

The 2025 Texas Estate and Trust Legislative Update

(Including Decedents' Estates, Guardianships, Trusts,
Powers of Attorney, and Other Related Matters)

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(See the note on page 7 about hyperlinking to the online version of this paper.)

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Certifications and Admissions

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Professional Memberships and Honors

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 - Co-chair, Estate and Trust Legislative Affairs Committee (2024-present)
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- Texas Real Estate and Probate Institute
 - Co-chair, Estate and Trust Legislative Affairs Committee (2024-present)
 - Member, Decedents' Estates Committee (2022-present)
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 - Board of Directors (2024-present)
 - Treasurer (2025)
- Austin Bar Association, Estate Planning and Probate Section, Member
- American Bar Association, Real Property, Trust and Estate Law Section, Member
- Texas Rising Stars, Thomson Reuters (2021-present)
- Best Lawyers in America, Ones to Watch (2024-present)

Publications and Presentations

- Presenter, "Planning, Reporting, and Fixing," State Bar of Texas, 30th Annual Advanced Estate Planning Strategies Course (2024)
- Presenter, "Drafting Changes Over the Recent Legislative Sessions," State Bar of Texas, 34th Annual Estate Planning and Probate Drafting Course (2023)
- Presenter, "Legislative Update"
 - Houston Bar Association Probate Section (2023)
 - Tarrant County Probate Bar Association (2023)
 - Austin Bar Association Estate Planning and Probate Section All-Day CLE (2023)
- Co-Author, "REPTL, Meet T-REP. T-REP, Meet REPTL. The 2023 Texas Estate and Trust Legislative Update," State Bar of Texas, 47th Annual Advanced Estate Planning and Probate Course (2023)

- Co-Author, “Face Masks, Zoom, and Quarantinis: Welcome to...The 2021 Texas Estate and Trust Legislative Update,” State Bar of Texas, 45th Annual Advanced Estate Planning and Probate Course (2021)
- Presenter/Co-Author, “Teaching the ABCs to Your Trustees: How to Provide Practical Instructions to New Trustees,” State Bar of Texas, Handling Your First (or Next) Trust Course (2021)
- Co-Author, “Language to Include in Your Estate Planning Documents: Suggestions from Trust and Estate Litigators,” State Bar of Texas, 31st Annual Estate Planning and Probate Drafting Course (2020)
- Co-Author, “Transfer Restrictions in Business Entities,” State Bar of Texas, 44th Annual Advanced Estate Planning & Probate Course (2020)
- Co-Author, “How to Request (and Get) a PLR,” *Texas Tax Lawyer*, Spring 2013, Vol. 40, No. 2

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Legal Experience

Julia Jonas is board certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization. Julia works with clients on their estate planning, including wills, trusts, partnerships, and other types of gifting. She enjoys working with individuals and families of all backgrounds to find the right structure to address their specific needs, such as guardianship for minor children, custom trust provisions, estate and generation-skipping transfer tax planning, family business issues, and unique assets. Julia practices law with her father, Glenn Karisch.

Education

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Certifications and Admission

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- Admitted to Practice: State Bar of Texas; Washington State Bar

Professional Memberships and Honors

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- Member, Estate Planning Council of Central Texas
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Publications and Presentations

- “Practical Application of the Texas Uniform Disclaimer of Property Interests Act,” Intermediate Estate Planning and Probate Course, Dallas, Texas (2018)
- Co-Author, “To Disclaim or Not to Disclaim: ‘How?’ Is the Real Question,” 39th Annual Advanced Estate Planning and Probate Course, Dallas, Texas (2015)
- Co-Author, “Problems with the Texas Disclaimer Statutes and How to Deal with Them,” 38th Annual Advanced Estate Planning and Probate Course, San Antonio, Texas (2014)
- Co-Author, “Foreign Account Tax Compliance Act and Other Foreign Reporting,” 31st Annual Advanced Tax Law Course, State Bar of Texas, Houston, Texas (2013)
- Co-Author, “Offshore Account Reporting Requirements,” 59th Annual Texas CPA Tax Institute, Texas Society of Certified Public Accountants, Dallas, Texas (2012)

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The More Things Change, the More They Stay the Same

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Powers of Attorney, and Other Related Matters)

1. The Preliminaries.

Thank You, Bill.

