

By: Moody

H.B. No. 2182

A BILL TO BE ENTITLED

AN ACT

relating to decedents' estates and the delivery of certain notices or other communications in connection with those estates or multiple-party accounts.

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

SECTION 1. Chapter 22, Estates Code, is amended by adding Section 22.0295 to read as follows:

Sec. 22.0295. QUALIFIED DELIVERY METHOD. "Qualified delivery method" means delivery by:

(1) hand delivery by courier, with courier's proof of delivery receipt;

(2) certified or registered mail, return receipt requested, with return receipt; or

(3) a private delivery service designated as a designated delivery service by the United States Secretary of the Treasury under Section 7502(f)(2), Internal Revenue Code of 1986, with proof of delivery receipt.

SECTION 2. The heading to Section 51.052, Estates Code, is amended to read as follows:

Sec. 51.052. SERVICE BY MAIL OR PRIVATE DELIVERY.

SECTION 3. Sections 51.052(b), (c), (d), (e), (f), and (g), Estates Code, are amended to read as follows:

(b) Except as provided by Subsection (c), the county clerk shall issue a citation or notice required or permitted to be served

1 by a qualified delivery method [~~registered or certified mail~~] and
2 shall serve the citation or notice by sending [~~mailing~~] the
3 original citation or notice by a qualified delivery method
4 [~~registered or certified mail~~].

5 (c) A personal representative shall issue a notice required
6 to be given by the representative by a qualified delivery method
7 [~~registered or certified mail~~] and shall serve the notice by
8 sending [~~mailing~~] the original notice by a qualified delivery
9 method [~~registered or certified mail~~].

10 (d) The county clerk or personal representative, as
11 applicable, shall send [~~mail~~] a citation or notice under Subsection
12 (b) or (c) with an instruction to deliver the citation or notice to
13 the addressee only and with return receipt or other proof of
14 delivery requested. The clerk or representative, as applicable,
15 shall address the envelope containing the citation or notice to:

16 (1) the attorney of record in the proceeding for the
17 person to be cited or notified; or

18 (2) the person to be cited or notified, if the citation
19 or notice to the attorney is returned undelivered or the person to
20 be cited or notified has no attorney of record in the proceeding.

21 (e) Service by a qualified delivery method [~~mail~~] shall be
22 made at least 20 days before the return day of the service,
23 excluding the date of service. The date of service [~~by mail~~] is the
24 date of mailing, the date of deposit with the private delivery
25 service, or the date of delivery by the courier, as applicable.

26 (f) A copy of a citation or notice served under Subsection
27 (a), (b), or (c), together with a certificate of the person serving

1 the citation or notice showing that the citation or notice was sent
2 ~~[mailed]~~ and the date of the mailing, date of deposit with a private
3 delivery service, or date of delivery by courier, as applicable,
4 shall be filed and recorded. A returned receipt or proof of
5 delivery receipt for a citation or notice served under Subsection
6 (b) or (c) shall be attached to the certificate.

7 (g) If a citation or notice served by a qualified delivery
8 method ~~[mail]~~ is returned undelivered, a new citation or notice
9 shall be issued. Service of the new citation or notice must be made
10 by posting.

11 SECTION 4. Section 51.055(a), Estates Code, is amended to
12 read as follows:

13 (a) If a party is represented by an attorney of record in a
14 probate proceeding, each citation or notice required to be served
15 on the party in that proceeding shall be served instead on that
16 attorney. A notice under this subsection may be served by delivery
17 to the attorney in person or by a qualified delivery method
18 ~~[registered or certified mail]~~.

19 SECTION 5. Section 51.056, Estates Code, is amended to read
20 as follows:

21 Sec. 51.056. SERVICE ON PERSONAL REPRESENTATIVE OR
22 RECEIVER. Unless this title expressly provides for another method
23 of service, the county clerk who issues a citation or notice
24 required to be served on a personal representative or receiver
25 shall serve the citation or notice by sending ~~[mailing]~~ the
26 original citation or notice by a qualified delivery method
27 ~~[registered or certified mail]~~ to:

1 (1) the representative's or receiver's attorney of
2 record; or

3 (2) the representative or receiver, if the
4 representative or receiver does not have an attorney of record.

