

1-1 By: Moody (Senate Sponsor - Hughes) H.B. No. 2182  
1-2 (In the Senate - Received from the House May 17, 2021;  
1-3 May 17, 2021, read first time and referred to Committee on State  
1-4 Affairs; May 21, 2021, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

|      | Yea               | Nay | Absent | PNV |
|------|-------------------|-----|--------|-----|
| 1-7  |                   |     |        |     |
| 1-8  | <u>Hughes</u>     | X   |        |     |
| 1-9  | <u>Birdwell</u>   | X   |        |     |
| 1-10 | <u>Campbell</u>   | X   |        |     |
| 1-11 | <u>Hall</u>       | X   |        |     |
| 1-12 | <u>Lucio</u>      | X   |        |     |
| 1-13 | <u>Nelson</u>     | X   |        |     |
| 1-14 | <u>Powell</u>     | X   |        |     |
| 1-15 | <u>Schwertner</u> | X   |        |     |
| 1-16 | <u>Zaffirini</u>  | X   |        |     |

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

1-19 relating to decedents' estates and the delivery of certain notices  
1-20 or other communications in connection with those estates or  
1-21 multiple-party accounts.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 22, Estates Code, is amended by adding  
1-24 Section 22.0295 to read as follows:

1-25 Sec. 22.0295. QUALIFIED DELIVERY METHOD. "Qualified  
1-26 delivery method" means delivery by:

1-27 (1) hand delivery by courier, with courier's proof of  
1-28 delivery receipt;

1-29 (2) certified or registered mail, return receipt  
1-30 requested, with return receipt; or

1-31 (3) a private delivery service designated as a  
1-32 designated delivery service by the United States Secretary of the  
1-33 Treasury under Section 7502(f)(2), Internal Revenue Code of 1986,  
1-34 with proof of delivery receipt.

1-35 SECTION 2. The heading to Section 51.052, Estates Code, is  
1-36 amended to read as follows:

1-37 Sec. 51.052. SERVICE BY MAIL OR PRIVATE DELIVERY.

1-38 SECTION 3. Sections 51.052(b), (c), (d), (e), (f), and (g),  
1-39 Estates Code, are amended to read as follows:

1-40 (b) Except as provided by Subsection (c), the county clerk  
1-41 shall issue a citation or notice required or permitted to be served  
1-42 by a qualified delivery method [~~registered or certified mail~~] and  
1-43 shall serve the citation or notice by sending [~~mailing~~] the  
1-44 original citation or notice by a qualified delivery method  
1-45 [~~registered or certified mail~~].

1-46 (c) A personal representative shall issue a notice required  
1-47 to be given by the representative by a qualified delivery method  
1-48 [~~registered or certified mail~~] and shall serve the notice by  
1-49 sending [~~mailing~~] the original notice by a qualified delivery  
1-50 method [~~registered or certified mail~~].

1-51 (d) The county clerk or personal representative, as  
1-52 applicable, shall send [~~mail~~] a citation or notice under Subsection  
1-53 (b) or (c) with an instruction to deliver the citation or notice to  
1-54 the addressee only and with return receipt or other proof of  
1-55 delivery requested. The clerk or representative, as applicable,  
1-56 shall address the envelope containing the citation or notice to:

1-57 (1) the attorney of record in the proceeding for the  
1-58 person to be cited or notified; or

1-59 (2) the person to be cited or notified, if the citation  
1-60 or notice to the attorney is returned undelivered or the person to  
1-61 be cited or notified has no attorney of record in the proceeding.

2-1 (e) Service by a qualified delivery method [mail] shall be  
2-2 made at least 20 days before the return day of the service,  
2-3 excluding the date of service. The date of service [~~by mail~~] is the  
2-4 date of mailing, the date of deposit with the private delivery  
2-5 service, or the date of delivery by the courier, as applicable.

2-6 (f) A copy of a citation or notice served under Subsection  
2-7 (a), (b), or (c), together with a certificate of the person serving  
2-8 the citation or notice showing that the citation or notice was sent  
2-9 [~~mailed~~] and the date of the mailing, date of deposit with a private  
2-10 delivery service, or date of delivery by courier, as applicable,  
2-11 shall be filed and recorded. A returned receipt or proof of  
2-12 delivery receipt for a citation or notice served under Subsection  
2-13 (b) or (c) shall be attached to the certificate.

2-14 (g) If a citation or notice served by a qualified delivery  
2-15 method [mail] is returned undelivered, a new citation or notice  
2-16 shall be issued. Service of the new citation or notice must be made  
2-17 by posting.

2-18 SECTION 4. Section 51.055(a), Estates Code, is amended to  
2-19 read as follows:

2-20 (a) If a party is represented by an attorney of record in a  
2-21 probate proceeding, each citation or notice required to be served  
2-22 on the party in that proceeding shall be served instead on that  
2-23 attorney. A notice under this subsection may be served by delivery  
2-24 to the attorney in person or by a qualified delivery method  
2-25 [~~registered or certified mail~~].

2-26 SECTION 5. Section 51.056, Estates Code, is amended to read  
2-27 as follows:

2-28 Sec. 51.056. SERVICE ON PERSONAL REPRESENTATIVE OR  
2-29 RECEIVER. Unless this title expressly provides for another method  
2-30 of service, the county clerk who issues a citation or notice  
2-31 required to be served on a personal representative or receiver  
2-32 shall serve the citation or notice by sending [mailing] the  
2-33 original citation or notice by a qualified delivery method  
2-34 [~~registered or certified mail~~] to:

- 2-35 (1) the representative's or receiver's attorney of  
2-36 record; or
- 2-37 (2) the representative or receiver, if the  
2-38 representative or receiver does not have an attorney of record.