Bill Pargaman, long-time author of this paper, died on August 3, 2023. A friend and teacher to many, he was deeply committed to his family, community, and the State Bar. Bill spent more than two decades contributing to the Real Estate, Probate, and Trust Law section of the State Bar of Texas, serving on the Trusts and Legislative Affairs Committees, REPTL Council, and ultimately as Chair of REPTL in 2015-2016. Following his tenure as REPTL Chair, he continued his service to the State Bar by volunteering countless hours researching, writing, speaking, and advancing legislation to further the practice of law in estate planning and probate. Bill was instrumental in forming the Texas Real Estate and Probate Institute and served on its inaugural board beginning in 2022.

This paper would not be possible without the time, energy, intellectual contributions, and mentorship Bill provided over many years. Thank you, Bill, for these gifts and to his family and colleagues for supporting him in his dedication to the State Bar.

Introduction and Scope.

The 89th Regular Session of the Texas Legislature spans the 140 days beginning January 14, 2025 and ending June 2, 2025. This paper presents a summary of the bills that relate to probate (*i.e.*, decedents' estates), guardianships, trusts, powers of attorney, and several other areas of interest to estate and probate practitioners. Issues of interest to elder law practitioners are touched upon but are not a focus of this paper.

CMA Disclaimers.

While reading this paper, please keep in mind the following:

- We've made every reasonable attempt to provide accurate descriptions of the contents of bills, their effects, and in some cases, their background.

Nevertheless, we're human and have been known to make mistakes.

- In addition, some of the descriptions in this paper admittedly border on editorial opinion, in which case the opinion is the authors', and not necessarily that of REPTL, T-REP, or anyone else.
- As companion bills make their way through the legislative process, we usually base descriptions on the most recently approved version in either chamber. In the case of T-REP bills, we sometimes have access to drafts of substitutes before they are officially posted, in which case the descriptions may be based on what we think the bill will look like, rather than what the currently-online version looks like.
- As a consequence, while the descriptions contained in this paper are hopefully accurate at the time they are written, they may no longer accurately reflect the contents of a bill at a later stage in the legislative process.

Therefore, you'll find directions in Section 10.3 on page 7 for obtaining copies of the actual bills themselves so you may review and analyze them yourself before relying on any information in this paper. The most recent version of this paper can be downloaded (by REPTL members) from the [REPTL Estate & Trust Legislative Update page](#).

T-REP and REPTL.

The Texas Real Estate and Probate Institute ("T-REP") prepares and promotes legislation to enhance state law relating to real estate, decedents' estates, trusts, guardianships, and powers of attorney and advance directives.¹ Recommendations for legislation come from a variety of sources and are considered by T-REP's substantive committees and board. Once a legislative package has been prepared, TREP's Estate

¹ This paper focuses on these areas, which together make up the "death" side of TREP. The real estate side of T-REP, or the "dirt" side, prepares a similar legislative update relating to real estate matters, which can also be found on REPTL's website.

and Trust Legislative Affairs Committee and lobbyist help encourage the legislation's passage. The Real Estate, Probate, and Trust Law section of the State Bar of Texas ("REPTL") contracts with T-REP to keep its members informed of changes of interest.

Procedural Matters, Processes, and Players.

This paper has a wealth of knowledge regarding the legislative process, the people who make REPTL and TREP function, and context about how this paper can be used. In response to feedback from readers, this contextual information has been moved to the end of the paper to allow the legislation to take front stage. Please turn to **Part 10 on page 7** for these valuable resources.

2. The T-REP Bills.

The Original T-REP Legislative Package.

TREP's 2025 legislative package consists of a number of bills covering three general areas: (i) decedents' estates; (ii) guardianships; and (iii) trusts. Section 35(a), Article III, of the Texas Constitution contains the "one-subject" rule:

No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject.

Because of this rule, TREP (or sometimes Legislative Council²) will strip out provisions from one or more of the "general" bills that may violate the one-subject rule and place them in separate, smaller bills. In each of the substantive sections of this paper, we will identify any TREP bills and begin with descriptions of them.

Consolidation of Bills.

As hearings begin, legislators often ask interested parties to try to consolidate as many of the various bills on similar subjects as possible, in order to reduce the number of bills that would need to move through the legislature. Pursuant to this request, T-REP and the statutory probate judges often agree to consolidate all or a portion of a number of other bills into one or more of T-REP's bills. Therefore, keep in mind that not everything that may end up in a TREP bill by the time it passes was originally a TREP proposal.

3. Decedents' Estates.³

² The role of Legislative Council is discussed in Section 12.4(e).

