

By: Kuempel

H.B. No. 3319

A BILL TO BE ENTITLED

AN ACT

relating to procedures and fees for the safekeeping of wills and other fees collected by court clerks in probate matters; authorizing and increasing fees.

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

SECTION 1. Section 252.001(b), Estates Code, is amended to read as follows:

(b) The county clerk shall receive and keep the will on the payment of a \$10 [~~\$5~~] fee.

SECTION 2. Section 252.101, Estates Code, is amended to read as follows:

Sec. 252.101. NOTIFICATION BY COUNTY CLERK. A county clerk shall notify~~[, by registered mail, return receipt requested,]~~ each person named on the endorsement of the will wrapper that the will is on deposit in the clerk's office if:

(1) an affidavit is submitted to the clerk stating that the testator has died; or

(2) the clerk receives other notice or proof of the testator's death sufficient to convince the clerk that the testator has died.

SECTION 3. Section 252.104, Estates Code, is amended to read as follows:

Sec. 252.104. NOTICE AND DELIVERY OF WILL TO EXECUTOR. If a county clerk inspects a will under Section 252.103 and the will

names an executor, the clerk shall:

(1) notify the person named as executor~~[, by registered mail, return receipt requested,]~~ that the will is on deposit with the clerk; and

(2) deliver, on request, the will to the person named as executor.

SECTION 4. Section 252.105(a), Estates Code, is amended to read as follows:

(a) If a county clerk inspects a will under Section 252.103, the clerk shall notify ~~[by registered mail, return receipt requested,]~~ the devisees named in the will that the will is on deposit with the clerk if:

(1) the will does not name an executor;

(2) the person named as executor in the will:

(A) has died; or

(B) fails to take the will before the 31st day after the date the notice required by Section 252.104 is mailed to the person; or

(3) the notice mailed to the person named as executor is returned as undelivered.

SECTION 5. Section 252.201, Estates Code, is amended to read as follows:

Sec. 252.201. WILL DELIVERY. (a) On receiving notice of a testator's death, the person who has custody of the testator's will shall deliver the will to the clerk of the court that has jurisdiction of the testator's estate.

(b) The clerk of the court shall receive and keep the will on

1 the payment of a \$10 fee.

2 (c) The clerk of the court shall handle the will in the same  
3 manner prescribed by Subchapter A for a will deposited under  
4 Section 252.001.

5 SECTION 6. Subchapter E, Chapter 252, Estates Code, is  
6 amended by adding Section 252.2015 to read as follows:

7 Sec. 252.2015. NOTICE AND DELIVERY OF WILL TO EXECUTOR OR  
8 DEVISEES. (a) On the deposit of a will under Section 252.201 that  
9 names an executor, the clerk of the court shall:

10 (1) notify the person named as executor in the manner  
11 prescribed by Section 252.104; and

12 (2) deliver, on request, the will to the person named  
13 as executor.

14 (b) On the deposit of a will under Section 252.201, the  
15 clerk of the court shall notify the devisees named in the will in  
16 the manner prescribed by Section 252.105(a) if:

17 (1) the will does not name an executor;

18 (2) the person named as executor in the will:

19 (A) has died; or

20 (B) fails to take the will before the 31st day  
21 after the date the notice required by Subsection (a) is mailed to  
22 the person; or

23 (3) the notice mailed to the person named as executor  
24 is returned as undelivered.

25 (c) On request, the clerk of the court shall deliver the  
26 will to any or all of the devisees notified under Subsection (b).

27 SECTION 7. Section 101.0815, Government Code, is amended to

conform to Chapter 680 (H.B. 2502), Acts of the 81st Legislature, Regular Session, 2009, and Chapter 982 (H.B. 2080), Acts of the 83rd Legislature, Regular Session, 2013, and is further amended to read as follows:

Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS: ESTATES [~~TEXAS PROBATE~~] CODE. The clerk of a statutory county court shall collect fees and costs under the Estates [~~Texas Probate~~] Code as follows:

(1) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 252.001, Estates Code) [~~(Sec. 71, Texas Probate Code)~~] . . . \$10 [~~\$5~~];