5 SECTION 6. Section 51.103(b), Estates Code, is amended to
6 read as follows:

7 (b) Proof of service consists of:

8 (1) if the service is made by a sheriff or constable,
9 the return of service;

10 (2) if the service is made by a private person, the
11 person's affidavit;

12 (3) if the service is made by a qualified delivery
13 method [~~mail~~]:

14 (A) the certificate of the county clerk making
15 the service, or the affidavit of the personal representative or
16 other person making the service, stating that the citation or
17 notice was mailed, deposited with a private delivery service, or
18 delivered by courier, as applicable, and the date of the mailing or
19 deposit with the delivery service or the date of the courier
20 delivery, as applicable; and

21 (B) the return receipt or other proof of delivery
22 receipt attached to the certificate or affidavit, as applicable, if
23 the sending [~~mailing~~] was by a qualified delivery method
24 [~~registered or certified mail~~] and a receipt is available [~~has been~~
25 ~~returned~~]; and

26 (4) if the service is made by publication:

27 (A) an affidavit:

1 (i) made by the Office of Court
2 Administration of the Texas Judicial System or an employee of the
3 office;

4 (ii) that contains or to which is attached a
5 copy of the published citation or notice; and

6 (iii) that states the date of publication
7 on the public information Internet website maintained as required
8 by Section 72.034, Government Code, as added by Chapter 606 (S.B.
9 891), Acts of the 86th Legislature, Regular Session, 2019; and

10 (B) an affidavit:

11 (i) made by the publisher of the newspaper
12 in which the citation or notice was published or an employee of the
13 publisher;

14 (ii) that contains or to which is attached a
15 copy of the published citation or notice; and

16 (iii) that states the date of publication
17 printed on the newspaper in which the citation or notice was
18 published.

19 SECTION 7. Section 56.002(b), Estates Code, is amended to
20 read as follows:

21 (b) The resident agent shall send, by a qualified delivery
22 method [~~certified mail, return receipt requested~~], a copy of a
23 resignation statement filed under Subsection (a) to:

24 (1) the personal representative at the address most
25 recently known by the resident agent; and

26 (2) each party in the case or the party's attorney or
27 other designated representative of record.

1 SECTION 8. The heading to Section 101.052, Estates Code, is
2 amended to read as follows:

3 Sec. 101.052. LIABILITY OF COMMUNITY PROPERTY FOR DEBTS [~~OF~~
4 ~~DECEASED SPOUSE~~].

5 SECTION 9. Section 101.052, Estates Code, is amended by
6 amending Subsections (a) and (b) and adding Subsection (a-1) to
7 read as follows:

8 (a) The community property that was by law under [~~subject~~
9 ~~to~~] the sole management, control, and disposition of a spouse or
10 under the joint management, control, and disposition of the spouses
11 [a spouse] during marriage continues to be subject to the
12 liabilities of that spouse on the death of either spouse.

13 (a-1) The undivided one-half interest that the surviving
14 spouse owned in community property that was by law under the sole
15 management, control, and disposition of the deceased spouse during
16 marriage is subject to the liabilities of the surviving spouse on
17 the death of the deceased spouse.

18 (b) The undivided one-half interest that the deceased
19 spouse owned in [~~any other nonexempt~~] community property that was
20 by law under the sole management, control, and disposition of the
21 surviving spouse during marriage passes to the deceased spouse's
22 heirs or devisees charged with the liabilities of [~~debts that were~~
23 ~~enforceable against~~] the deceased spouse [~~before death~~].

24 SECTION 10. Section 113.251(c), Estates Code, is amended to
25 read as follows:

26 (c) Not later than the 30th day after the date a security
27 interest on a multiple-party account is perfected, a secured

1 creditor that is a financial institution with accounts insured by
2 the Federal Deposit Insurance Corporation shall provide written
3 notice of the pledge of the account to any other party to the
4 account who did not create the security interest. The notice must
5 be sent by a qualified delivery method [~~certified mail~~] to each
6 other party at the last address the party provided to the depository
7 bank.

8 SECTION 11. Section 202.005, Estates Code, is amended to
9 read as follows:

10 Sec. 202.005. APPLICATION FOR PROCEEDING TO DECLARE
11 HEIRSHIP. A person authorized by Section 202.004 to commence a
12 proceeding to declare heirship must file an application in a court
13 specified by Section 33.004 to commence the proceeding. The
14 application must state:

15 (1) the decedent's name and date and place of death;
16 (2) the names and physical addresses where service can
17 be had of the decedent's heirs, the relationship of each heir to the
18 decedent, whether each heir is an adult or minor, and the true
19 interest of the applicant and each of the heirs in the decedent's
20 estate or in the trust, as applicable;

21 (3) if the date or place of the decedent's death or the
22 name or physical address where service can be had of an heir is not
23 definitely known to the applicant, all the material facts and
24 circumstances with respect to which the applicant has knowledge and
25 information that might reasonably tend to show the date or place of
26 the decedent's death or the name or physical address where service
27 can be had of the heir;

1 (4) that all children born to or adopted by the
2 decedent have been listed;

3 (5) that each of the decedent's marriages has been
4 listed with:

5 (A) the date of the marriage;

6 (B) the name of the spouse;

7 (C) the date and place of termination if the
8 marriage was terminated; and

9 (D) other facts to show whether a spouse has had
10 an interest in the decedent's property;

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

13 (7) a general description of all property, as
14 applicable:

15 (A) belonging to the decedent's estate that is
16 subject to distribution under a judgment in the proceeding; or

17 (B) held in trust for the benefit of the
18 decedent [~~as applicable~~]; and

19 (8) an explanation for the omission from the
20 application of any of the information required by this section.