³ In general, section references throughout this part of the paper are to the Texas Estates Code unless otherwise noted.

T-REP Decedents' Estates Bill.

T-REP's decedents' estates bill is **SB 1448** (Hughes, Blanco | Hayes) and **HB 3421** (Hayes | Hughes). Typically, companion bills are introduced in each congressional chamber, and one chamber's bill takes priority over the other in the race to become law. This session, both the Senate and House bills passed independently. **SB 1448** is identical to **HB 3421**, except that it includes **HB 3650**, which was rolled into the Senate bill after **HB 3650** failed to meet required deadlines.

HB 3421 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

SB 1448 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Delivery of Original Will upon Transfer. (Sec. 33.105).

This change provides that an original will or a paper copy of a will not produced in court must be delivered to the transferee court by qualified delivery method, with costs paid by the party requesting the transfer. This was a change proposed during the 2023 legislative session in **HB 2893** (Clardy | Zaffirini, *et al.*), which required the probate clerk of a transferring court to use the electronic filing system when sending case documents to the transferee court. That bill also required an original will to be transferred to the transferee court at the expense of the party requesting the transfer. Most of the provisions of **HB 2893** were rolled into **HB 3474** (Leach, *et al.* | Hughes, *et al.*), an omnibus bill relating to the administration of the judicial branch, which passed. However, the language requiring the transfer of the original will was omitted from **HB 3474** due to concern relating to the transfer of original wills by certified mail, return receipt requested.

Copy of Self-Proving Affidavit. (Sec. 256.156).

When a copy of a will is probated, a handful of courts require an original self-proving affidavit to be filed to make the will self-proved. In most cases, this means that a copy of a will cannot be self-proved, since the original affidavit is often attached to the original will. This proposal would allow a copy of a self-proving affidavit to be sufficient to make a copy of a will not produced in court self-proving. An original self-proving affidavit is not required. This is a clarification and not intended to change existing law.

Paper Copy of Will Not Produced in Court. (Sec. 256.202).

This change provides that if a paper copy of a will not produced in court is filed with the clerk, the paper copy must be retained by the clerk in the same manner as an original will.

Marital Property Character of Assets on Inventory. (Secs. 309.051 & 309.052).

The Estates Code currently requires an inventory, appraisal, and list of claims to separately specify which portions of the property are separate property and which are community property. The T-REP bill changes this provision to require the inventory, appraisal, and list of claims to state whether the decedent was married at the time of death and only specify the separate or community nature of the assets if the decedent was married.

Citation for Certain Accountings. (Sec. 354.001).

Currently a court may adjust, correct, settle, allow, or disallow a personal representative's account without notice in small estate proceedings under Estates Code Chapter 354. This change clarifies that, in such cases, citation need not be issued.

Requirement of Heirs to Give Bond. (Sec. 403.060).

A rarely-used section of the Estates Code requires heirs to give bond in independent administrations upon application to the court by a creditor of the estate. The T-REP bill repeals this section.

Proof of Service in Temporary Administrations. (Sec. 452.006).

There is no time limit for providing proof of service in temporary administrations. However, heirs have 15 days after the appointment to contest it. This bill requires temporary administrators to provide proof within seven days of the appointment that the heirs were notified by qualified delivery method.

Community Debts. (Sec. 453.003).

During the 2023 legislative session, T-REP's decedents' estates bill, [SB 1373](#) (Hughes | Smithee) replaced references to "community debts" with references to "debts for which a portion of community property is liable for payment" in several provisions of the Estates Code. The 2025 bill cleans up a couple of references to "community debts" and "community obligations" that were not changed in the 2023 legislation.

Electronic Orders. (Gov't Code Sec. 80.002).

This change requires statutory probate courts to deliver copies of orders to the parties through the state's electronic filing system. In 2023, [HB 3474](#) applied

this change to orders entered by statutory county courts, district courts, and appellate courts.

Service on Deceased Person. (Sec. 51.057).

[HB 3650](#) (Schoolcraft) failed to meet procedural deadlines during session, so its provisions were added to [SB 1448](#) in a House floor amendment. This change provides categories of individuals who must be served if citation or notice is required to be served on a person who died after a probate proceeding has begun. If there is no court order determining the distributees of an estate and if no personal representative has been appointed, service must be made on unknown distributees by publication, and the court may appoint an attorney ad litem.

Delivery of Paper Copy of Will. (Sec. 33.105).

