

By: Wray

H.B. No. 2780

A BILL TO BE ENTITLED

AN ACT

relating to obsolete references to the Texas Probate Code.

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

SECTION 1. Sections 71.012 and 71.022, Civil Practice and Remedies Code, are amended to read as follows:

Sec. 71.012. QUALIFICATION OF FOREIGN PERSONAL REPRESENTATIVE. If the executor or administrator of the estate of a nonresident individual is the plaintiff in an action under this subchapter, the foreign personal representative of the estate who has complied with the requirements of Chapter 503, Estates [~~Section 95, Texas Probate~~] Code, for the probate of a foreign will is not required to apply for ancillary letters testamentary under Section 501.006, Estates Code, to bring and prosecute the action.

Sec. 71.022. QUALIFICATION OF FOREIGN PERSONAL REPRESENTATIVE. If the executor or administrator of the estate of a nonresident individual is the plaintiff in an action under this subchapter, the foreign personal representative of the estate who has complied with the requirements of Chapter 503, Estates [~~Section 95, Texas Probate~~] Code, for the probate of a foreign will is not required to apply for ancillary letters testamentary under Section 501.006, Estates Code, to bring and prosecute the action.

SECTION 2. Section 54.241(d), Education Code, is amended to read as follows:

(d) A spouse or dependent child of a member of the Armed

1 Forces of the United States, who is not assigned to duty in Texas
2 but who has previously resided in Texas for a six-month period, is
3 entitled to pay the tuition fees and other fees or charges provided
4 for Texas residents for a term or semester at an institution of
5 higher education if the member:

6 (1) at least one year preceding the first day of the
7 term or semester executed a document with the applicable military
8 service that is in effect on the first day of the term or semester
9 and that:

10 (A) indicates that the member's permanent
11 residence address is in Texas; and

12 (B) designates Texas as the member's place of
13 legal residence for income tax purposes;

14 (2) has been registered to vote in Texas for the entire
15 year preceding the first day of the term or semester; and

16 (3) satisfies at least one of the following
17 requirements:

18 (A) for the entire year preceding the first day
19 of the term or semester has owned real property in Texas and in that
20 time has not been delinquent in the payment of any taxes on the
21 property;

22 (B) has had an automobile registered in Texas for
23 the entire year preceding the first day of the term or semester; or

24 (C) at least one year preceding the first day of
25 the term or semester executed a will that has not been revoked or
26 superseded indicating that the member is a resident of this state
27 and deposited the will with the county clerk of the county of the

1 member's residence under Subchapter A, Chapter 252, Estates
2 [~~Section 71, Texas Probate~~] Code.

3 SECTION 3. Section 358.060(a), Estates Code, is amended to
4 read as follows:

5 (a) An oil, gas, and mineral lease executed by a personal
6 representative [~~under the former Texas Probate Code or this code~~]
7 may be amended by an instrument that provides that a shut-in gas
8 well on the land covered by the lease or on land pooled with all or
9 part of the land covered by the lease continues the lease in effect
10 after the lease's five-year primary term.

11 SECTION 4. Section 358.201, Estates Code, is amended to
12 read as follows:

13 Sec. 358.201. AUTHORIZATION FOR EXECUTION OF AGREEMENTS.
14 As to any mineral lease or pooling or unitization agreement,
15 executed on behalf of an estate [~~before January 1, 1956, or on or~~
16 ~~after that date under the provisions of the former Texas Probate~~
17 ~~Code or this code,~~] or [~~executed~~] by a former owner of land,
18 minerals, or royalty affected by the lease or agreement, the
19 personal representative of the estate being administered may,
20 without further court order and without consideration, execute:

- 21 (1) division orders;
- 22 (2) transfer orders;
- 23 (3) instruments of correction;
- 24 (4) instruments designating depository banks for the
25 receipt of delay rentals or shut-in gas well royalty to accrue or
26 become payable under the terms of the lease; and
- 27 (5) similar instruments relating to the lease or

1 agreement and the property covered by the lease or agreement.

2 SECTION 5. Section 1160.060(a), Estates Code, is amended to
3 read as follows:

4 (a) An oil, gas, and mineral lease executed by a guardian of
5 an estate [~~under this chapter or former Chapter XIII, Texas Probate~~
6 ~~Code,~~] may be amended by an instrument that provides that a shut-in
7 gas well on the land covered by the lease or on land pooled with all
8 or part of the land covered by the lease continues the lease in
9 effect after the lease's five-year primary term.

