

1-1 By: Wray (Senate Sponsor - Rodríguez) H.B. No. 2780
 1-2 (In the Senate - Received from the House May 2, 2019;
 1-3 May 3, 2019, read first time and referred to Committee on State
 1-4 Affairs; May 14, 2019, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 14, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to obsolete references to the Texas Probate Code.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Sections 71.012 and 71.022, Civil Practice and
 1-22 Remedies Code, are amended to read as follows:
 1-23 Sec. 71.012. QUALIFICATION OF FOREIGN PERSONAL
 1-24 REPRESENTATIVE. If the executor or administrator of the estate of
 1-25 a nonresident individual is the plaintiff in an action under this
 1-26 subchapter, the foreign personal representative of the estate who
 1-27 has complied with the requirements of Chapter 503, Estates [~~Section~~
 1-28 ~~95, Texas Probate~~] Code, for the probate of a foreign will is not
 1-29 required to apply for ancillary letters testamentary under Section
 1-30 501.006, Estates Code, to bring and prosecute the action.
 1-31 Sec. 71.022. QUALIFICATION OF FOREIGN PERSONAL
 1-32 REPRESENTATIVE. If the executor or administrator of the estate of
 1-33 a nonresident individual is the plaintiff in an action under this
 1-34 subchapter, the foreign personal representative of the estate who
 1-35 has complied with the requirements of Chapter 503, Estates [~~Section~~
 1-36 ~~95, Texas Probate~~] Code, for the probate of a foreign will is not
 1-37 required to apply for ancillary letters testamentary under Section
 1-38 501.006, Estates Code, to bring and prosecute the action.
 1-39 SECTION 2. Section 54.241(d), Education Code, is amended to
 1-40 read as follows:
 1-41 (d) A spouse or dependent child of a member of the Armed
 1-42 Forces of the United States, who is not assigned to duty in Texas
 1-43 but who has previously resided in Texas for a six-month period, is
 1-44 entitled to pay the tuition fees and other fees or charges provided
 1-45 for Texas residents for a term or semester at an institution of
 1-46 higher education if the member:
 1-47 (1) at least one year preceding the first day of the
 1-48 term or semester executed a document with the applicable military
 1-49 service that is in effect on the first day of the term or semester
 1-50 and that:
 1-51 (A) indicates that the member's permanent
 1-52 residence address is in Texas; and
 1-53 (B) designates Texas as the member's place of
 1-54 legal residence for income tax purposes;
 1-55 (2) has been registered to vote in Texas for the entire
 1-56 year preceding the first day of the term or semester; and
 1-57 (3) satisfies at least one of the following
 1-58 requirements:
 1-59 (A) for the entire year preceding the first day
 1-60 of the term or semester has owned real property in Texas and in that

2-1 time has not been delinquent in the payment of any taxes on the
2-2 property;

2-3 (B) has had an automobile registered in Texas for
2-4 the entire year preceding the first day of the term or semester; or

2-5 (C) at least one year preceding the first day of
2-6 the term or semester executed a will that has not been revoked or
2-7 superseded indicating that the member is a resident of this state
2-8 and deposited the will with the county clerk of the county of the
2-9 member's residence under Subchapter A, Chapter 252, Estates
2-10 [Section 71, Texas Probate] Code.

2-11 SECTION 3. Section 358.060(a), Estates Code, is amended to
2-12 read as follows:

2-13 (a) An oil, gas, and mineral lease executed by a personal
2-14 representative [~~under the former Texas Probate Code or this code~~]
2-15 may be amended by an instrument that provides that a shut-in gas
2-16 well on the land covered by the lease or on land pooled with all or
2-17 part of the land covered by the lease continues the lease in effect
2-18 after the lease's five-year primary term.

2-19 SECTION 4. Section 358.201, Estates Code, is amended to
2-20 read as follows:

2-21 Sec. 358.201. AUTHORIZATION FOR EXECUTION OF AGREEMENTS.
2-22 As to any mineral lease or pooling or unitization agreement,
2-23 executed on behalf of an estate [~~before January 1, 1956, or on or~~
2-24 ~~after that date under the provisions of the former Texas Probate~~
2-25 ~~Code or this code,~~] or [~~executed~~] by a former owner of land,
2-26 minerals, or royalty affected by the lease or agreement, the
2-27 personal representative of the estate being administered may,
2-28 without further court order and without consideration, execute:

- 2-29 (1) division orders;
2-30 (2) transfer orders;
2-31 (3) instruments of correction;
2-32 (4) instruments designating depository banks for the
2-33 receipt of delay rentals or shut-in gas well royalty to accrue or
2-34 become payable under the terms of the lease; and
2-35 (5) similar instruments relating to the lease or
2-36 agreement and the property covered by the lease or agreement.

2-37 SECTION 5. Section 1160.060(a), Estates Code, is amended to
2-38 read as follows:

2-39 (a) An oil, gas, and mineral lease executed by a guardian of
2-40 an estate [~~under this chapter or former Chapter XIII, Texas Probate~~
2-41 ~~Code,~~] may be amended by an instrument that provides that a shut-in
2-42 gas well on the land covered by the lease or on land pooled with all
2-43 or part of the land covered by the lease continues the lease in
2-44 effect after the lease's five-year primary term.