Like T-REP's decedents' estates bill, [SB 1839](#) (Zaffirini | Dutton) provides that when a probate is transferred to a different court, the original will or copy of the will must be transferred using one of the listed methods (which fall within the definition of a "qualified delivery method") and the party requesting the transfer is responsible for paying for the transfer. A committee substitute matches the language of [SB 1839](#) to the TREP decedents' estates bill.

[SB 1839](#) was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Cancellation of Letters When Estate is Closed. (Secs. 306.007, 361.052, 362.012-362.013, 405.001, 405.007, 405.009).

[SB 1335](#) (Zaffirini | Landgraf) allows a court to provide notice by qualified delivery method, rather than personal service, when removing a personal representative on its own motion. Additionally, the bill allows a court to terminate letters and release and discharge sureties on the personal representative's bond upon closing of an estate to prevent premiums from continuing to be charged.

[SB 1335](#) was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Increased Penalty for Forgery. (Penal Code Sec. 32.21).

[SB 1379](#) (Flores, *et al.* | Cook) provides that the forgery of a will, codicil, deed, or other listed instrument is a third-degree felony.

[SB 1379](#) was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Taxes.

Several bills address state-level taxes that may occur at a decedents' death.

No Tax on Capital Gains.

SJR 18 (Perry, *et al.* | Capriglione, Metcalf) (**HJR 6** (Capriglione, *et al.*) was its companion) proposes a constitutional amendment prohibiting the imposition of capital gains tax.

SJR 18 was filed with the Secretary of State on May 7, 2025 and will be voted on in an election for constitutional amendment on November 4, 2025.

No Estate, Gift, or GST Tax.

HJR 2 (Geren, *et al.* | Perry) (**SJR 19** (Perry) was its companion) proposes a constitutional amendment prohibiting the imposition of estate, gift, or GST tax.

HJR 2 was filed with the Secretary of State on May 14, 2025 and will be voted on in an election for constitutional amendment on November 4, 2025.

No Gift Tax on Inheritance of Vehicle. (Tax Code Sec. 152.025).

SB 2064 (Perry, *et al.* | Lambert, Vasut) (**HB 3952** (Lambert, Vasut) was its companion) exempts motor vehicles received from a decedent's estate from gift tax typically imposed on the transfer of vehicles from family members or trusts. The current amount of this gift tax is \$10.

SB 2064 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Procedural Matters Affecting Decedents' Estates.

Don't forget to check out matters that may affect decedents' estates discussed in Part 7 – Court Administration.

4. Guardianships and Persons with Disabilities.

The T-REP Guardianship Bill.

T-REP's guardianship bill is **SB 746** (Zaffirini | Thompson) (**HB 1954** (Thompson, Schoolcraft) was its companion).

SB 746 was signed by the Governor on May 29, 2025 and is effective September 1, 2025.

GAL for Proposed Ward. (Secs. 1002.013, 1054.051, 1054.054, & 1054.056).

The bill clarifies that the court may appoint a guardian ad litem to represent a *proposed* ward, in addition to an incapacitated person. This is intended as a clarification and not a change to existing law.

Action by Party Adverse to Ward. (Sec. 1055.001).

T-REP's guardianship bill further limits those with adverse interests from participating in guardianship proceedings affecting the ward or proposed ward. This amendment provides that a person with interest adverse to a ward cannot apply for appointment of a guardian, file a motion to request removal, or contest a request for removal of a guardian. Currently, the statute prevents those with adverse interests only from being a party to an application to create a guardianship, contesting the appointment of a proposed guardian, or contesting an application to restore a ward's capacity.

Order on Annual Account and Report. (Secs. 1163.051 & 1163.104).

The bill requires an order to be issued following a judge's review of an annual accounting and an annual report in order to prevent the inadvertent cancellation of letters of guardianship. The judge may either approve the accounting or report or require the guardian to file another accounting or report within 30 days of the court's order.

Multiple Guardianship Changes.

SB 1760 (Zaffirini | Thompson) contains a number of changes relating to guardianships.

SB 1760 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Transfer of Venue. (Secs. 1023.002 & 1023.004-1023.005).

When a guardianship is transferred for want of venue, the transfer must occur in the manner set out in Section 1023.006 and the sureties on the guardian's bond must be cited by qualified delivery method.

Clerk Requirements on Transfer. (Sec. 1023.006).

When a guardianship is transferred, the transferring clerk must include a certified index of the transferred documents and include any papers previously received from a court in another county. The clerk must also keep a copy of all transferred pleadings, orders, and other papers filed into the case record.

