

House Bill 2207
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 252.001, Estates Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) An attorney, business entity, or other person in possession of a testator's will may deposit the will with the county clerk of the county of the testator's last known residence if the attorney, business entity, or other person is unable to maintain custody of the will and, after a diligent search, the attorney, business entity, or other person is not able to contact or locate the testator. The attorney, business entity, or other person shall provide to the county clerk at the time the will is deposited:

(1) the name and last known address of the testator; and
(2) if the will names an executor, the name and last known address, if available, of each executor named in the will, including any alternate executors.

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

SECTION 2. Section 252.002, Estates Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The wrapper of a will deposited under Section 252.001(a) must be endorsed with:

(1) "Will of," followed by the name, address, and signature of the testator; and
(2) the name and current address of each person who is to be notified of the deposit of the will after the testator's death.

(c) The wrapper of a will deposited under Section 252.001(a-1) must be endorsed with:

(1) "Will of," followed by the name and last known address

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SECTION 1. Section 252.001, Estates Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) An attorney, business entity, or other person in possession of a testator's will may deposit the will with the county clerk of the county of the testator's last known residence if the attorney, business entity, or other person is unable to maintain custody of the will and, after a diligent search, the attorney, business entity, or other person is not able to contact or locate the testator. The attorney, business entity, or other person shall provide to the county clerk at the time the will is deposited:

(1) the name and last known address of the testator; and
(2) if the will names an executor, the name and last known address, if available, of each executor named in the will, including any alternate executors.

(b) The county clerk shall receive and keep a ~~the~~ will deposited under this section on the payment of a \$5 fee.

SECTION 2. Same as House version.

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of the testator; and

(2) if the will names an executor, the name and last known address, if available, of each executor named in the will, including any alternate executors.

SECTION 3. 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 4. 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 5. Section 252.105(a), Estates Code, is amended to read as follows:

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

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(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 6. Section 252.151, Estates Code, is amended to read as follows:

Sec. 252.151. DEPOSIT HAS NO LEGAL SIGNIFICANCE. The provisions of Subchapter A providing for the deposit of a will with a county clerk ~~[during the lifetime of a testator]~~ are solely for the purpose of providing a safe and convenient repository for a will. For purposes of probate, a will deposited as provided by Subchapter A may not be treated differently than a will that has not been deposited.

SECTION 7. 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 handle the will in the same manner prescribed by Subchapter A for a will deposited under

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SECTION 6. Same as House version.

SECTION 7. Same as House version.

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Section 252.001 other than collection of a fee under Section 252.001(b).

SECTION 8. Subchapter E, Chapter 252, Estates Code, is amended by adding Section 252.2015 to read as follows:

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

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

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

(b) On the deposit of a will under Section 252.201, the clerk of the court shall notify the devisees named in the will in the manner prescribed by Section 252.105(a) 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 Subsection (a) is mailed to the person; or

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

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

SECTION 9. Section 101.0815, Government Code, is amended to read as follows:

Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS: ESTATES CODE. The clerk of a statutory

SECTION 8. Same as House version.

SECTION 9. Section 101.0815, Government Code, is amended to read as follows:

Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS: ESTATES CODE. The clerk of a statutory

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county court shall collect fees and costs under the Estates Code as follows:

- (1) fee for deposit of a will with the county clerk by a testator or another person for a testator during the testator's lifetime or by an attorney, business entity, or other person unable to maintain custody of a testator's will and unable to contact or locate the testator (Sec. 252.001, Estates 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) . . . 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) . . . probable cost of the guardianship proceeding;
- (5) nonrefundable fee to cover the cost of administering Subchapter G, Chapter 1104, Estates Code (Sec. 1104.303, Estates Code) . . . \$40; and
- (6) 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) . . . reasonable compensation.

SECTION 10. Section 101.1014, Government Code, is

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county court shall collect fees and costs under the Estates Code as follows:

- (1) fee for deposit of a will with the county clerk by a testator or another person for a testator during the testator's lifetime or by an attorney, business entity, or other person unable to maintain custody of a testator's will and unable to contact or locate the testator (Sec. 252.001, Estates Code) . . . ~~\$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) . . . 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) . . . probable cost of the guardianship proceeding;
- (5) nonrefundable fee to cover the cost of administering Subchapter G, Chapter 1104, Estates Code (Sec. 1104.303, Estates Code) . . . \$40; and
- (6) 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) . . . reasonable compensation.

SECTION 10. Section 101.1014, Government Code, is

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amended to read as follows:

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

- (1) fee for deposit of a will with the county clerk by a testator or another person for a testator during the testator's lifetime or by an attorney, business entity, or other person unable to maintain custody of a testator's will and unable to contact or locate the testator (Sec. 252.001, Estates 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) . . . 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) . . . probable cost of the guardianship proceeding;
- (5) nonrefundable fee to cover the cost of administering Subchapter G, Chapter 1104, Estates Code (Sec. 1104.303, Estates Code) . . . \$40; and
- (6) 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) . . . reasonable compensation.