2-39 SECTION 6. Section 51.103(b), Estates Code, is amended to  
2-40 read as follows:

2-41 (b) Proof of service consists of:

- 2-42 (1) if the service is made by a sheriff or constable,  
2-43 the return of service;
- 2-44 (2) if the service is made by a private person, the  
2-45 person's affidavit;
- 2-46 (3) if the service is made by a qualified delivery  
2-47 method [mail]:

2-48 (A) the certificate of the county clerk making  
2-49 the service, or the affidavit of the personal representative or  
2-50 other person making the service, stating that the citation or  
2-51 notice was mailed, deposited with a private delivery service, or  
2-52 delivered by courier, as applicable, and the date of the mailing or  
2-53 deposit with the delivery service or the date of the courier  
2-54 delivery, as applicable; and

2-55 (B) the return receipt or other proof of delivery  
2-56 receipt attached to the certificate or affidavit, as applicable, if  
2-57 the sending [mailing] was by a qualified delivery method  
2-58 [~~registered or certified mail~~] and a receipt is available [has been  
2-59 returned]; and

2-60 (4) if the service is made by publication:

2-61 (A) an affidavit:

2-62 (i) made by the Office of Court  
2-63 Administration of the Texas Judicial System or an employee of the  
2-64 office;

2-65 (ii) that contains or to which is attached a  
2-66 copy of the published citation or notice; and

2-67 (iii) that states the date of publication  
2-68 on the public information Internet website maintained as required  
2-69 by Section 72.034, Government Code, as added by Chapter 606 (S.B.

3-1 891), Acts of the 86th Legislature, Regular Session, 2019; and  
 3-2 (B) an affidavit:  
 3-3 (i) made by the publisher of the newspaper  
 3-4 in which the citation or notice was published or an employee of the  
 3-5 publisher;  
 3-6 (ii) that contains or to which is attached a  
 3-7 copy of the published citation or notice; and  
 3-8 (iii) that states the date of publication  
 3-9 printed on the newspaper in which the citation or notice was  
 3-10 published.

3-11 SECTION 7. Section 56.002(b), Estates Code, is amended to  
 3-12 read as follows:

3-13 (b) The resident agent shall send, by a qualified delivery  
 3-14 method [~~certified mail, return receipt requested~~], a copy of a  
 3-15 resignation statement filed under Subsection (a) to:

3-16 (1) the personal representative at the address most  
 3-17 recently known by the resident agent; and

3-18 (2) each party in the case or the party's attorney or  
 3-19 other designated representative of record.

3-20 SECTION 8. The heading to Section 101.052, Estates Code, is  
 3-21 amended to read as follows:

3-22 Sec. 101.052. LIABILITY OF COMMUNITY PROPERTY FOR DEBTS [~~OF~~  
 3-23 ~~DECEASED SPOUSE~~].

3-24 SECTION 9. Section 101.052, Estates Code, is amended by  
 3-25 amending Subsections (a) and (b) and adding Subsection (a-1) to  
 3-26 read as follows:

3-27 (a) The community property that was by law under [~~subject~~  
 3-28 ~~to~~] the sole management, control, and disposition of a spouse or  
 3-29 under the joint management, control, and disposition of the spouses  
 3-30 [a spouse] during marriage continues to be subject to the  
 3-31 liabilities of that spouse on the death of either spouse.

3-32 (a-1) The undivided one-half interest that the surviving  
 3-33 spouse owned in community property that was by law under the sole  
 3-34 management, control, and disposition of the deceased spouse during  
 3-35 marriage is subject to the liabilities of the surviving spouse on  
 3-36 the death of the deceased spouse.

3-37 (b) The undivided one-half interest that the deceased  
 3-38 spouse owned in [~~any other nonexempt~~] community property that was  
 3-39 by law under the sole management, control, and disposition of the  
 3-40 surviving spouse during marriage passes to the deceased spouse's  
 3-41 heirs or devisees charged with the liabilities of [~~debts that were~~  
 3-42 ~~enforceable against~~] the deceased spouse [~~before death~~].

3-43 SECTION 10. Section 113.251(c), Estates Code, is amended to  
 3-44 read as follows:

3-45 (c) Not later than the 30th day after the date a security  
 3-46 interest on a multiple-party account is perfected, a secured  
 3-47 creditor that is a financial institution with accounts insured by  
 3-48 the Federal Deposit Insurance Corporation shall provide written  
 3-49 notice of the pledge of the account to any other party to the  
 3-50 account who did not create the security interest. The notice must  
 3-51 be sent by a qualified delivery method [~~certified mail~~] to each  
 3-52 other party at the last address the party provided to the depository  
 3-53 bank.

3-54 SECTION 11. Section 202.005, Estates Code, is amended to  
 3-55 read as follows:

3-56 Sec. 202.005. APPLICATION FOR PROCEEDING TO DECLARE  
 3-57 HEIRSHIP. A person authorized by Section 202.004 to commence a  
 3-58 proceeding to declare heirship must file an application in a court  
 3-59 specified by Section 33.004 to commence the proceeding. The  
 3-60 application must state:

3-61 (1) the decedent's name and date and place of death;

3-62 (2) the names and physical addresses where service can  
 3-63 be had of the decedent's heirs, the relationship of each heir to the  
 3-64 decedent, whether each heir is an adult or minor, and the true  
 3-65 interest of the applicant and each of the heirs in the decedent's  
 3-66 estate or in the trust, as applicable;

3-67 (3) if the date or place of the decedent's death or the  
 3-68 name or physical address where service can be had of an heir is not  
 3-69 definitely known to the applicant, all the material facts and

4-1 circumstances with respect to which the applicant has knowledge and  
 4-2 information that might reasonably tend to show the date or place of  
 4-3 the decedent's death or the name or physical address where service  
 4-4 can be had of the heir;