21 SECTION 12. Section 202.051, Estates Code, is amended to
22 read as follows:

23 Sec. 202.051. SERVICE OF CITATION BY QUALIFIED DELIVERY
24 METHOD [~~MAIL~~] WHEN RECIPIENT'S NAME AND ADDRESS ARE KNOWN OR
25 ASCERTAINABLE. Except as provided by Section 202.054, citation in
26 a proceeding to declare heirship must be served by a qualified
27 delivery method [~~registered or certified mail~~] on:

1 (1) each distributee who is 12 years of age or older
2 and whose name and address are known or can be ascertained through
3 the exercise of reasonable diligence; and

4 (2) the parent, managing conservator, or guardian of
5 each distributee who is younger than 12 years of age if the name and
6 address of the parent, managing conservator, or guardian are known
7 or can be reasonably ascertained.

8 SECTION 13. Section 202.056, Estates Code, is amended to
9 read as follows:

10 Sec. 202.056. WAIVER OF SERVICE OF CITATION. (a) A [~~Except~~
11 ~~as provided by Subsection (b)(2), a~~] distributee who is 16 years of
12 age or older may waive citation required by this subchapter to be
13 served on the distributee.

14 (b) A parent, managing conservator, guardian, attorney ad
15 litem, or guardian ad litem of a [~~minor~~] distributee who is younger
16 than 16 years of age may [~~+~~

17 [~~(1) is younger than 12 years of age may~~] waive
18 citation required by this subchapter to be served on the
19 distributee [~~, and~~

20 [~~(2) is 12 years of age or older may not waive citation~~
21 ~~required by this subchapter to be served on the distributee]~~.

22 SECTION 14. Sections 202.151(b) and (c), Estates Code, are
23 amended to read as follows:

24 (b) Except as provided by Subsection (c), in a proceeding to
25 declare heirship, testimony regarding a decedent's heirs and family
26 history must be taken:

27 (1) from two disinterested and credible witnesses in

1 open court;i

2 (2) [7] by deposition in accordance with Section
3 51.203;i

4 (3) by a recorded statement of facts contained in:

5 (A) an affidavit or instrument that satisfies the
6 requirements of Section 203.001; or

7 (B) a judgment of a court of record as specified
8 by Section 203.001(a)(1)(B); [7] or

9 (4) in accordance with the Texas Rules of Civil
10 Procedure.

11 (c) If it is shown to the court's satisfaction in a
12 proceeding to declare heirship that, after a diligent search was
13 made, only one disinterested and credible witness can be found who
14 can make the required proof in the proceeding, the testimony of that
15 witness must be taken:

16 (1) in open court;i

17 (2) [7] by deposition in accordance with Section
18 51.203;i

19 (3) by a recorded statement of facts contained in:

20 (A) an affidavit or instrument that satisfies the
21 requirements of Section 203.001; or

22 (B) a judgment of a court of record as specified
23 by Section 203.001(a)(1)(B); [7] or

24 (4) in accordance with the Texas Rules of Civil
25 Procedure.

26 SECTION 15. Section 202.203, Estates Code, is amended to
27 read as follows:

1 Sec. 202.203. CORRECTION OF JUDGMENT AT REQUEST OF HEIR NOT
2 PROPERLY SERVED. If an heir of a decedent who is the subject of a
3 proceeding to declare heirship is not served with citation by a
4 qualified delivery method [~~registered or certified mail~~] or
5 personal service in the proceeding, the heir may:

6 (1) have the judgment in the proceeding corrected by
7 bill of review:

8 (A) at any time, but not later than the fourth
9 anniversary of the date of the judgment; or

10 (B) after the passage of any length of time, on
11 proof of actual fraud; and

12 (2) recover the heir's just share of the property or
13 the value of that share from:

14 (A) the heirs named in the judgment; and

15 (B) those who claim under the heirs named in the
16 judgment and who are not bona fide purchasers for value.