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 53.052, Estates Code) [~~(Sec. 12, Texas Probate Code)~~] . . . probable cost of the proceeding;

(3) fee on filing an application, complaint, petition, or other paper in a guardianship proceeding, which includes a deposit for payment to an attorney ad litem (Sec. 1052.051, Estates Code) . . . cost of filing and payment of attorney ad litem;

(4) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 1053.052, Estates Code) [~~(Sec. 622, Texas Probate Code)~~] . . . probable cost of the guardianship proceeding; ~~and~~

(5) nonrefundable fee to cover the cost of

administering Subchapter G, Chapter 1104, Estates Code (Sec. 1104.303, Estates Code) . . . \$40;

(6) ~~[(4)]~~ costs for attorney ad litem appointed to pursue the restoration of a ward's capacity or modification of the ward's guardianship (Sec. 1202.102, Estates Code) ~~[(Secs. 694C and 694L, Texas Probate Code)]~~ . . . reasonable compensation; and

(7) fee for delivery of a will to the court clerk by custodian (Sec. 252.201, Estates Code) . . . \$10.

SECTION 8. Section 101.1014, Government Code, is amended to conform to Chapter 680 (H.B. 2502), Acts of the 81st Legislature, Regular Session, 2009, and Chapter 982 (H.B. 2080), Acts of the 83rd Legislature, Regular Session, 2013, and is further amended to read as follows:

Sec. 101.1014. STATUTORY PROBATE COURT FEES AND COSTS: ESTATES ~~[TEXAS PROBATE]~~ CODE. The clerk of a statutory probate court shall collect fees and costs under the Estates ~~[Texas Probate]~~ Code as follows:

(1) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 252.001, Estates Code) ~~[(Sec. 71, Texas Probate Code)]~~ . . . \$10 ~~[\$5]~~;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 53.052, Estates Code) ~~[(Sec. 12, Texas Probate Code)]~~ . . . probable cost of the proceeding;

(3) fee on filing an application, complaint, petition, or other paper in a guardianship proceeding, which includes a

deposit for payment to an attorney ad litem (Sec. 1052.051, Estates Code) . . . cost of filing and payment of attorney ad litem;

(4) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 1053.052, Estates Code) [~~Sec. 622, Texas Probate Code~~] . . . probable cost of the guardianship proceeding; [and]

(5) nonrefundable fee to cover the cost of administering Subchapter G, Chapter 1104, Estates Code (Sec. 1104.303, Estates Code) . . . \$40;

(6) [~~(4)~~] costs for attorney ad litem appointed to pursue the restoration of a ward's capacity or modification of the ward's guardianship (Sec. 1202.102, Estates Code) [~~(Secs. 694C and 694L, Texas Probate Code)~~] . . . reasonable compensation; and

(7) fee for delivery of a will to the court clerk by custodian (Sec. 252.201, Estates Code) . . . \$10.

SECTION 9. Section 101.1215, Government Code, is amended to conform to Chapter 680 (H.B. 2502), Acts of the 81st Legislature, Regular Session, 2009, and Chapter 982 (H.B. 2080), Acts of the 83rd Legislature, Regular Session, 2013, and is further amended to read as follows:

Sec. 101.1215. COUNTY COURT FEES AND COSTS: ESTATES [~~TEXAS PROBATE~~] CODE. The clerk of a county court shall collect the following fees and costs under the Estates [~~Texas Probate~~] Code:

(1) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 252.001, Estates Code) [~~(Sec. 71,~~

~~Texas Probate Code)~~] . . . \$10 [~~\$5~~];

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 53.052, Estates Code) [~~(Sec. 12, Texas Probate Code)~~] . . . probable cost of the proceeding;

(3) fee on filing an application, complaint, petition, or other paper in a guardianship proceeding, which includes a deposit for payment to an attorney ad litem (Sec. 1052.051, Estates Code) . . . cost of filing and payment of attorney ad litem;

(4) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 1053.052, Estates Code) [~~(Sec. 622, Texas Probate Code)~~] . . . probable cost of the guardianship proceeding; ~~and~~

(5) nonrefundable fee to cover the cost of administering Subchapter G, Chapter 1104, Estates Code (Sec. 1104.303, Estates Code) . . . \$40;

(6) [~~(4)~~] costs for attorney ad litem appointed to pursue the restoration of a ward's capacity or modification of the ward's guardianship (Sec. 1202.102, Estates Code) [~~(Secs. 694C and 694L, Texas Probate Code)~~] . . . reasonable compensation; and

(7) fee for delivery of a will to the court clerk by custodian (Sec. 252.201, Estates Code) . . . \$10.