4-5 (4) that all children born to or adopted by the  
 4-6 decedent have been listed;

4-7 (5) that each of the decedent's marriages has been  
 4-8 listed with:

4-9 (A) the date of the marriage;

4-10 (B) the name of the spouse;

4-11 (C) the date and place of termination if the  
 4-12 marriage was terminated; and

4-13 (D) other facts to show whether a spouse has had  
 4-14 an interest in the decedent's property;

4-15 (6) whether the decedent died testate and, if so, what  
 4-16 disposition has been made of the will;

4-17 (7) a general description of all property, as  
 4-18 applicable:

4-19 (A) belonging to the decedent's estate that is  
 4-20 subject to distribution under a judgment in the proceeding; or

4-21 (B) held in trust for the benefit of the  
 4-22 decedent~~[, as applicable];~~ and

4-23 (8) an explanation for the omission from the  
 4-24 application of any of the information required by this section.

4-25 SECTION 12. Section 202.051, Estates Code, is amended to  
 4-26 read as follows:

4-27 Sec. 202.051. SERVICE OF CITATION BY QUALIFIED DELIVERY  
 4-28 METHOD ~~[MAIL]~~ WHEN RECIPIENT'S NAME AND ADDRESS ARE KNOWN OR  
 4-29 ASCERTAINABLE. Except as provided by Section 202.054, citation in  
 4-30 a proceeding to declare heirship must be served by a qualified  
 4-31 delivery method ~~[registered or certified mail]~~ on:

4-32 (1) each distributee who is 12 years of age or older  
 4-33 and whose name and address are known or can be ascertained through  
 4-34 the exercise of reasonable diligence; and

4-35 (2) the parent, managing conservator, or guardian of  
 4-36 each distributee who is younger than 12 years of age if the name and  
 4-37 address of the parent, managing conservator, or guardian are known  
 4-38 or can be reasonably ascertained.

4-39 SECTION 13. Section 202.056, Estates Code, is amended to  
 4-40 read as follows:

4-41 Sec. 202.056. WAIVER OF SERVICE OF CITATION. (a) A ~~[Except~~  
 4-42 ~~as provided by Subsection (b)(2), a]~~ distributee who is 16 years of  
 4-43 age or older may waive citation required by this subchapter to be  
 4-44 served on the distributee.

4-45 (b) A parent, managing conservator, guardian, attorney ad  
 4-46 litem, or guardian ad litem of a ~~[minor]~~ distributee who is younger  
 4-47 than 16 years of age may ~~[+~~

4-48 ~~[(1) is younger than 12 years of age may]~~ waive  
 4-49 citation required by this subchapter to be served on the  
 4-50 distributee~~[, and~~

4-51 ~~[(2) is 12 years of age or older may not waive citation~~  
 4-52 ~~required by this subchapter to be served on the distributee].~~

4-53 SECTION 14. Sections 202.151(b) and (c), Estates Code, are  
 4-54 amended to read as follows:

4-55 (b) Except as provided by Subsection (c), in a proceeding to  
 4-56 declare heirship, testimony regarding a decedent's heirs and family  
 4-57 history must be taken:

4-58 (1) from two disinterested and credible witnesses in  
 4-59 open court;

4-60 (2) ~~[+]~~ by deposition in accordance with Section  
 4-61 51.203;

4-62 (3) by a recorded statement of facts contained in:

4-63 (A) an affidavit or instrument that satisfies the  
 4-64 requirements of Section 203.001; or

4-65 (B) a judgment of a court of record as specified  
 4-66 by Section 203.001(a)(1)(B); ~~[+]~~ or

4-67 (4) in accordance with the Texas Rules of Civil  
 4-68 Procedure.

4-69 (c) If it is shown to the court's satisfaction in a

5-1 proceeding to declare heirship that, after a diligent search was  
 5-2 made, only one disinterested and credible witness can be found who  
 5-3 can make the required proof in the proceeding, the testimony of that  
 5-4 witness must be taken:

5-5 (1) in open court;  
 5-6 (2) ~~[7]~~ by deposition in accordance with Section  
 5-7 51.203;

5-8 (3) by a recorded statement of facts contained in:  
 5-9 (A) an affidavit or instrument that satisfies the

5-10 requirements of Section 203.001; or  
 5-11 (B) a judgment of a court of record as specified  
 5-12 by Section 203.001(a)(1)(B); ~~[7]~~ or  
 5-13 (4) in accordance with the Texas Rules of Civil  
 5-14 Procedure.

5-15 SECTION 15. Section 202.203, Estates Code, is amended to  
 5-16 read as follows:

5-17 Sec. 202.203. CORRECTION OF JUDGMENT AT REQUEST OF HEIR NOT  
 5-18 PROPERLY SERVED. If an heir of a decedent who is the subject of a  
 5-19 proceeding to declare heirship is not served with citation by a  
 5-20 qualified delivery method ~~[registered or certified mail]~~ or  
 5-21 personal service in the proceeding, the heir may:

5-22 (1) have the judgment in the proceeding corrected by  
 5-23 bill of review:

5-24 (A) at any time, but not later than the fourth  
 5-25 anniversary of the date of the judgment; or

5-26 (B) after the passage of any length of time, on  
 5-27 proof of actual fraud; and

5-28 (2) recover the heir's just share of the property or  
 5-29 the value of that share from:

5-30 (A) the heirs named in the judgment; and

5-31 (B) those who claim under the heirs named in the  
 5-32 judgment and who are not bona fide purchasers for value.