17 SECTION 16. Section 256.052(a), Estates Code, is amended to
18 read as follows:

19 (a) An application for the probate of a will must state and
20 aver the following to the extent each is known to the applicant or
21 can, with reasonable diligence, be ascertained by the applicant:

22 (1) each applicant's name and domicile;

23 ~~[(1-a) the last three numbers of each applicant's~~
24 ~~driver's license number and social security number, if the~~
25 ~~applicant has been issued one,]~~

26 (2) the testator's name, domicile, and, if known, age,
27 on the date of the testator's death;

1 (2-a) the last three numbers of the testator's
2 driver's license number and social security number;

3 (3) the fact, date, and place of the testator's death;

4 (4) facts showing that the court with which the
5 application is filed has venue;

6 (5) that the testator owned property, including a
7 statement generally describing the property and the property's
8 probable value;

9 (6) the date of the will;

10 (7) the name, state of residence, and physical address
11 where service can be had of the executor named in the will or other
12 person to whom the applicant desires that letters be issued;

13 (8) the name of each subscribing witness to the will,
14 if any;

15 (9) whether one or more children born to or adopted by
16 the testator after the testator executed the will survived the
17 testator and, if so, the name of each of those children;

18 (10) whether a marriage of the testator was ever
19 dissolved after the will was made and, if so, when and from whom;

20 (11) whether the state, a governmental agency of the
21 state, or a charitable organization is named in the will as a
22 devisee; and

23 (12) that the executor named in the will, the
24 applicant, or another person to whom the applicant desires that
25 letters be issued is not disqualified by law from accepting the
26 letters.

27 SECTION 17. Section [257.051\(a\)](#), Estates Code, is amended to

1 read as follows:

2 (a) An application for the probate of a will as a muniment of
3 title must state and aver the following to the extent each is known
4 to the applicant or can, with reasonable diligence, be ascertained
5 by the applicant:

6 (1) each applicant's name and domicile;

7 ~~[(1-a) the last three numbers of each applicant's
8 driver's license number and social security number, if the
9 applicant has been issued one;]~~

10 (2) the testator's name, domicile, and, if known, age,
11 on the date of the testator's death;

12 (2-a) the last three numbers of the testator's
13 driver's license number and social security number;

14 (3) the fact, date, and place of the testator's death;

15 (4) facts showing that the court with which the
16 application is filed has venue;

17 (5) that the testator owned property, including a
18 statement generally describing the property and the property's
19 probable value;

20 (6) the date of the will;

21 (7) the name, state of residence, and physical address
22 where service can be had of the executor named in the will;

23 (8) the name of each subscribing witness to the will,
24 if any;

25 (9) whether one or more children born to or adopted by
26 the testator after the testator executed the will survived the
27 testator and, if so, the name of each of those children;

1 (10) that the testator's estate does not owe an unpaid
2 debt, other than any debt secured by a lien on real estate, or that
3 for another reason there is no necessity for administration of the
4 estate;

5 (11) whether a marriage of the testator was ever
6 dissolved after the will was made and, if so, when and from whom;
7 and

8 (12) whether the state, a governmental agency of the
9 state, or a charitable organization is named in the will as a
10 devisee.

11 SECTION 18. Section 258.002, Estates Code, is amended by
12 adding Subsections (d) and (e) to read as follows:

13 (d) An heir who is 16 years of age or older may waive
14 citation required by this section to be served on the heir.

15 (e) The parent, managing conservator, guardian, attorney ad
16 litem, or guardian ad litem of an heir who is younger than 16 years
17 of age may waive citation required by this section to be served on
18 the heir.

19 SECTION 19. Section 301.052(a), Estates Code, is amended to
20 read as follows:

21 (a) An application for letters of administration when no
22 will is alleged to exist must state:

23 (1) the applicant's name, domicile, and, if any,
24 relationship to the decedent;

25 ~~[(1-a) the last three numbers of:~~

26 ~~[(A) the applicant's driver's license number, if~~
27 ~~the applicant has been issued one, and~~

1 [~~(B) the applicant's social security number, if~~
2 ~~the applicant has been issued one,~~]

3 (2) the decedent's name and that the decedent died
4 intestate;

5 (2-a) if known by the applicant at the time the
6 applicant files the application, the last three numbers of the
7 decedent's driver's license number and social security number;

8 (3) the fact, date, and place of the decedent's death;

9 (4) facts necessary to show that the court with which
10 the application is filed has venue;

11 (5) whether the decedent owned property and, if so,
12 include a statement of the property's probable value;

13 (6) the name and address, if known, whether the heir is
14 an adult or minor, and the relationship to the decedent of each of
15 the decedent's heirs;

16 (7) if known by the applicant at the time the applicant
17 files the application, whether one or more children were born to or
18 adopted by the decedent and, if so, the name, birth date, and place
19 of birth of each child;

20 (8) if known by the applicant at the time the applicant
21 files the application, whether the decedent was ever divorced and,
22 if so, when and from whom;

23 (9) that a necessity exists for administration of the
24 decedent's estate and an allegation of the facts that show that
25 necessity; and

26 (10) that the applicant is not disqualified by law
27 from acting as administrator.

1 SECTION 20. Section 305.001, Estates Code, is amended to
2 read as follows:

3 Sec. 305.001. DEFINITIONS. In this chapter:

4 (1) "Bond" means a bond required by this chapter to be
5 given by a person appointed to serve as a personal representative.