Transfer Fee. (Sec. 1023.0071).

The fee for transferring a guardianship matter when a guardian has been previously appointed is \$80 payable to the transferee clerk. No portion of the fee may be sent to the state and no other filing fee may be assessed by the transferee clerk for the transfer.

Deposit with Registry. (Sec. 1105.157).

This section allows a guardian of the estate to deposit cash with the registry of the court in lieu of giving

surety on a bond. The court must issue a receipt in the form set forth in the statute.

Notification to Court. (Sec. 1151.051).

A guardian of the person has a duty to notify the court in the following circumstances: (i) the ward has died, (ii) the ward is admitted for acute care for three or more days, (iii) the ward's residence or address has changed, or (iv) the guardian's contact information has changed.

Allowance for Ward's Children. (Sec. 1156.051).

The bill clarifies the ability of the guardian of the estate to spend money for the maintenance and education of the ward's minor or incapacitated adult children. It also requires proof of delivery of notice for the application for allowance.

Accounting Documentation. (Sec. 1163.003(a)).

The bill expands the list of supporting documentation that a guardian of the estate must attach to each annual account to include complete banking and investment statements, receipts for all purchases and expenditures, documentation substantiating all expenses paid, including ATM withdrawals, and a bill of sale from the purchaser of any personal property sold during the accounting period.

Requirements for Discharge. (Secs. 1203.006, & 1204.151-1204.152).

This section requires the court to issue an order canceling the letters issued to the guardian upon discharge.

Affidavit Regarding Citation on Presentation of Account. (Sec. 1204.105).

A guardian of the estate is required to file an affidavit or attorney's certificate stating the name of individuals served or who waived service and that each person entitled to citation was provided a copy of the accounting for final settlement.

Service for Temporary Guardianships. (Sec. 1251.005).

This section clarifies that in an application for temporary guardianship, personal service is required for the proposed ward and proposed temporary guardian.

Scope of Supported Decision-Making Agreement (Secs. 1357.051 & 1357.056).

SB 66 (Zaffirini | Leach) initially proposed expanding the scope of a supported decision-making agreement to include assistance in legal matters in which the supported person is involved, in both civil and criminal proceedings. In a substitute, the bill was scaled back to ordering a study to be conducted on the legal and

ethical implications of authorizing a supporter to assist an adult with a disability with legal proceedings.

SB 66 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

4.4 Research and Training.

Alzheimer's and Dementia Training. (Gov't Code Sec. 155.204).

HB 3376 (Capriglioni | Zaffirini) (**SB 1536** (Zaffirini, Menéndez) was its companion) requires guardians other than attorneys, corporate fiduciaries, and guardians meeting the certification requirements to participate in a free annual one-hour training course relating to aging, Alzheimer's, and dementia if the ward is over 60 or is earlier diagnosed with Alzheimer's or dementia. A court may waive this training.

HB 3376 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Creation of Dementia Prevention and Research Institute of Texas. (Education Code Secs. 51.955(c) & 61.003(6); Gov't Code Sec. 572.003(c); H&S Code Secs. 101A.001-101A.310).

SB 5 (Huffman *et al.* | Craddick, *et al.*) and **SJR 3** (Huffman *et al.*) (**HB 5** (Craddick *et al.*) and **HJR 3** (Craddick *et al.*) were their companions) establish an institution to create and expedite innovation in dementia, Alzheimer's, and Parkinson's research, and attract, create, or expand research capabilities of colleges and universities relating to dementia. The creation of this institution is contingent on voter approval of a constitutional amendment.

SB 5 was signed by the Governor on May 24, 2025 and is effective December 1, 2025 if the related constitutional amendment is approved.

Procedural Matters Affecting Guardianships.

Don't forget to check out the matters affecting guardianships discussed in Part 7—Court Administration.

5. Trusts.⁴

The T-REP Trusts Bill.

This session's TREP's trusts bill was **HB 3405** (Hayes) and **SB 1218** (Hughes). The bill modifies Property Code sections 113.151 and 113.152 regarding trust accountings. Currently, an accounting is required to show income and principal separately for receipts and disbursements. The change proposed by the T-REP bill removes this requirement if the beneficiaries and distribution standards are the same for both income and

⁴ Section references in Part 5 are to the Texas Property Code unless otherwise noted.

principal. However, the court can require an accounting to separately account for the income or principal nature of receipts and disbursements upon showing of good cause.