5-33 SECTION 16. Section 256.052(a), Estates Code, is amended to  
 5-34 read as follows:

5-35 (a) An application for the probate of a will must state and  
 5-36 aver the following to the extent each is known to the applicant or  
 5-37 can, with reasonable diligence, be ascertained by the applicant:

5-38 (1) each applicant's name and domicile;

5-39 ~~[(1-a) the last three numbers of each applicant's  
 5-40 driver's license number and social security number, if the  
 5-41 applicant has been issued one,]~~

5-42 (2) the testator's name, domicile, and, if known, age,  
 5-43 on the date of the testator's death;

5-44 (2-a) the last three numbers of the testator's  
 5-45 driver's license number and social security number;

5-46 (3) the fact, date, and place of the testator's death;

5-47 (4) facts showing that the court with which the  
 5-48 application is filed has venue;

5-49 (5) that the testator owned property, including a  
 5-50 statement generally describing the property and the property's  
 5-51 probable value;

5-52 (6) the date of the will;

5-53 (7) the name, state of residence, and physical address  
 5-54 where service can be had of the executor named in the will or other  
 5-55 person to whom the applicant desires that letters be issued;

5-56 (8) the name of each subscribing witness to the will,  
 5-57 if any;

5-58 (9) whether one or more children born to or adopted by  
 5-59 the testator after the testator executed the will survived the  
 5-60 testator and, if so, the name of each of those children;

5-61 (10) whether a marriage of the testator was ever  
 5-62 dissolved after the will was made and, if so, when and from whom;

5-63 (11) whether the state, a governmental agency of the  
 5-64 state, or a charitable organization is named in the will as a  
 5-65 devisee; and

5-66 (12) that the executor named in the will, the  
 5-67 applicant, or another person to whom the applicant desires that  
 5-68 letters be issued is not disqualified by law from accepting the  
 5-69 letters.

6-1 SECTION 17. Section 257.051(a), Estates Code, is amended to  
6-2 read as follows:

6-3 (a) An application for the probate of a will as a muniment of  
6-4 title must state and aver the following to the extent each is known  
6-5 to the applicant or can, with reasonable diligence, be ascertained  
6-6 by the applicant:

6-7 (1) each applicant's name and domicile;

6-8 ~~[(1-a) the last three numbers of each applicant's  
6-9 driver's license number and social security number, if the  
6-10 applicant has been issued one,]~~

6-11 (2) the testator's name, domicile, and, if known, age,  
6-12 on the date of the testator's death;

6-13 (2-a) the last three numbers of the testator's  
6-14 driver's license number and social security number;

6-15 (3) the fact, date, and place of the testator's death;

6-16 (4) facts showing that the court with which the  
6-17 application is filed has venue;

6-18 (5) that the testator owned property, including a  
6-19 statement generally describing the property and the property's  
6-20 probable value;

6-21 (6) the date of the will;

6-22 (7) the name, state of residence, and physical address  
6-23 where service can be had of the executor named in the will;

6-24 (8) the name of each subscribing witness to the will,  
6-25 if any;

6-26 (9) whether one or more children born to or adopted by  
6-27 the testator after the testator executed the will survived the  
6-28 testator and, if so, the name of each of those children;

6-29 (10) that the testator's estate does not owe an unpaid  
6-30 debt, other than any debt secured by a lien on real estate, or that  
6-31 for another reason there is no necessity for administration of the  
6-32 estate;

6-33 (11) whether a marriage of the testator was ever  
6-34 dissolved after the will was made and, if so, when and from whom;  
6-35 and

6-36 (12) whether the state, a governmental agency of the  
6-37 state, or a charitable organization is named in the will as a  
6-38 devisee.

6-39 SECTION 18. Section 258.002, Estates Code, is amended by  
6-40 adding Subsections (d) and (e) to read as follows:

6-41 (d) An heir who is 16 years of age or older may waive  
6-42 citation required by this section to be served on the heir.

6-43 (e) The parent, managing conservator, guardian, attorney ad  
6-44 litem, or guardian ad litem of an heir who is younger than 16 years  
6-45 of age may waive citation required by this section to be served on  
6-46 the heir.

6-47 SECTION 19. Section 301.052(a), Estates Code, is amended to  
6-48 read as follows:

6-49 (a) An application for letters of administration when no  
6-50 will is alleged to exist must state:

6-51 (1) the applicant's name, domicile, and, if any,  
6-52 relationship to the decedent;

6-53 ~~[(1-a) the last three numbers of:~~

6-54 ~~[(A) the applicant's driver's license number, if  
6-55 the applicant has been issued one, and~~

6-56 ~~[(B) the applicant's social security number, if  
6-57 the applicant has been issued one,]~~

6-58 (2) the decedent's name and that the decedent died  
6-59 intestate;

6-60 (2-a) if known by the applicant at the time the  
6-61 applicant files the application, the last three numbers of the  
6-62 decedent's driver's license number and social security number;

6-63 (3) the fact, date, and place of the decedent's death;

6-64 (4) facts necessary to show that the court with which  
6-65 the application is filed has venue;

6-66 (5) whether the decedent owned property and, if so,  
6-67 include a statement of the property's probable value;

6-68 (6) the name and address, if known, whether the heir is  
6-69 an adult or minor, and the relationship to the decedent of each of

7-1 the decedent's heirs;

7-2 (7) if known by the applicant at the time the applicant  
7-3 files the application, whether one or more children were born to or  
7-4 adopted by the decedent and, if so, the name, birth date, and place  
7-5 of birth of each child;

7-6 (8) if known by the applicant at the time the applicant  
7-7 files the application, whether the decedent was ever divorced and,  
7-8 if so, when and from whom;

7-9 (9) that a necessity exists for administration of the  
7-10 decedent's estate and an allegation of the facts that show that  
7-11 necessity; and

7-12 (10) that the applicant is not disqualified by law  
7-13 from acting as administrator.