6 (2) "Oath" means an oath that may [~~required by this~~
7 ~~chapter to~~] be taken by a person appointed to serve as a personal
8 representative.

9 (3) "Declaration" means a written declaration that may
10 be made and signed by a person appointed to serve as a personal
11 representative.

12 SECTION 21. Section 305.002, Estates Code, is amended to
13 read as follows:

14 Sec. 305.002. MANNER OF QUALIFICATION OF PERSONAL
15 REPRESENTATIVE. (a) A personal representative, other than an
16 executor described by Subsection (b), is considered to have
17 qualified when the representative has:

18 (1) taken and filed the oath prescribed by Subchapter
19 B or made, signed, and filed the declaration prescribed by
20 Subchapter B;

21 (2) filed the required bond with the clerk; and

22 (3) obtained the judge's approval of the bond.

23 (b) An executor who is not required to give a bond is
24 considered to have qualified when the executor has taken and filed
25 the oath prescribed by Subchapter B or made, signed, and filed the
26 declaration prescribed by Subchapter B.

27 SECTION 22. Section 305.003, Estates Code, is amended to

1 read as follows:

2 Sec. 305.003. PERIOD FOR TAKING OATH OR MAKING AND SIGNING
3 DECLARATION. An oath may be taken and subscribed or a declaration
4 may be made and signed at any time before:

5 (1) the 21st day after the date of the order granting
6 letters testamentary or of administration, as applicable; or

7 (2) the letters testamentary or of administration, as
8 applicable, are revoked for a failure to qualify within the period
9 allowed.

10 SECTION 23. The heading to Subchapter B, Chapter 305,
11 Estates Code, is amended to read as follows:

12 SUBCHAPTER B. OATHS OR DECLARATIONS

13 SECTION 24. Section 305.051, Estates Code, is amended to
14 read as follows:

15 Sec. 305.051. OATH OR DECLARATION OF EXECUTOR OR
16 ADMINISTRATOR WITH WILL ANNEXED. (a) Before the issuance of
17 letters testamentary or letters of administration with the will
18 annexed, the person named as executor or appointed as administrator
19 with the will annexed shall:

20 (1) take and subscribe an oath as prescribed by
21 Subsection (b); or

22 (2) make and sign a declaration as prescribed by
23 Subsection (c).

24 (b) If the person named as executor or appointed as
25 administrator with the will annexed elects to take an oath under
26 this section, the person shall take and subscribe an oath in
27 substantially the following form:

1 I do solemnly swear that the writing offered for probate is
2 the last will of _____ (insert name of testator), so far as I
3 know or believe, and that I will well and truly perform all the
4 duties of _____ (insert "executor of the will" or
5 "administrator with the will annexed," as applicable) for the
6 estate of _____ (insert name of testator).

7 (c) If the person named as executor or appointed as
8 administrator with the will annexed elects to make a declaration
9 under this section, the person shall make and sign a declaration in
10 substantially the following form:

11 My name is _____ (insert name of "executor of the will" or
12 "administrator with the will annexed" as it appears on the order
13 appointing the person as executor or administrator with the will
14 annexed), my date of birth is _____ (insert date of birth of
15 "executor of the will" or "administrator with the will annexed," as
16 applicable), and my address is _____ (insert street, city,
17 state, zip code, and country of "executor of the will" or
18 "administrator with the will annexed," as applicable). I declare
19 under penalty of perjury that the writing offered for probate is the
20 last will of _____ (insert name of testator), so far as I know or
21 believe. I also solemnly declare that I will well and truly perform
22 all the duties of _____ (insert "executor of will" or
23 "administrator with the will annexed," as applicable) for the
24 estate of _____ (insert name of testator).

25 SECTION 25. Section 305.052, Estates Code, is amended to
26 read as follows:

27 Sec. 305.052. OATH OR DECLARATION OF ADMINISTRATOR. (a)

1 Before the issuance of letters of administration, the person
2 appointed as administrator shall:

3 (1) take and subscribe an oath as prescribed by
4 Subsection (b); or

5 (2) make and sign a declaration as prescribed by
6 Subsection (c).

7 (b) If the person appointed as administrator elects to take
8 an oath under this section, the person shall take and subscribe an
9 oath in substantially the following form:

10 I do solemnly swear that _____ (insert name of
11 decedent), deceased, died _____ (insert "without leaving any
12 lawful will" or "leaving a lawful will, but the executor named in
13 the will is dead or has failed to offer the will for probate or to
14 accept and qualify as executor, within the period required," as
15 applicable), so far as I know or believe, and that I will well and
16 truly perform all the duties of administrator of the estate of
17 _____ (insert name of testator) [~~the deceased~~].