10 SECTION 6. Section 81.1011(a), Government Code, is amended
11 to read as follows:

12 (a) Notwithstanding Section 81.101(a), the "practice of
13 law" does not include technical advice, consultation, and document
14 completion assistance provided by an employee or volunteer of an
15 area agency on aging affiliated with the Health and Human Services
16 Commission [~~Texas Department on Aging~~] who meets the requirements
17 of Subsection (b) if that advice, consultation, and assistance
18 relates to:

19 (1) a medical power of attorney or other advance
20 directive under Chapter 166, Health and Safety Code; or

21 (2) a designation of guardian before need arises under
22 Section 1104.202, Estates [~~679, Texas Probate~~] Code.

23 SECTION 7. Section 313.004(b), Health and Safety Code, is
24 amended to read as follows:

25 (b) Any dispute as to the right of a party to act as a
26 surrogate decision-maker may be resolved only by a court of record
27 having jurisdiction of proceedings under Title 3, Estates [~~Chapter~~

1 ~~V, Texas Probate]~~ Code.

2 SECTION 8. Section 552.018(e), Health and Safety Code, is
3 amended to read as follows:

4 (e) For the purposes of this section, the following are not
5 considered to be trusts and are not entitled to the exemption
6 provided by this section:

7 (1) a guardianship administered [~~established under~~
8 ~~the former Texas Probate Code or~~] under the Estates Code;

9 (2) a trust established under Chapter 142, Property
10 Code;

11 (3) a facility custodial account established under
12 Section 551.003;

13 (4) the provisions of a divorce decree or other court
14 order relating to child support obligations;

15 (5) an administration of a decedent's estate; or

16 (6) an arrangement in which funds are held in the
17 registry or by the clerk of a court.

18 SECTION 9. Section 593.081(f), Health and Safety Code, is
19 amended to read as follows:

20 (f) For the purposes of this section, the following are not
21 considered to be trusts and are not entitled to the exemption
22 provided by this section:

23 (1) a guardianship administered [~~established under~~
24 ~~the former Texas Probate Code or~~] under the Estates Code;

25 (2) a trust established under Chapter 142, Property
26 Code;

27 (3) a facility custodial account established under

1 Section 551.003;

2 (4) the provisions of a divorce decree or other court
3 order relating to child support obligations;

4 (5) an administration of a decedent's estate; or

5 (6) an arrangement in which funds are held in the
6 registry or by the clerk of a court.

7 SECTION 10. Section 594.036(b), Health and Safety Code, is
8 amended to read as follows:

9 (b) Notice shall also be served on the parents if the
10 resident is a minor and on the guardian for the resident's person if
11 the resident has been declared to be incapacitated [~~as provided by~~
12 ~~the former Texas Probate Code or the Estates Code~~] and a guardian
13 has been appointed in a proceeding under Title 3, Estates Code.

14 SECTION 11. Section 258.104(b), Occupations Code, is
15 amended to read as follows:

16 (b) Consent for the release of privileged information must
17 be in writing and be signed by:

18 (1) the patient;

19 (2) a parent or legal guardian of the patient, if the
20 patient is a minor;

21 (3) a legal guardian of the patient, if the patient has
22 been adjudicated incompetent to manage the patient's personal
23 affairs;

24 (4) an attorney ad litem appointed for the patient, as
25 authorized by:

26 (A) Chapter 107, Family Code;

27 (B) Subtitle B, Title 6, Health and Safety Code;

1 (C) Subtitle C, Title 7, Health and Safety Code;
2 (D) Subtitle D, Title 7, Health and Safety Code;
3 (E) Subtitle E, Title 7, Health and Safety Code;
4 (F) Chapter 1054, Estates [~~V, Texas Probate~~
5 Code; or

6 (G) any other law; or

7 (5) a personal representative of the patient, if the
8 patient is deceased.

9 SECTION 12. Section [41.0021\(e\)](#), Property Code, is amended
10 to read as follows:

11 (e) This section does not affect the rights of a surviving
12 spouse or surviving children under Section [52](#), Article XVI, Texas
13 Constitution, or Chapter 353, Estates [~~Part 3, Chapter VIII, Texas~~
14 ~~Probate~~] Code.

15 SECTION 13. Section [112.034\(a\)](#), Property Code, is amended
16 to read as follows:

17 (a) If a settlor transfers both the legal title and all
18 equitable interests in property to the same person or retains both
19 the legal title and all equitable interests in property in himself
20 as both the sole trustee and the sole beneficiary, a trust is not
21 created and the transferee holds the property as his own. This
22 subtitle does not invalidate a trust account validly created and in
23 effect under Chapter [113, Estates](#) [~~XI, Texas Probate~~] Code.

24 SECTION 14. This Act takes effect September 1, 2019.