7-14 SECTION 20. Section 305.001, Estates Code, is amended to  
7-15 read as follows:

7-16 Sec. 305.001. DEFINITIONS. In this chapter:

7-17 (1) "Bond" means a bond required by this chapter to be  
7-18 given by a person appointed to serve as a personal representative.

7-19 (2) "Oath" means an oath that may [~~required by this~~  
7-20 ~~chapter to~~] be taken by a person appointed to serve as a personal  
7-21 representative.

7-22 (3) "Declaration" means a written declaration that may  
7-23 be made and signed by a person appointed to serve as a personal  
7-24 representative.

7-25 SECTION 21. Section 305.002, Estates Code, is amended to  
7-26 read as follows:

7-27 Sec. 305.002. MANNER OF QUALIFICATION OF PERSONAL  
7-28 REPRESENTATIVE. (a) A personal representative, other than an  
7-29 executor described by Subsection (b), is considered to have  
7-30 qualified when the representative has:

7-31 (1) taken and filed the oath prescribed by Subchapter  
7-32 B or made, signed, and filed the declaration prescribed by  
7-33 Subchapter B;

7-34 (2) filed the required bond with the clerk; and

7-35 (3) obtained the judge's approval of the bond.

7-36 (b) An executor who is not required to give a bond is  
7-37 considered to have qualified when the executor has taken and filed  
7-38 the oath prescribed by Subchapter B or made, signed, and filed the  
7-39 declaration prescribed by Subchapter B.

7-40 SECTION 22. Section 305.003, Estates Code, is amended to  
7-41 read as follows:

7-42 Sec. 305.003. PERIOD FOR TAKING OATH OR MAKING AND SIGNING  
7-43 DECLARATION. An oath may be taken and subscribed or a declaration  
7-44 may be made and signed at any time before:

7-45 (1) the 21st day after the date of the order granting  
7-46 letters testamentary or of administration, as applicable; or

7-47 (2) the letters testamentary or of administration, as  
7-48 applicable, are revoked for a failure to qualify within the period  
7-49 allowed.

7-50 SECTION 23. The heading to Subchapter B, Chapter 305,  
7-51 Estates Code, is amended to read as follows:

7-52 SUBCHAPTER B. OATHS OR DECLARATIONS

7-53 SECTION 24. Section 305.051, Estates Code, is amended to  
7-54 read as follows:

7-55 Sec. 305.051. OATH OR DECLARATION OF EXECUTOR OR  
7-56 ADMINISTRATOR WITH WILL ANNEXED. (a) Before the issuance of  
7-57 letters testamentary or letters of administration with the will  
7-58 annexed, the person named as executor or appointed as administrator  
7-59 with the will annexed shall:

7-60 (1) take and subscribe an oath as prescribed by  
7-61 Subsection (b); or

7-62 (2) make and sign a declaration as prescribed by  
7-63 Subsection (c).

7-64 (b) If the person named as executor or appointed as  
7-65 administrator with the will annexed elects to take an oath under  
7-66 this section, the person shall take and subscribe an oath in  
7-67 substantially the following form:

7-68 I do solemnly swear that the writing offered for probate is  
7-69 the last will of \_\_\_\_\_ (insert name of testator), so far as I

8-1 know or believe, and that I will well and truly perform all the  
 8-2 duties of \_\_\_\_\_ (insert "executor of the will" or  
 8-3 "administrator with the will annexed," as applicable) for the  
 8-4 estate of \_\_\_\_\_ (insert name of testator).

8-5 (c) If the person named as executor or appointed as  
 8-6 administrator with the will annexed elects to make a declaration  
 8-7 under this section, the person shall make and sign a declaration in  
 8-8 substantially the following form:

8-9 My name is \_\_\_\_\_ (insert name of "executor of the will" or  
 8-10 "administrator with the will annexed" as it appears on the order  
 8-11 appointing the person as executor or administrator with the will  
 8-12 annexed), my date of birth is \_\_\_\_\_ (insert date of birth of  
 8-13 "executor of the will" or "administrator with the will annexed," as  
 8-14 applicable), and my address is \_\_\_\_\_ (insert street, city,  
 8-15 state, zip code, and country of "executor of the will" or  
 8-16 "administrator with the will annexed," as applicable). I declare  
 8-17 under penalty of perjury that the writing offered for probate is the  
 8-18 last will of \_\_\_\_\_ (insert name of testator), so far as I know or  
 8-19 believe. I also solemnly declare that I will well and truly perform  
 8-20 all the duties of \_\_\_\_\_ (insert "executor of will" or  
 8-21 "administrator with the will annexed," as applicable) for the  
 8-22 estate of \_\_\_\_\_ (insert name of testator).

8-23 SECTION 25. Section 305.052, Estates Code, is amended to  
 8-24 read as follows:

8-25 Sec. 305.052. OATH OR DECLARATION OF ADMINISTRATOR. (a)  
 8-26 Before the issuance of letters of administration, the person  
 8-27 appointed as administrator shall:

8-28 (1) take and subscribe an oath as prescribed by  
 8-29 Subsection (b); or

8-30 (2) make and sign a declaration as prescribed by  
 8-31 Subsection (c).

8-32 (b) If the person appointed as administrator elects to take  
 8-33 an oath under this section, the person shall take and subscribe an  
 8-34 oath in substantially the following form:

8-35 I do solemnly swear that \_\_\_\_\_ (insert name of  
 8-36 decedent), deceased, died \_\_\_\_\_ (insert "without leaving any  
 8-37 lawful will" or "leaving a lawful will, but the executor named in  
 8-38 the will is dead or has failed to offer the will for probate or to  
 8-39 accept and qualify as executor, within the period required," as  
 8-40 applicable), so far as I know or believe, and that I will well and  
 8-41 truly perform all the duties of administrator of the estate of  
 8-42 \_\_\_\_\_ (insert name of testator) [~~the deceased~~].