18 (c) If the person appointed as administrator elects to make
19 a declaration under this section, the person shall make and sign a
20 declaration in substantially the following form:

21 My name is _____ (insert name of administrator as it
22 appears on the order appointing the person as administrator), my
23 date of birth is _____ (insert date of birth of
24 "administrator"), and my address is _____ (insert street, city,
25 state, zip code, and country of "administrator"). I declare under
26 penalty of perjury that _____ (insert name of decedent),
27 deceased, died _____ (insert "without leaving any lawful will"

1 or "leaving a lawful will, but the executor named in the will is
2 dead or has failed to offer the will for probate or to accept and
3 qualify as executor, within the period required," as applicable),
4 so far as I know or believe. I also solemnly declare that I will well
5 and truly perform all the duties of administrator of the estate of
6 _____ (insert name of decedent).

7 SECTION 26. Section 305.053, Estates Code, is amended to
8 read as follows:

9 Sec. 305.053. OATH OR DECLARATION OF TEMPORARY
10 ADMINISTRATOR. (a) Before the issuance of temporary letters of
11 administration, the person appointed as temporary administrator
12 shall:

13 (1) take and subscribe an oath as prescribed by
14 Subsection (b); or

15 (2) make and sign a declaration as prescribed by
16 Subsection (c).

17 (b) If the person appointed as temporary administrator
18 elects to take an oath under this section, the person shall take and
19 subscribe an oath in substantially the following form:

20 I do solemnly swear that I will well and truly perform the
21 duties of temporary administrator of the estate of _____
22 (insert name of decedent), deceased, in accordance with the law,
23 and with the order of the court appointing me as temporary
24 administrator.

25 (c) If the person appointed as temporary administrator
26 elects to make a declaration under this section, the person shall
27 make and sign a declaration in substantially the following form:

1 My name is _____ (insert name of temporary administrator as
2 it appears on the order appointing the person as temporary
3 administrator), my date of birth is _____ (insert date of birth of
4 "temporary administrator"), and my address is _____ (insert
5 street, city, state, zip code, and country of "temporary
6 administrator"). I solemnly declare that I will well and truly
7 perform all the duties of temporary administrator of the estate of
8 _____ (insert name of decedent), in accordance with the law, and
9 with the order of the court appointing me as temporary
10 administrator.

11 SECTION 27. Section 305.055, Estates Code, is amended to
12 read as follows:

13 Sec. 305.055. FILING AND RECORDING OF OATH OR
14 DECLARATION. An oath or declaration shall be:

15 (1) filed with the clerk of the court granting the
16 letters testamentary or of administration, as applicable; and

17 (2) recorded in the judge's probate docket.

18 SECTION 28. Section 308.002(d), Estates Code, is amended to
19 read as follows:

20 (d) The notice required by this section must be sent by a
21 qualified delivery method [~~registered or certified mail, return~~
22 ~~receipt requested~~].

23 SECTION 29. Section 308.051(a), Estates Code, is amended to
24 read as follows:

25 (a) Within one month after receiving letters testamentary
26 or of administration, a personal representative of an estate shall
27 provide notice requiring each person who has a claim against the

1 estate to present the claim within the period prescribed by law by:

2 (1) having the notice published in a newspaper of
3 general circulation in the county in which the letters were issued;
4 and

5 (2) if the decedent remitted or should have remitted
6 taxes administered by the comptroller, sending the notice to the
7 comptroller by a qualified delivery method [~~certified or registered~~
8 ~~mail~~].

9 SECTION 30. Sections 308.053(c) and (d), Estates Code, are
10 amended to read as follows:

11 (c) Notice provided under this section must be:

12 (1) sent by a qualified delivery method [~~certified or~~
13 ~~registered mail, return receipt requested~~]; and

14 (2) addressed to the record holder of the claim at the
15 record holder's last known post office address.

16 (d) The following shall be filed with the clerk of the court
17 in which the letters testamentary or of administration were issued:

18 (1) a copy of each notice and of each return receipt or
19 other proof of delivery receipt; and

20 (2) the personal representative's affidavit stating:

21 (A) that the notice was sent [~~mailed~~] as required
22 by law; and

23 (B) the name of the person to whom the notice was
24 sent [~~mailed~~], if that name is not shown on the notice or receipt.

25 SECTION 31. Section 308.054(a), Estates Code, is amended to
26 read as follows:

27 (a) At any time before an estate administration is closed, a

1 personal representative may give notice by a qualified delivery
2 method [~~certified or registered mail, return receipt requested,~~] to
3 an unsecured creditor who has a claim for money against the estate.

4 SECTION 32. Section 356.105(a), Estates Code, is amended to
5 read as follows:

6 (a) A successful bid or contract for the sale of estate
7 personal property shall be reported to the court. The laws
8 regulating the approval or disapproval of a sale of real estate
9 apply to the sale, except that a conveyance is not required.

