [~~applicant~~]
10 who, in the judgment of the court, is most likely to administer the
11 estate advantageously; or

12 (2) may grant the letters to two or more of those
13 persons [~~applicants~~].

14 SECTION 2.07. Subchapter B, Chapter 309, Estates Code, as
15 effective January 1, 2014, is amended by adding Section 309.056 to
16 read as follows:

17 Sec. 309.056. PENALTY FOR FAILURE TO TIMELY FILE INVENTORY,
18 APPRAISEMENT, AND LIST OF CLAIMS. (a) This section applies only to
19 a personal representative, including an independent executor or
20 administrator, who does not file an inventory, appraisal, and
21 list of claims within the period prescribed by Section 309.051 or
22 any extension granted by the court.

23 (b) Any person interested in the estate on written
24 complaint, or the court on the court's own motion, may have a
25 personal representative to whom this section applies cited to file
26 the inventory, appraisal, and list of claims and show cause for
27 the failure to timely file.

1 (c) If the personal representative does not file the
2 inventory, appraisement, and list of claims after being cited or
3 does not show good cause for the failure to timely file, the court
4 on hearing may fine the representative in an amount not to exceed
5 \$1,000.

6 (d) The personal representative and the representative's
7 sureties, if any, are liable for any fine imposed under this section
8 and for all damages and costs sustained by the representative's
9 failure. The fine, damages, and costs may be recovered in any court
10 of competent jurisdiction.

11 SECTION 2.08. Section 362.005, Estates Code, as effective
12 January 1, 2014, is amended to read as follows:

13 Sec. 362.005. CITATION AND NOTICE ON PRESENTATION OF
14 ACCOUNT. (a) On the presentation of an account for final settlement
15 by a temporary or permanent personal representative, the county
16 clerk shall issue citation to the persons and in the manner provided
17 by Subsection (b) [~~Subsections (c) and (d)~~].

18 (b) Citation issued under Subsection (a) must:

19 (1) contain:

20 (A) [~~(1)~~] a statement that an account for final
21 settlement has been presented;

22 (B) [~~(2)~~] the time and place the court will
23 consider the account; [~~and~~]

24 (C) [~~(3)~~] a statement requiring the person cited
25 to appear and contest the account, if the person wishes to contest
26 the account; and

27 (D) a copy of the account for final settlement;

1 and

2 (2) be given~~[-~~

3 ~~[(c) The personal representative shall give notice]~~ to each
4 heir or beneficiary of the decedent by certified mail, return
5 receipt requested, unless the court by written order directs
6 another method of service ~~[type of notice]~~ to be given~~[-~~ ~~The notice~~
7 ~~must include a copy of the account for final settlement]~~.

8 (c) ~~[(d)]~~ The court by written order shall require
9 additional notice if the court considers the additional notice
10 necessary.

11 (d) ~~[(e)]~~ The court may allow the waiver of citation
12 ~~[notice]~~ of an account for final settlement in a proceeding
13 concerning a decedent's estate.

14 SECTION 2.09. Section 362.011, Estates Code, as effective
15 January 1, 2014, is amended to read as follows:

16 Sec. 362.011. PARTITION AND DISTRIBUTION OF ESTATE; DEPOSIT
17 IN COURT'S REGISTRY. (a) If, on final settlement of an estate, any
18 of the estate remains in the personal representative's possession,
19 the court shall order that a partition and distribution be made
20 among the persons entitled to receive that part of the estate.

21 (b) The court shall order the personal representative to
22 deposit in an account in the court's registry any remaining estate
23 property that is money and to which a person who is unknown or
24 missing is entitled. In addition, the court shall order the
25 representative to sell, on terms the court determines are best,
26 remaining estate property that is not money and to which a person
27 who is unknown or missing is entitled. The court shall order the

1 representative to deposit the sale proceeds in an account in the
2 court's registry. The court shall hold money deposited in an
3 account under this subsection until the court renders:

4 (1) an order requiring money in the account to be paid
5 to the previously unknown or missing person who is entitled to the
6 money; or

7 (2) another order regarding the disposition of the
8 money.

9 SECTION 2.10. Section 551.001(a), Estates Code, as
10 effective January 1, 2014, is amended to read as follows:

11 (a) The court, by written order, shall require the executor
12 or administrator of an estate to pay to the comptroller as provided
13 by this subchapter the share of that estate of a person entitled to
14 that share who does not demand the share, including any portion
15 deposited in an account in the court's registry under Section
16 362.011(b), from the executor or administrator within six months
17 after the date of, as applicable:

18 (1) a court order approving the report of the
19 commissioners of partition made under Section 360.154; or

20 (2) the settlement of the final account of the
21 executor or administrator.

22 SECTION 2.11. The following are repealed:

23 (1) the changes in law made by Article 1 of this Act to
24 Sections 34A, 49(a), 53C(a) and (b), 77, 83(a), 407, 408(b), (c),
25 and (d), and 427, Texas Probate Code;

26 (2) Sections 48(d) and 254, Texas Probate Code, as
27 added by Article 1 of this Act; and

1 (3) Section 351.002, Estates Code, as effective
2 January 1, 2014.

3 SECTION 2.12. This article takes effect January 1, 2014.

4 ARTICLE 3. GENERAL EFFECTIVE DATE

5 SECTION 3.01. Except as otherwise provided by this Act,
6 this Act takes effect September 1, 2011.