

BILL ANALYSIS

Senate Research Center
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S.B. 1448
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1448 amends the Texas Estates Code to address gaps and oversights from 2023 probate reforms. Supported by the Texas Real Estate and Probate Institute (T-REP), a successor to the lobbying efforts of the State Bar's Real Estate and Probate Law Section, the bill tackles procedural inefficiencies in probate proceedings, reflecting Texas's ongoing effort to streamline estate administration amid growing caseloads—over 50,000 probate filings annually per Texas Office of Court Administration data.

The legislation fixes issues like the 2023 omission requiring physical transfer of original wills in electronic probate cases, now mandating a "qualified delivery method," and allows paper copies of unproducible wills to be filed like originals. It also addresses delays in notifying heirs of temporary administrator appointments by requiring notice within seven days, ensuring heirs can contest within 15 days. Additional clarifications—adding statutory probate courts to electronic filing rules, simplifying self-proved wills, and removing outdated bond and "community debt" references—aim to reduce confusion and modernize processes. These changes respond to practitioner feedback about unclear rules slowing estates, supporting Texas families and courts in an era of complex estate planning.

As proposed, S.B. 1448 amends current law relating to decedents' estates and other matters involving probate courts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 33.105, Estates Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the clerk of the transferring court, if a probate proceeding is transferred to a court in another county under Chapter 33 (Venue), to send to the clerk of the court to which the proceeding is transferred:

(1) using the electronic filing system established under Section 72.031 (Electronic Filing System), Government Code, certain papers, including a copy of the original papers filed in the transferring court, rather than including a copy of any will; and

(2) by a qualified delivery method, the original will, or the paper copy of the will offered under Section 256.156 (Proof of Will Not Produced in Court) to prove a will that cannot be produced in court, as applicable.

Makes nonsubstantive changes to this subsection.

(a-1) Requires the applicant who requested to transfer a probate proceeding, if applicable, to pay the cost of delivery under Subsection (a)(2).

SECTION 2. Amends Section 256.156, Estates Code, by adding Subsection (c), to provide 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 Subchapter C (Self-Proved Wills), Chapter 251 (Fundamental Requirements and Provisions Relating to Wills).

SECTION 3. Amends Section 256.202, Estates Code, to require that an original will, or a paper copy of a will proved under Section 256.156, and the probate of the will be deposited in the office of the county clerk of the county in which the will was probated.

SECTION 4. Amends Section 309.051(a), Estates Code, to require that the inventory of all estate property state whether the decedent was married at the time of the decedent's death, and if the decedent was married at the time of the decedent's death, specify which portion of the property, if any, is separate property and which, if any, is community property.

SECTION 5. Amends Section 309.052, Estates Code, to require that the list of claims state certain information, including, regarding each claim, whether the claim is separate property or community property, if the decedent was married at the time of the decedent's death.

SECTION 6. Amends Section 354.001(b), Estates Code, to authorize the court, with or without notice or citation, on presentation of the personal representative's account and application under Subsection (a) (relating to requiring the representative, if, after inventory, appraisal, and claims have been filed or the affidavit in lieu of it is established that the decedent's estate, excluding certain items does not exceed the amount sufficient to pay the claims against the estate), to adjust, correct, settle, allow, or disallow the account.

SECTION 7. Amends Section 452.006(c), Estates Code, to require the appointee, not later than the seventh day after the date letters of temporary administration are issued, to file with the court proof of service of the notice required under Subsection (a) (relating to providing that on the date the county clerk issues letters of temporary administration requiring certain persons to post or notify certain persons) in the manner provided by Section 51.103(b)(3) (relating to providing that proof of service consists of if the service is made by a qualified delivery method through certain delivery methods).

SECTION 8. Amends Section 453.003(a), Estates Code, as follows:

(a) Authorizes the surviving spouse, as the surviving partner of the marital partnership, if there is no qualified executor or administrator of a deceased spouse's estate, to:

(1) makes no changes to this subdivision;

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

(3) makes no changes to this subdivision;

(4) exercise other powers as necessary to achieve certain goals, including to discharge obligations, rather than community obligations, for which a portion of community property is liable for payment.

Makes nonsubstantive changes to this subsection.

SECTION 9. Amends Section 80.002(b), Government Code, as follows:

(b) Requires certain courts, including a statutory probate court, in addition to any other delivery method required or authorized by law or supreme court rule, to deliver through the electronic filing system established under Section 72.031 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.

SECTION 10. Repealer: Section 403.060 (Requiring Heirs to Give Bond), Estates Code.

SECTION 11. Provides that the amendment by this Act of Sections 256.156, 354.001 (Summary Proceedings for Certain Small Estates), and 453.003 (General Powers of Surviving Spouse If No Administration Is Pending), Estates Code, is intended to clarify rather than change existing law.

SECTION 12. Makes application of Section 33.105, Estates Code, as amended by this Act, prospective.

SECTION 13. Makes application of Section 256.202, Estates Code, as amended by this Act, prospective.

SECTION 14. Makes application of Sections 309.051(a) and 309.052, Estates Code, as amended by this Act, prospective.

SECTION 15. Makes application of Section 452.006(c), Estates Code, as amended by this Act, prospective.

SECTION 16. Effective date: September 1, 2025.