HB 3405 passed in the House but did not get a hearing in the Senate Business and Commerce Committee. **SB 1218** also failed to be heard in the Senate Business and Commerce Committee.

6. Nonprobate Transfers

Beneficiary Designations for Manufactured Homes. (Est. Code Secs. 116.001-116.007, 122.001(1); Occ. Code Sec. 1201.2135).

SB 1940 (Hughes | VanDeaver) (**HB 3395** (VanDeaver) was its companion) allows the owner of a manufactured home that has been classified as personal property to make a revocable beneficiary designation and cause the home to pass to one or more beneficiaries as a nonprobate transfer. The designated beneficiary or beneficiaries have one year after the owner's death to submit an application to the Texas Department of Housing and Community Affairs, and if such application is not submitted in time, the beneficiary designation is void.

SB 1940 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

7. Court Administration.

Eligibility for Assignment as Judge. (Gov't Code Secs. 25.0022-25.002201 & 25.00255).

SB 2127 (Zaffirini | Raymond, Martinez) (**HB 1181** (Raymond, *et al.*) was its companion) reduces the length of time that a former or retired judge must have served in order to be eligible for assignment and provides that the judge or justice must certify not to hear a matter involving a current or former client for the duration of the assignment.

SB 2127 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

7.2 Recording Documents.

Additional Requirements for Recording. (Prop. Code. Sec. 12.001).

SB 16 (West, *et al.* | Dyson, *et al.*), which passed in the second special session, places additional requirements on those recording real property conveyances. There are new criminal penalties for real property theft and real property fraud, and those recording deeds in person must now provide a photo ID to the clerk.

SB 16 was signed by the Governor on September 17, 2025. It is effective in part on December 4, 2025 and in part on January 1, 2026.

Additional Recording Requirements if Fraud is Suspected. (Civ. Prac. & Rem. Code Sec. 12.003, Gov't Code Secs. 51.901 & 51.9035, & Prop. Code Sec. 12.001).

Gov't Code Sec. 51.901 already provides that if a district, county, or municipal clerk has reason to believe certain filed documents are fraudulent, including a document purporting to place a lien on property, the clerk is required to send notice to the last known address of the debtor or obligor. **SB 647** (West, *et al.* | Anchía, *et al.*) (**HB 4558** (Anchía) was its companion) modifies regulations regarding filing and recording of documents that convey or assert a claim or lien against real or personal property. If the clerk believes in good faith that the document is fraudulent, the clerk can provide notice to the last known address of the grantor or last owner (if different from the grantor, obligor, or debtor named in the document) and can refuse to file or record a document if listed statutory requirements are met.

SB 647 was signed by the Governor on June 20, 2025. It is effective September 1, 2025.

Eligibility for Assignment as Judge. (Gov't Code Secs. 25.0022-25.002201 & 25.00255).

HB 16 (Leach *et al.* | Hughes), which passed in the second special session, allows a former or retired appellate court justice to be assigned to hold court in a statutory probate court, a county court, or any statutory court exercising probate jurisdiction where a statutory probate judge or judge of a county court at law or constitutional county court exercising probate jurisdiction is recused or disqualified, or where a party in a contested probate matter in a constitutional county court requests assignment of a statutory probate judge.

HB 16 was signed by the Governor on September 17, 2025. It is effective December 4, 2025.

8. Selected Family Law Issues.

Void Marriages and Divorce Decrees (Fam. Code Secs. 6.202 & 9.401).

Family Code Section 6.202 provides that a marriage is void if either party has an undissolved prior marriage. The later marriage becomes valid once the prior marriage is dissolved if the parties have lived together and represented themselves as husband and wife following dissolution of the prior marriage. **HB 2240** (Dutton | Zaffirini), like 2023's **HB 3431** (Dutton | Hughes) removes that validation if a party didn't know, and a reasonably prudent person would not have

known, that the later void marriage was entered into when the other party had an existing marriage. The party seeking to prevent validation of the marriage has to file a suit to declare the later marriage void within 30 days after learning of the preexisting marriage, unless the party falls into certain categories that would make it harder to initiate a lawsuit, such as being on active duty. The bill also voids a decree of divorce or annulment if the court rendering the decree lacked jurisdiction because the marriage was void under the laws of the jurisdiction in which the marriage was entered into.

HB 2240 was signed by the Governor on June 20, 2025. It is effective immediately.

9. Stuff That Doesn't Fit Elsewhere.

Notaries.

A handful of bills address requirements for notaries.