10 SECTION 33. Section 356.654(b), Estates Code, is amended to
11 read as follows:

12 (b) Before purchasing estate property as authorized by
13 Subsection (a), the personal representative shall give notice of
14 the purchase by a qualified delivery method [~~certified mail, return~~
15 ~~receipt requested~~], unless the court requires another form of
16 notice, to:

- 17 (1) each distributee of the estate; and
18 (2) each creditor whose claim remains unsettled after
19 being presented within six months of the date letters testamentary
20 or of administration are originally granted.

21 SECTION 34. Section 361.052(b), Estates Code, is amended to
22 read as follows:

23 (b) If a personal representative, as executor or
24 administrator, fails to timely file the affidavit or certificate
25 required by Section 308.004, the court, on the court's own motion,
26 may remove the personal representative after providing 30 days'
27 written notice to the personal representative to answer at a time

1 and place set in the notice, by a qualified delivery method
2 [~~certified mail, return receipt requested,~~] to:

3 (1) the representative's last known address; and

4 (2) the last known address of the representative's
5 attorney of record.

6 SECTION 35. Sections 362.005(b) and (c), Estates Code, are
7 amended to read as follows:

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

9 (1) contain:

10 (A) a statement that an account for final
11 settlement has been presented;

12 (B) the time and place the court will consider
13 the account; and

14 (C) a statement requiring the person cited to
15 appear and contest the account, if the person wishes to contest the
16 account; and

17 (2) be given to each heir or distributee of the
18 decedent by a qualified delivery method [~~certified mail, return~~
19 ~~receipt requested,~~] unless the court by written order directs
20 another method of service to be given.

21 (c) The personal representative shall also provide to each
22 person entitled to citation under Subsection (b) a copy of the
23 account for final settlement either by:

24 (1) a qualified delivery method [~~certified mail,~~
25 ~~return receipt requested~~]; or

26 (2) electronic delivery, including facsimile or
27 e-mail.

1 SECTION 36. Section 403.056(a), Estates Code, is amended to
2 read as follows:

3 (a) Notice to the independent executor required by Sections
4 403.052 and 403.055 must be contained in:

5 (1) a written instrument that complies with Section
6 355.004 and is sent by a qualified delivery method [~~hand-delivered~~
7 ~~with proof of receipt, or mailed by certified mail, return receipt~~
8 ~~requested with proof of receipt,~~] to the independent executor or
9 the executor's attorney;

10 (2) a pleading filed in a lawsuit with respect to the
11 claim; or

12 (3) a written instrument that complies with Section
13 355.004 or a pleading filed in the court in which the administration
14 of the estate is pending.

15 SECTION 37. Section 404.0035(a), Estates Code, is amended
16 to read as follows:

17 (a) The probate court, on the court's own motion, may remove
18 an independent executor appointed under this subtitle after
19 providing 30 days' written notice of the court's intention to the
20 independent executor, requiring answering at a time and place set
21 in the notice, by a qualified delivery method [~~certified mail,~~
22 ~~return receipt requested~~], to the independent executor's last known
23 address and to the last known address of the independent executor's
24 attorney of record, if the independent executor:

25 (1) neglects to qualify in the manner and time
26 required by law;

27 (2) fails to return, before the 91st day after the date

1 the independent executor qualifies, either an inventory of the
2 estate property and a list of claims that have come to the
3 independent executor's knowledge or an affidavit in lieu of the
4 inventory, appraisal, and list of claims, unless that deadline
5 is extended by court order; or

6 (3) fails to timely file the affidavit or certificate
7 required by Section 308.004.

8 SECTION 38. Section 452.006(a), Estates Code, is amended to
9 read as follows:

10 (a) On the date the county clerk issues letters of temporary
11 administration:

12 (1) the county clerk shall post on the courthouse door
13 a notice of the appointment to all interested persons; and

14 (2) the appointee shall notify, by a qualified
15 delivery method [~~certified mail, return receipt requested~~], the
16 decedent's known heirs of the appointment.

17 SECTION 39. Section 453.003(a), Estates Code, is amended to
18 read as follows:

19 (a) If there is no qualified executor or administrator of a
20 deceased spouse's estate, the surviving spouse, as the surviving
21 partner of the marital partnership, may:

22 (1) sue and be sued to recover community property;

23 (2) sell, mortgage, lease, and otherwise dispose of
24 community property to pay community debts, for which a portion of
25 community property is liable for payment;

26 (3) collect claims due to the community estate; and

27 (4) exercise other powers as necessary to:

1 (A) preserve the community property;

2 (B) discharge community obligations, for which a
3 portion of community property is liable for payment; and

4 (C) wind up community affairs.