8-43 (c) If the person appointed as administrator elects to make  
 8-44 a declaration under this section, the person shall make and sign a  
 8-45 declaration in substantially the following form:

8-46 My name is \_\_\_\_\_ (insert name of administrator as it  
 8-47 appears on the order appointing the person as administrator), my  
 8-48 date of birth is \_\_\_\_\_ (insert date of birth of  
 8-49 "administrator"), and my address is \_\_\_\_\_ (insert street, city,  
 8-50 state, zip code, and country of "administrator"). I declare under  
 8-51 penalty of perjury that \_\_\_\_\_ (insert name of decedent),  
 8-52 deceased, died \_\_\_\_\_ (insert "without leaving any lawful will"  
 8-53 or "leaving a lawful will, but the executor named in the will is  
 8-54 dead or has failed to offer the will for probate or to accept and  
 8-55 qualify as executor, within the period required," as applicable),  
 8-56 so far as I know or believe. I also solemnly declare that I will well  
 8-57 and truly perform all the duties of administrator of the estate of  
 8-58 \_\_\_\_\_ (insert name of decedent).

8-59 SECTION 26. Section 305.053, Estates Code, is amended to  
 8-60 read as follows:

8-61 Sec. 305.053. OATH OR DECLARATION OF TEMPORARY  
 8-62 ADMINISTRATOR. (a) Before the issuance of temporary letters of  
 8-63 administration, the person appointed as temporary administrator  
 8-64 shall:

8-65 (1) take and subscribe an oath as prescribed by  
 8-66 Subsection (b); or

8-67 (2) make and sign a declaration as prescribed by  
 8-68 Subsection (c).

8-69 (b) If the person appointed as temporary administrator



9-1 elects to take an oath under this section, the person shall take and  
 9-2 subscribe an oath in substantially the following form:

9-3 I do solemnly swear that I will well and truly perform the  
 9-4 duties of temporary administrator of the estate of \_\_\_\_\_  
 9-5 (insert name of decedent), deceased, in accordance with the law,  
 9-6 and with the order of the court appointing me as temporary  
 9-7 administrator.

9-8 (c) If the person appointed as temporary administrator  
 9-9 elects to make a declaration under this section, the person shall  
 9-10 make and sign a declaration in substantially the following form:

9-11 My name is \_\_\_\_\_ (insert name of temporary administrator as  
 9-12 it appears on the order appointing the person as temporary  
 9-13 administrator), my date of birth is \_\_\_\_\_ (insert date of birth of  
 9-14 "temporary administrator"), and my address is \_\_\_\_\_ (insert  
 9-15 street, city, state, zip code, and country of "temporary  
 9-16 administrator"). I solemnly declare that I will well and truly  
 9-17 perform all the duties of temporary administrator of the estate of  
 9-18 \_\_\_\_\_ (insert name of decedent), in accordance with the law, and  
 9-19 with the order of the court appointing me as temporary  
 9-20 administrator.

9-21 SECTION 27. Section 305.055, Estates Code, is amended to  
 9-22 read as follows:

9-23 Sec. 305.055. FILING AND RECORDING OF OATH OR  
 9-24 DECLARATION. An oath or declaration shall be:

9-25 (1) filed with the clerk of the court granting the  
 9-26 letters testamentary or of administration, as applicable; and  
 9-27 (2) recorded in the judge's probate docket.

9-28 SECTION 28. Section 308.002(d), Estates Code, is amended to  
 9-29 read as follows:

9-30 (d) The notice required by this section must be sent by a  
 9-31 qualified delivery method [~~registered or certified mail, return~~  
 9-32 ~~receipt requested~~].

9-33 SECTION 29. Section 308.051(a), Estates Code, is amended to  
 9-34 read as follows:

9-35 (a) Within one month after receiving letters testamentary  
 9-36 or of administration, a personal representative of an estate shall  
 9-37 provide notice requiring each person who has a claim against the  
 9-38 estate to present the claim within the period prescribed by law by:

9-39 (1) having the notice published in a newspaper of  
 9-40 general circulation in the county in which the letters were issued;  
 9-41 and

9-42 (2) if the decedent remitted or should have remitted  
 9-43 taxes administered by the comptroller, sending the notice to the  
 9-44 comptroller by a qualified delivery method [~~certified or registered~~  
 9-45 ~~mail~~].

9-46 SECTION 30. Sections 308.053(c) and (d), Estates Code, are  
 9-47 amended to read as follows:

9-48 (c) Notice provided under this section must be:

9-49 (1) sent by a qualified delivery method [~~certified or~~  
 9-50 ~~registered mail, return receipt requested~~]; and

9-51 (2) addressed to the record holder of the claim at the  
 9-52 record holder's last known post office address.

9-53 (d) The following shall be filed with the clerk of the court  
 9-54 in which the letters testamentary or of administration were issued:

9-55 (1) a copy of each notice and of each return receipt or  
 9-56 other proof of delivery receipt; and

9-57 (2) the personal representative's affidavit stating:

9-58 (A) that the notice was sent [~~mailed~~] as required  
 9-59 by law; and

9-60 (B) the name of the person to whom the notice was  
 9-61 sent [~~mailed~~], if that name is not shown on the notice or receipt.

9-62 SECTION 31. Section 308.054(a), Estates Code, is amended to  
 9-63 read as follows:

9-64 (a) At any time before an estate administration is closed, a  
 9-65 personal representative may give notice by a qualified delivery  
 9-66 method [~~certified or registered mail, return receipt requested~~] to  
 9-67 an unsecured creditor who has a claim for money against the estate.

