

## **BILL ANALYSIS**

S.B. 1448  
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Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that there are several procedural requirements under Texas probate law creating inefficiencies and inconsistencies in estate administration. For example, when probate files are transferred between counties, the original will must be physically delivered despite the use of electronic filing systems for other documents. Additionally, some courts require an original self-proving affidavit to make a copy of a will self-proved, and current inventory requirements do not explicitly require identification of marital property status, which may lead to incomplete information for estate administration. S.B. 1448 seeks to address these and other inefficiencies and inconsistencies by clarifying certain existing law relating to decedents' estates and facilitating procedures relating to probate proceedings, probated wills, and the administration of certain estates.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1448 amends the Estates Code to establish that a copy of a will that cannot be produced in court that includes a copy of a self-proving affidavit is sufficient to make the will self-proved if the self-proving affidavit meets the form and content requirements under applicable state law relating to self-proved wills. The bill establishes that this provision is intended to clarify rather than change existing law.

S.B. 1448 revises the requirement for the clerk of the court from which a probate proceeding is transferred to a court in another county to send to the clerk of the court to which the proceeding is transferred certain probate proceeding information by doing the following:

- removing the specification that the requirement for the clerk to send a copy of the original papers filed in the transferring court using the state's electronic filing system includes a copy of any will; and
- requiring the clerk instead to send by a qualified delivery method the original will, or the paper copy of the will offered to prove a will that cannot be produced in court, as applicable.

The bill requires the applicant who requested to transfer a probate proceeding, if applicable, to pay that delivery cost. These bill provisions relating to the transfer of a probate proceeding record apply only to a proceeding that is pending or commenced on or after the bill's effective date.

S.B. 1448 requires a paper copy of a proved will not produced in court to be deposited in the office of the county clerk of the county in which the will was probated. This requirement applies only to a proceeding commenced on or after the bill's effective date. A proceeding commenced before the bill's effective date is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

S.B. 1448 revises the requirement for the verified, full, and detailed written inventory of all estate property that has come into the possession of a decedent's personal representative or of which the representative has knowledge to specify which portion of the property is separate property and community property, if any, by doing the following:

- conditioning that specification requirement on the decedent being married at the time of the decedent's death; and
- requiring the inventory to state whether the decedent was married at the time of the decedent's death.

The bill conditions the requirement that the complete list of claims due or owing to an estate to state whether each claim is separate property or community property on the decedent being married at the time of the decedent's death. These bill provisions relating to the inventory and list of claims apply to the administration of a decedent's estate that is pending or commenced on or after the bill's effective date.

S.B. 1448 establishes a deadline of not later than the seventh day after the date letters providing notice of appointment for an estate's temporary administration are issued by which the appointee must file with the court proof of service of the notice to the decedent's known heirs of the appointment of a temporary administrator in the required manner under applicable state law. This provision applies only to a temporary administrator appointed on or after the bill's effective date. A temporary administrator appointed before the bill's effective date is governed by the law in effect on the date the administrator was appointed, and the former law is continued in effect for that purpose.

S.B. 1448 authorizes a court in which summary proceedings for certain small estates are held, on presentation of the account and application of the estate's personal representative for the settlement and allowance of the account, to adjust, correct, settle, allow, or disallow the account with or without citation. With respect to provisions providing for the general powers of a surviving spouse if no administration is pending, the bill replaces provisions as follows:

- replaces the authorization for the surviving spouse to sell, mortgage, lease, and otherwise dispose of community property to pay community debts for which a portion of community property is liable for payment with an authorization for the surviving spouse to take such action to pay debts for which a portion of community property is liable for payment; and
- replaces the authorization for the surviving spouse to exercise other powers as necessary to discharge community obligations for which a portion of community property is liable for payment with an authorization for the surviving spouse to take such action necessary to discharge obligations for which a portion of community property is liable for payment.

The bill establishes that these bill provisions relating to summary proceedings for certain small estates and to the general powers of a surviving spouse if no administration is pending are intended to clarify rather than change existing law.

S.B. 1448 amends the Government Code to require a statutory probate court, in addition to any other delivery method required or authorized by law or supreme court rule, to deliver through the state's electronic filing system to all parties in each case in which the use of the electronic filing system is required or authorized all court orders the court enters for the case.

S.B. 1448 repeals Section 403.060, Estates Code, relating to the authority of a person having debt against an estate for which an independent administration is created to cause all distributees of the estate, heirs at law, and other persons entitled to any portion of the estate under the will,

if any, to be cited by personal service to appear before court and execute a bond for an amount equal to the amount of a creditor's claim or the full value of the estate, whichever is smaller.

**EFFECTIVE DATE**

September 1, 2025.