5 SECTION 40. Section 453.006, Estates Code, is amended to
6 read as follows:

7 Sec. 453.006. ACCOUNT OF [~~COMMUNITY~~] DEBTS AND DISPOSITION
8 OF COMMUNITY PROPERTY. (a) The surviving spouse shall keep a fair
9 and full account and statement of:

10 (1) all [~~community~~] debts and expenses paid by the
11 surviving spouse; and

12 (2) the disposition made of the community property.

13 (b) The surviving spouse or personal representative shall
14 keep a separate, distinct account of all [~~community~~] debts allowed
15 or paid in the administration and settlement of an estate described
16 by Section 101.052 [~~Sections 101.052(a) and (b)~~].

17 SECTION 41. Section 453.007, Estates Code, is amended to
18 read as follows:

19 Sec. 453.007. DELIVERY OF COMMUNITY ESTATE ON FINAL
20 PARTITION. On final partition of the community estate, the
21 surviving spouse shall deliver to the deceased spouse's heirs or
22 devisees their interest in the estate, and the increase in and
23 profits of the interest, after deducting from the interest:

24 (1) the proportion of the [~~community~~] debts chargeable
25 to the interest;

26 (2) unavoidable losses;

27 (3) necessary and reasonable expenses; and

1 (4) a reasonable commission for the management of the
2 interest.

3 SECTION 42. Section 501.003(b), Estates Code, is amended to
4 read as follows:

5 (b) For an application described by Section 501.002(b), a
6 citation shall be issued and served by a qualified delivery method
7 [~~registered or certified mail~~] on each devisee and heir identified
8 in the application.

9 SECTION 43. Section 505.005(a), Estates Code, is amended to
10 read as follows:

11 (a) On receipt of a notice or process described by Section
12 505.004(a)(2), the secretary of state shall promptly forward the
13 notice or process by a qualified delivery method [~~registered or~~
14 ~~certified mail~~] to the officer, agent, or other person designated
15 by the foreign corporate fiduciary under Section 505.004 to receive
16 the notice or process.

17 SECTION 44. Section 505.101(a), Estates Code, is amended to
18 read as follows:

19 (a) On giving notice by a qualified delivery method
20 [~~registered or certified mail~~] to all creditors of a decedent in
21 this state who have filed a claim against the decedent's estate for
22 a debt due to the creditor, a foreign executor or administrator of a
23 person who was a nonresident at the time of death may maintain a
24 suit in this state for the recovery of debts due to the decedent.

25 SECTION 45. Sections 51.052(b), (c), (d), (e), (f), and
26 (g), 51.055(a), 51.056, 51.103(b), 56.002(b), 113.251(c), 202.051,
27 202.203, 305.001, 305.002, 305.003, 305.051, 305.052, 305.053,

1 305.055, 308.002(d), 308.051(a), 308.053(c) and (d), 308.054(a),
2 356.654(b), 361.052(b), 362.005(b) and (c), 403.056(a),
3 404.0035(a), 452.006(a), 501.003(b), 505.005(a), and 505.101(a),
4 Estates Code, as amended by this Act, apply only to an action filed
5 or proceeding commenced on or after the effective date of this Act.

6 SECTION 46. The amendments of this Act to Sections 101.052,
7 202.005, 202.151, 356.105(a), 453.003(a), 453.006, and 453.007,
8 Estates Code, are intended to clarify rather than change existing
9 law.

10 SECTION 47. Section 113.251(c), Estates Code, as amended by
11 this Act, applies only to multiple-party accounts created or
12 existing on or after the effective date of this Act.

13 SECTION 48. Section 202.056, Estates Code, as amended by
14 this Act, applies only to a proceeding to declare heirship
15 commenced on or after the effective date of this Act. A proceeding
16 to declare heirship commenced before that date is governed by the
17 law in effect on the date the proceeding was commenced, and the
18 former law is continued in effect for that purpose.

19 SECTION 49. Sections 256.052(a) and 257.051(a), Estates
20 Code, as amended by this Act, and Sections 258.002(d) and (e),
21 Estates Code, as added by this Act, apply only to an application for
22 the probate of a will filed on or after the effective date of this
23 Act. An application for the probate of a will filed before that
24 date is governed by the law in effect on the date the application
25 was filed, and the former law is continued in effect for that
26 purpose.

27 SECTION 50. Section 301.052(a), Estates Code, as amended by

1 this Act, applies only to an application for letters of
2 administration filed on or after the effective date of this Act. An
3 application for letters of administration filed before the
4 effective date of this Act is governed by the law in effect on the
5 date the application was filed, and the former law is continued in
6 effect for that purpose.

7 SECTION 51. Section 308.051(a), Estates Code, as amended by
8 this Act, applies only to an order admitting a will to probate
9 issued on or after the effective date of this Act. An order
10 admitting a will to probate issued before the effective date of this
11 Act is governed by the law in effect on the date the order was
12 issued, and the former law is continued in effect for that purpose.

13 SECTION 52. This Act takes effect September 1, 2021.