9-68 SECTION 32. Section 356.105(a), Estates Code, is amended to  
 9-69 read as follows:

10-1 (a) A successful bid or contract for the sale of estate  
 10-2 personal property shall be reported to the court. The laws  
 10-3 regulating the approval or disapproval of a sale of real estate  
 10-4 apply to the sale, except that a conveyance is not required.

10-5 SECTION 33. Section 356.654(b), Estates Code, is amended to  
 10-6 read as follows:

10-7 (b) Before purchasing estate property as authorized by  
 10-8 Subsection (a), the personal representative shall give notice of  
 10-9 the purchase by a qualified delivery method [~~certified mail, return~~  
 10-10 ~~receipt requested~~], unless the court requires another form of  
 10-11 notice, to:

- 10-12 (1) each distributee of the estate; and
- 10-13 (2) each creditor whose claim remains unsettled after  
 10-14 being presented within six months of the date letters testamentary  
 10-15 or of administration are originally granted.

10-16 SECTION 34. Section 361.052(b), Estates Code, is amended to  
 10-17 read as follows:

10-18 (b) If a personal representative, as executor or  
 10-19 administrator, fails to timely file the affidavit or certificate  
 10-20 required by Section 308.004, the court, on the court's own motion,  
 10-21 may remove the personal representative after providing 30 days'  
 10-22 written notice to the personal representative to answer at a time  
 10-23 and place set in the notice, by a qualified delivery method  
 10-24 [~~certified mail, return receipt requested~~] to:

- 10-25 (1) the representative's last known address; and
- 10-26 (2) the last known address of the representative's  
 10-27 attorney of record.

10-28 SECTION 35. Sections 362.005(b) and (c), Estates Code, are  
 10-29 amended to read as follows:

10-30 (b) Citation issued under Subsection (a) must:

- 10-31 (1) contain:
  - 10-32 (A) a statement that an account for final  
 10-33 settlement has been presented;
  - 10-34 (B) the time and place the court will consider  
 10-35 the account; and
  - 10-36 (C) a statement requiring the person cited to  
 10-37 appear and contest the account, if the person wishes to contest the  
 10-38 account; and
  - 10-39 (2) be given to each heir or distributee of the  
 10-40 decedent by a qualified delivery method [~~certified mail, return~~  
 10-41 ~~receipt requested~~], unless the court by written order directs  
 10-42 another method of service to be given.

10-43 (c) The personal representative shall also provide to each  
 10-44 person entitled to citation under Subsection (b) a copy of the  
 10-45 account for final settlement either by:

- 10-46 (1) a qualified delivery method [~~certified mail,~~  
 10-47 ~~return receipt requested~~]; or
- 10-48 (2) electronic delivery, including facsimile or  
 10-49 e-mail.

10-50 SECTION 36. Section 403.056(a), Estates Code, is amended to  
 10-51 read as follows:

10-52 (a) Notice to the independent executor required by Sections  
 10-53 403.052 and 403.055 must be contained in:

- 10-54 (1) a written instrument that complies with Section  
 10-55 355.004 and is sent by a qualified delivery method [~~hand-delivered~~  
 10-56 ~~with proof of receipt, or mailed by certified mail, return receipt~~  
 10-57 ~~requested with proof of receipt~~], to the independent executor or  
 10-58 the executor's attorney;
- 10-59 (2) a pleading filed in a lawsuit with respect to the  
 10-60 claim; or
- 10-61 (3) a written instrument that complies with Section  
 10-62 355.004 or a pleading filed in the court in which the administration  
 10-63 of the estate is pending.

10-64 SECTION 37. Section 404.0035(a), Estates Code, is amended  
 10-65 to read as follows:

10-66 (a) The probate court, on the court's own motion, may remove  
 10-67 an independent executor appointed under this subtitle after  
 10-68 providing 30 days' written notice of the court's intention to the  
 10-69 independent executor, requiring answering at a time and place set

11-1 in the notice, by a qualified delivery method [~~certified mail,~~  
 11-2 ~~return receipt requested~~], to the independent executor's last known  
 11-3 address and to the last known address of the independent executor's  
 11-4 attorney of record, if the independent executor:

11-5 (1) neglects to qualify in the manner and time  
 11-6 required by law;

11-7 (2) fails to return, before the 91st day after the date  
 11-8 the independent executor qualifies, either an inventory of the  
 11-9 estate property and a list of claims that have come to the  
 11-10 independent executor's knowledge or an affidavit in lieu of the  
 11-11 inventory, appraisal, and list of claims, unless that deadline  
 11-12 is extended by court order; or

11-13 (3) fails to timely file the affidavit or certificate  
 11-14 required by Section 308.004.

11-15 SECTION 38. Section 452.006(a), Estates Code, is amended to  
 11-16 read as follows:

11-17 (a) On the date the county clerk issues letters of temporary  
 11-18 administration:

11-19 (1) the county clerk shall post on the courthouse door  
 11-20 a notice of the appointment to all interested persons; and

11-21 (2) the appointee shall notify, by a qualified  
 11-22 delivery method [~~certified mail, return receipt requested~~], the  
 11-23 decedent's known heirs of the appointment.

11-24 SECTION 39. Section 453.003(a), Estates Code, is amended to  
 11-25 read as follows:

11-26 (a) If there is no qualified executor or administrator of a  
 11-27 deceased spouse's estate, the surviving spouse, as the surviving  
 11-28 partner of the marital partnership, may:

11-29 (1) sue and be sued to recover community property;

11-30 (2) sell, mortgage, lease, and otherwise dispose of  
 11-31 community property to pay community debts, for which a portion of  
 11-32 community property is liable for payment;

11-33 (3) collect claims due to the community estate; and

11-34 (4) exercise other powers as necessary to:

11-35 (A) preserve the community property;

11-36 (B) discharge community obligations, for which a  
 11-37 portion of community property is liable for payment; and

11-38 (C) wind up community affairs.