(a) **SB 693** (West | Anchía, *et al.*) (**HB 3704** (Anchía, *et al.*) was its companion) requires initial training and continuing education of up to two hours for notaries and creates a Class A misdemeanor for a notary who notarizes a document with knowledge that the signer did not personally appear. This penalty increases to a state jail felony if it involves a transfer of real property. The bill also requires the notary to keep certain records for 10 years from the date of the notarization.

SB 693 was filed without the Governor's signature and is effective September 1, 2025.

(b) **HB 4202** (Swanson, *et al.* | Zaffirini) expands evidence of an acknowledging individual's identity to the oath of a credible witness who provides the notary with a signed photo ID.

HB 4202 was signed by the Governor on June 20, 2025. It is effective immediately.

Licensed Legal Paraprofessionals – Rules Delayed.

On August 6, 2024, the Texas Supreme Court issued **preliminary rules** allowing certain licensed non-attorney professionals to provide limited legal services in estate planning and probate law, among other areas. The rules are an effort to increase access to legal services for low-income Texans. A licensing system is proposed for individuals to become licensed as a "licensed legal paraprofessional" in either family law, estate planning and probate law, or consumer debt law. Candidates must have certain work experience, pass an ethics and subject matter exam, pay annual dues to the State Bar, and comply with annual licensing requirements. Services may only be provided to low-income clients, defined as being at or below 200% of

the federal policy guidelines. Regarding estate planning and probate law services, some of the permitted actions include advising clients on completing and filing disability planning documents, deeds, small estate affidavits, and muniment of title applications; advising clients on completing other estate planning forms that have been approved by a statute or approved entity; and representing a client in an uncontested muniment of title court proceeding. As a result of comments received in response to the proposed rules, the Supreme Court **announced** that the effective date of the rules will be delayed indefinitely.

TBLS Certification for Fiduciary Litigation.

The Texas Board of Legal Specialization (TBLS) has recommended that the Supreme Court adopt a new board-certified specialization for Trust, Estate, and Guardianship Litigation Law. This effort is supported by REPTL, the Texas statutory probate judges, and many other organizations and attorneys. The purpose of the proposed specialization is to recognize attorneys who have special competence in the listed areas.

Supreme Court's Promulgation of Will Forms.

Back in 2015, **SB 512** (Zaffirini | Thompson, S.) directed the Supreme Court to promulgate forms with accompanying instructions for use in certain probate matters or in making certain wills, including simple wills for married and single individuals with adult, minor, or no children. The forms and instructions were to be written in plain, easy-to-understand language, with a conspicuous statement that the form was not a substitute for legal advice. Spanish language translations would be made available for the purpose of assisting in understanding the forms, but those translations would not be submitted to the Supreme Court. Any court would be required to accept a promulgated form unless completed in a way that caused a substantive defect that could not be cured. It took a while, but the Supreme Court posted will forms and instructions for comment on September 6, 2022, in **Misc. Docket No. 22-9076**. Then, on May 5, 2023, the Court gave final approval to those forms and instructions in **Misc. Docket No. 23-9022**. They are posted at:

www.txcourts.gov/forms

Texas Legal Services Center has also posted these forms with explanations on its website, TexasLawHelp.org, at:

texaslawhelp.org/article/will-forms-approved-by-the-supreme-court-of-texas

10. Procedural Matters, Processes, and Players

A Note About Linking to the Electronic Version.

The primary location where this paper will be posted is [the REPTL Estate & Trust Legislative Update page](#). You'll find the current and previous legislative updates going as far back as 1983. Once you click on the link to an update, you should open a new browser tab with a PDF version of this paper. However, **don't** copy that URL, because it will only be a link to that particular version of the paper, and will only work so long as that version remains posted.

Where You'll Be Able to Find the Statutory Language After the Session's Over.

Beginning with the 2019 update, in an effort to be green (for anyone getting a hard copy), an entirely separate supplement containing the actual statutory language that's changing, or being added, was published rather than adding it as attachments to the paper itself. Sometime after the 2025 session is over, you'll be able to find that supplement containing the changed or added statutory language – or at least the language we deem worthy to include on the same [REPTL Estate & Trust Legislative Update page](#).

Obtaining Copies of Bills.