2-45 SECTION 6. Section 81.1011(a), Government Code, is amended
2-46 to read as follows:

2-47 (a) Notwithstanding Section 81.101(a), the "practice of
2-48 law" does not include technical advice, consultation, and document
2-49 completion assistance provided by an employee or volunteer of an
2-50 area agency on aging affiliated with the Health and Human Services
2-51 Commission [~~Texas Department on Aging~~] who meets the requirements
2-52 of Subsection (b) if that advice, consultation, and assistance
2-53 relates to:

- 2-54 (1) a medical power of attorney or other advance
2-55 directive under Chapter 166, Health and Safety Code; or
2-56 (2) a designation of guardian before need arises under
2-57 Section 1104.202, Estates [~~679, Texas Probate~~] Code.

2-58 SECTION 7. Section 313.004(b), Health and Safety Code, is
2-59 amended to read as follows:

2-60 (b) Any dispute as to the right of a party to act as a
2-61 surrogate decision-maker may be resolved only by a court of record
2-62 having jurisdiction of proceedings under Title 3, Estates [~~Chapter~~
2-63 ~~V, Texas Probate~~] Code.

2-64 SECTION 8. Section 552.018(e), Health and Safety Code, is
2-65 amended to read as follows:

2-66 (e) For the purposes of this section, the following are not
2-67 considered to be trusts and are not entitled to the exemption
2-68 provided by this section:

- 2-69 (1) a guardianship administered [~~established under~~

3-1 ~~the former Texas Probate Code or~~] under the Estates Code;
3-2 (2) a trust established under Chapter 142, Property
3-3 Code;
3-4 (3) a facility custodial account established under
3-5 Section 551.003;
3-6 (4) the provisions of a divorce decree or other court
3-7 order relating to child support obligations;
3-8 (5) an administration of a decedent's estate; or
3-9 (6) an arrangement in which funds are held in the
3-10 registry or by the clerk of a court.

3-11 SECTION 9. Section 593.081(f), Health and Safety Code, is
3-12 amended to read as follows:

3-13 (f) For the purposes of this section, the following are not
3-14 considered to be trusts and are not entitled to the exemption
3-15 provided by this section:

3-16 (1) a guardianship administered [~~established under~~
3-17 ~~the former Texas Probate Code or~~] under the Estates Code;

3-18 (2) a trust established under Chapter 142, Property
3-19 Code;

3-20 (3) a facility custodial account established under
3-21 Section 551.003;

3-22 (4) the provisions of a divorce decree or other court
3-23 order relating to child support obligations;

3-24 (5) an administration of a decedent's estate; or

3-25 (6) an arrangement in which funds are held in the
3-26 registry or by the clerk of a court.

3-27 SECTION 10. Section 594.036(b), Health and Safety Code, is
3-28 amended to read as follows:

3-29 (b) Notice shall also be served on the parents if the
3-30 resident is a minor and on the guardian for the resident's person if
3-31 the resident has been declared to be incapacitated [~~as provided by~~
3-32 ~~the former Texas Probate Code or the Estates Code~~] and a guardian
3-33 has been appointed in a proceeding under Title 3, Estates Code.

3-34 SECTION 11. Section 258.104(b), Occupations Code, is
3-35 amended to read as follows:

3-36 (b) Consent for the release of privileged information must
3-37 be in writing and be signed by:

3-38 (1) the patient;

3-39 (2) a parent or legal guardian of the patient, if the
3-40 patient is a minor;

3-41 (3) a legal guardian of the patient, if the patient has
3-42 been adjudicated incompetent to manage the patient's personal
3-43 affairs;

3-44 (4) an attorney ad litem appointed for the patient, as
3-45 authorized by:

3-46 (A) Chapter 107, Family Code;

3-47 (B) Subtitle B, Title 6, Health and Safety Code;

3-48 (C) Subtitle C, Title 7, Health and Safety Code;

3-49 (D) Subtitle D, Title 7, Health and Safety Code;

3-50 (E) Subtitle E, Title 7, Health and Safety Code;

3-51 (F) Chapter 1054, Estates [~~V, Texas Probate~~]

3-52 Code; or

3-53 (G) any other law; or

3-54 (5) a personal representative of the patient, if the
3-55 patient is deceased.

3-56 SECTION 12. Section 41.0021(e), Property Code, is amended
3-57 to read as follows:

3-58 (e) This section does not affect the rights of a surviving
3-59 spouse or surviving children under Section 52, Article XVI, Texas
3-60 Constitution, or Chapter 353, Estates [~~Part 3, Chapter VIII, Texas~~
3-61 ~~Probate~~] Code.

3-62 SECTION 13. Section 112.034(a), Property Code, is amended
3-63 to read as follows:

3-64 (a) If a settlor transfers both the legal title and all
3-65 equitable interests in property to the same person or retains both
3-66 the legal title and all equitable interests in property in himself
3-67 as both the sole trustee and the sole beneficiary, a trust is not
3-68 created and the transferee holds the property as his own. This
3-69 subtitle does not invalidate a trust account validly created and in

4-1 effect under Chapter [113](#), Estates [~~XI, Texas Probate~~] Code.

4-2 SECTION 14. This Act takes effect September 1, 2019.

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