11-39 SECTION 40. Section 453.006, Estates Code, is amended to  
 11-40 read as follows:

11-41 Sec. 453.006. ACCOUNT OF [~~COMMUNITY~~] DEBTS AND DISPOSITION  
 11-42 OF COMMUNITY PROPERTY. (a) The surviving spouse shall keep a fair  
 11-43 and full account and statement of:

11-44 (1) all [~~community~~] debts and expenses paid by the  
 11-45 surviving spouse; and

11-46 (2) the disposition made of the community property.

11-47 (b) The surviving spouse or personal representative shall  
 11-48 keep a separate, distinct account of all [~~community~~] debts allowed  
 11-49 or paid in the administration and settlement of an estate described  
 11-50 by Section 101.052 [~~Sections 101.052(a) and (b)~~].

11-51 SECTION 41. Section 453.007, Estates Code, is amended to  
 11-52 read as follows:

11-53 Sec. 453.007. DELIVERY OF COMMUNITY ESTATE ON FINAL  
 11-54 PARTITION. On final partition of the community estate, the  
 11-55 surviving spouse shall deliver to the deceased spouse's heirs or  
 11-56 devisees their interest in the estate, and the increase in and  
 11-57 profits of the interest, after deducting from the interest:

11-58 (1) the proportion of the [~~community~~] debts chargeable  
 11-59 to the interest;

11-60 (2) unavoidable losses;

11-61 (3) necessary and reasonable expenses; and

11-62 (4) a reasonable commission for the management of the  
 11-63 interest.

11-64 SECTION 42. Section 501.003(b), Estates Code, is amended to  
 11-65 read as follows:

11-66 (b) For an application described by Section 501.002(b), a  
 11-67 citation shall be issued and served by a qualified delivery method  
 11-68 [~~registered or certified mail~~] on each devisee and heir identified  
 11-69 in the application.

12-1 SECTION 43. Section 505.005(a), Estates Code, is amended to  
12-2 read as follows:

12-3 (a) On receipt of a notice or process described by Section  
12-4 505.004(a)(2), the secretary of state shall promptly forward the  
12-5 notice or process by a qualified delivery method [~~registered or~~  
12-6 ~~certified mail~~] to the officer, agent, or other person designated  
12-7 by the foreign corporate fiduciary under Section 505.004 to receive  
12-8 the notice or process.

12-9 SECTION 44. Section 505.101(a), Estates Code, is amended to  
12-10 read as follows:

12-11 (a) On giving notice by a qualified delivery method  
12-12 [~~registered or certified mail~~] to all creditors of a decedent in  
12-13 this state who have filed a claim against the decedent's estate for  
12-14 a debt due to the creditor, a foreign executor or administrator of a  
12-15 person who was a nonresident at the time of death may maintain a  
12-16 suit in this state for the recovery of debts due to the decedent.

12-17 SECTION 45. Sections 51.052(b), (c), (d), (e), (f), and  
12-18 (g), 51.055(a), 51.056, 51.103(b), 56.002(b), 113.251(c), 202.051,  
12-19 202.203, 305.001, 305.002, 305.003, 305.051, 305.052, 305.053,  
12-20 305.055, 308.002(d), 308.051(a), 308.053(c) and (d), 308.054(a),  
12-21 356.654(b), 361.052(b), 362.005(b) and (c), 403.056(a),  
12-22 404.0035(a), 452.006(a), 501.003(b), 505.005(a), and 505.101(a),  
12-23 Estates Code, as amended by this Act, apply only to an action filed  
12-24 or proceeding commenced on or after the effective date of this Act.

12-25 SECTION 46. The amendments of this Act to Sections 101.052,  
12-26 202.005, 202.151, 356.105(a), 453.003(a), 453.006, and 453.007,  
12-27 Estates Code, are intended to clarify rather than change existing  
12-28 law.

12-29 SECTION 47. Section 113.251(c), Estates Code, as amended by  
12-30 this Act, applies only to multiple-party accounts created or  
12-31 existing on or after the effective date of this Act.

12-32 SECTION 48. Section 202.056, Estates Code, as amended by  
12-33 this Act, applies only to a proceeding to declare heirship  
12-34 commenced on or after the effective date of this Act. A proceeding  
12-35 to declare heirship commenced before that date is governed by the  
12-36 law in effect on the date the proceeding was commenced, and the  
12-37 former law is continued in effect for that purpose.

12-38 SECTION 49. Sections 256.052(a) and 257.051(a), Estates  
12-39 Code, as amended by this Act, and Sections 258.002(d) and (e),  
12-40 Estates Code, as added by this Act, apply only to an application for  
12-41 the probate of a will filed on or after the effective date of this  
12-42 Act. An application for the probate of a will filed before that  
12-43 date is governed by the law in effect on the date the application  
12-44 was filed, and the former law is continued in effect for that  
12-45 purpose.

12-46 SECTION 50. Section 301.052(a), Estates Code, as amended by  
12-47 this Act, applies only to an application for letters of  
12-48 administration filed on or after the effective date of this Act. An  
12-49 application for letters of administration filed before the  
12-50 effective date of this Act is governed by the law in effect on the  
12-51 date the application was filed, and the former law is continued in  
12-52 effect for that purpose.

12-53 SECTION 51. Section 308.051(a), Estates Code, as amended by  
12-54 this Act, applies only to an order admitting a will to probate  
12-55 issued on or after the effective date of this Act. An order  
12-56 admitting a will to probate issued before the effective date of this  
12-57 Act is governed by the law in effect on the date the order was  
12-58 issued, and the former law is continued in effect for that purpose.

12-59 SECTION 52. This Act takes effect September 1, 2021.

12-60 \* \* \* \* \*