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amended to read as follows:

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

- (1) fee for deposit of a will with the county clerk by a testator or another person for a testator during the testator's lifetime or by an attorney, business entity, or other person unable to maintain custody of a testator's will and unable to contact or locate the testator (Sec. 252.001, Estates Code) . . . ~~\$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) . . . 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) . . . probable cost of the guardianship proceeding;
- (5) nonrefundable fee to cover the cost of administering Subchapter G, Chapter 1104, Estates Code (Sec. 1104.303, Estates Code) . . . \$40; and
- (6) 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) . . . reasonable compensation.

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SECTION 11. Section 101.1215, Government Code, is amended to read as follows:

Sec. 101.1215. COUNTY COURT FEES AND COSTS: ESTATES CODE. The clerk of a county court shall collect the following fees and costs under the Estates Code:

(1) fee for deposit of a will with the county clerk by a testator or another person for a testator during the testator's lifetime or by an attorney, business entity, or other person unable to maintain custody of a testator's will and unable to contact or locate the testator (Sec. 252.001, Estates 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) . . . 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) . . . probable cost of the guardianship proceeding;

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

(6) costs for attorney ad litem appointed to pursue the restoration of a ward's capacity or modification of the ward's

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SECTION 11. Section 101.1215, Government Code, is amended to read as follows:

Sec. 101.1215. COUNTY COURT FEES AND COSTS: ESTATES CODE. The clerk of a county court shall collect the following fees and costs under the Estates Code:

(1) fee for deposit of a will with the county clerk by a testator or another person for a testator during the testator's lifetime or by an attorney, business entity, or other person unable to maintain custody of a testator's will and unable to contact or locate the testator (Sec. 252.001, Estates Code) . . . \$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) . . . 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) . . . probable cost of the guardianship proceeding;

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

(6) costs for attorney ad litem appointed to pursue the restoration of a ward's capacity or modification of the ward's

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guardianship (Sec. 1202.102, Estates Code) . . . reasonable compensation.

SECTION 12. 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):

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guardianship (Sec. 1202.102, Estates Code) . . . reasonable compensation.

SECTION 12. 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):

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- (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
- (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 (Sec. 118.068) . . . \$10.00
- (3) OTHER FEES
- (A) Issuing Document (Sec. 118.059):
original document and one copy . . . \$ 4.00
each additional set of an original and one copy . . . \$ 4.00
- (B) Certified Papers (Sec. 118.060):
for the clerk's certificate . . . \$ 5.00
plus a fee per page or part of a page of . . . \$ 1.00
- (C) Noncertified Papers (Sec. 118.0605):
for each page or part of a page . . . \$ 1.00
- (D) Letters Testamentary, Letter of Guardianship, Letter of

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- (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
- (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 (Sec. 118.068) . . . \$10.00
- (3) OTHER FEES
- (A) Issuing Document (Sec. 118.059):
original document and one copy . . . \$ 4.00
each additional set of an original and one copy . . . \$ 4.00
- (B) Certified Papers (Sec. 118.060):
for the clerk's certificate . . . \$ 5.00
plus a fee per page or part of a page of . . . \$ 1.00
- (C) Noncertified Papers (Sec. 118.0605):
for each page or part of a page . . . \$ 1.00
- (D) Letters Testamentary, Letter of Guardianship, Letter of

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Administration, or Abstract of Judgment (Sec. 118.061) . . . \$ 2.00
(E) Deposit and Safekeeping of Wills (Sec. 118.062) . . . \$10.00 [~~\$ 5.00~~]
(F) Mail Service of Process (Sec. 118.063) . . . same as sheriff
(G) Records Management and Preservation Fee . . . \$ 5.00
(H) Records Technology and Infrastructure Fee if authorized by the commissioners court of the county (Sec. 118.026) . . . \$ 2.00

SECTION 13. Section 118.062, Local Government Code, is amended to read as follows:

Sec. 118.062. DEPOSIT AND SAFEKEEPING OF WILLS. The fee for "Deposit and Safekeeping of Wills" under Section 118.052(3) is for receiving [~~filling~~] and keeping wills deposited [~~held~~] for safekeeping. The fee must be paid at the time the will is deposited with the county clerk [~~filed~~].

SECTION 14. Sections 252.001 and 252.201, Estates Code, as amended by this Act, and Section 252.2015, Estates Code, as added by this Act, apply to a will deposited with or delivered to a clerk described by those sections on or after the effective date of this Act. A will deposited with or delivered to a clerk described by those sections before the effective date of this Act is governed by the law in effect on the date the will was deposited or delivered, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2017.

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Administration, or Abstract of Judgment (Sec. 118.061) . . . \$ 2.00
(E) Deposit and Safekeeping of Wills (Sec. 118.062) . . . \$ 5.00
(F) Mail Service of Process (Sec. 118.063) . . . same as sheriff
(G) Records Management and Preservation Fee . . . \$ 5.00
(H) Records Technology and Infrastructure Fee if authorized by the commissioners court of the county (Sec. 118.026) . . . \$ 2.00

SECTION 13. Same as House version.

SECTION 14. Same as House version.

SECTION 15. Same as House version.

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