SECTION 10. Section 118.052, Local Government Code, is amended to read as follows:

Sec. 118.052. FEE SCHEDULE. Each clerk of a county court shall collect the following fees for services rendered to any person:

(1) CIVIL COURT ACTIONS

(A) Filing of Original Action (Sec. 118.053):

- (i) Garnishment after judgment . . . \$15.00
- (ii) All others . . . \$40.00

(B) Filing of Action Other than Original (Sec. 118.054) . . . \$30.00

(C) Services Rendered After Judgment in Original Action (Sec. 118.0545):

- (i) Abstract of judgment . . . \$ 5.00
- (ii) Execution, order of sale, writ, or other process . . . \$ 5.00

(2) PROBATE COURT ACTIONS

(A) Probate Original Action (Sec. 118.055):

- (i) Probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title . . . \$40.00

- (ii) Community survivors . . . \$40.00

- (iii) Small estates . . . \$40.00

- (iv) Declarations of heirship . . . \$40.00

- (v) Mental health or chemical dependency services . . . \$40.00

- (vi) Additional, special fee (Sec. 118.064) . . . \$ 5.00



(B) Services in Pending Probate Action (Sec. 118.056):

(i) Filing an inventory and appraisal as provided by Section 118.056(d) . . . \$25.00

(ii) Approving and recording bond . . . \$ 3.00

(iii) Administering oath . . . \$ 2.00

(iv) Filing annual or final account of estate . . . \$25.00

(v) Filing application for sale of real or personal property . . . \$25.00

(vi) Filing annual or final report of guardian of a person . . . \$10.00

(vii) Filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisal or after the 120th day after the date of the initial filing of the action, whichever occurs first, if more than 25 pages . . . \$25.00

(C) Adverse Probate Action (Sec. 118.057) . . . \$40.00

(D) Claim Against Estate (Sec. 118.058) . . . \$10.00 [~~\$ 2.00~~]

(E) Supplemental Court-Initiated Guardianship Fee in Probate Original Actions and Adverse Probate Actions (Sec. 118.067) . . . \$20.00

(F) Supplemental Public Probate Administrator Fee For Counties That Have Appointed a Public Probate Administrator

1 (Sec. 118.068) . . . \$10.00

2 (3) OTHER FEES

3 (A) Issuing Document (Sec. 118.059): original  
4 document and one copy . . . \$ 4.00

5 each additional set of an original and one copy . . . \$ 4.00

6 (B) Certified Papers (Sec. 118.060): for the  
7 clerk's certificate . . . \$ 5.00

8 plus a fee per page or part of a page of . . . \$ 1.00

9 (C) Noncertified Papers (Sec. 118.0605): for  
10 each page or part of a page . . . \$ 1.00

11 (D) Letters Testamentary, Letter of  
12 Guardianship, Letter of Administration, or Abstract of Judgment  
13 (Sec. 118.061) . . . \$ 2.00

14 (E) Safekeeping of Wills (Sec. 118.062) . . .  
15 \$10.00 [~~\$ 5.00~~]

16 (F) Mail Service of Process (Sec. 118.063) . . .  
17 same as sheriff

18 (G) Records Management and Preservation Fee  
19 . . . \$ 5.00

20 SECTION 11. Sections 252.001 and 252.201, Estates Code, as  
21 amended by this Act, and Section 252.2015, Estates Code, as added by  
22 this Act, apply to a will deposited or delivered to the clerk of a  
23 court on or after the effective date of this Act. A will deposited  
24 or delivered to the clerk of a court before the effective date of  
25 this Act is governed by the law in effect on the date the will was  
26 deposited or delivered, and the former law is continued in effect  
27 for that purpose.

1       SECTION 12.   This Act takes effect September 1, 2015.