If you want to obtain copies of any of the bills discussed here, go to www.legis.state.tx.us. Near the top of the page, in the middle column, you'll see **Search Legislation**. First, select the legislative session you wish to search (for example, the 2025 regular legislative session that spans from January through June is "89(R) – 2025"). Select the Bill Number button, and then type your bill number in the box below. So, for example, if you wanted to find the House version of the 2025 Guardianship bill prepared by T-REP, you'd type "HB 1954" and press Go. (It's fairly forgiving – if you type in lower case, place periods after the H and the B, or include a space before the actual number, it's still likely to find your bill.)

Then click on the Text tab. You'll see multiple versions of bills. The "engrossed" version is the one that passes the chamber where a bill originated. When an engrossed version of a bill passes the other chamber without amendments, it is returned to the originating chamber where it is "enrolled." If the other chamber does make changes, then when it is returned, the originating chamber must concur in those amendments before the bill is enrolled. Either way, it's the "enrolled" version you'd be interested in.

The People and Organizations Most Involved in the Process.

A number of organizations and individuals get involved in the legislative process:

REPTL.

In years past, the Real Estate, Probate & Trust Law Section of the State Bar of Texas was active in proposing legislation. However, starting with the 88th Legislative Session, the Texas Real Estate and Probate Institute, or T-REP, began to take the lead on legislative initiatives. The reason this legislative role has moved from REPTL to T-REP is discussed in detail in **Part 3 of the 2023 Legislative Update**.



Despite REPTL's reduced role in the legislative process, it will continue to educate its members on important legislative changes in the areas of real estate, decedents' estates, trusts, and other areas of interest.⁵ Additionally, with its more than forty-year history and breadth of expertise in developing legislative packages and working to get them enacted, REPTL provides guidance to TREP that is worthy of acknowledgment. REPTL will also provide the same great benefits it's been providing for years, including:

- The REPTL Reporter.
- The REPTL Leadership Academy.
- The REPTL CLE Library.
- CLE discounts at a number of TexasBarCLE seminars.
- Discounted subscription to the State Bar's Online CLE Library.
- Partial funding of Title Standards Joint Editorial Board with the Oil, Gas, and Energy Resources Law (OGERL) Section and free access to the most current Title Examination Standards.

REPTL's officers during the 89th session are:

- Richard Crow of Houston, Chair
- Lora Davis of Dallas, Chair-Elect/Secretary
- Sara Dysart of San Antonio, Treasurer
- Melissa Willms of Houston, Immediate Past Chair

Following REPTL's annual section meeting during the summer of 2025, assuming nothing unexpected happens, REPTL's officers will be:

- Lora Davis of Dallas, Chair
- Sara Dysart of San Antonio, Chair-Elect/Secretary
- Lauren Hunt of Austin, Treasurer
- Richard Crow of Houston, Immediate Past Chair

⁵ REPTL has entered into a State Bar-approved contract to pay T-REP to keep REPTL, and its membership, informed of legislative activities affecting REPTL's members. This legislative update, along with the similar update prepared on real estate matters, constitutes a large portion of that service.

T-REP.

In the summer of 2022, the Texas Real Estate and Probate Institute was formed as an independent entity by a group of practitioners who had previously had substantial involvement in the legislative process (many through REPTL) so that there would still be some entity promoting the type of legislation that REPTL had previously worked on.

T-REP conducts its own legislative activities, both with respect to proposing legislation and monitoring other legislation in areas of interest to REPTL members and reports back to REPTL on both. It gathers ideas for legislation from a variety of sources. These may be ideas that TREP board of directors or REPTL members come up with, or they may be suggestions from practitioners around the state, accountants, law professors, legislators, or judges. Most suggestions will receive at least some review. If you have ideas for the 2027 legislative package, you can contact TREP's officers (listed below).

REPTL and T-REP communicate and cooperate, but TREP is independent of, and not controlled by, REPTL. The TREP bylaws provide for a board of directors consisting of between three and 20 members. There are two ex-officio members of the board: the then-serving REPTL chair and REPTL's immediate past-chair. However, no other then-serving REPTL officer may be elected to the T-REP board, and a majority of the board must consist of persons who are neither past-chairs of REPTL nor currently-serving REPTL Council members. Except for the ex-officio members of the board, members of the board will serve staggered four-year terms. The current board members, the expiration dates of their staggered terms, and whether they are real estate (RE) or probate lawyers (P) are:

- *Richard Crow* (ex-officio) (RE) ⁶
- *Melissa Willms* (ex-officio) (P) ⁷
- Mickey Davis (2025) (P) ⁸
- *Eric Reis* (2025) (P) ⁹
- Roland Love (2025) (RE)
- *Craig Hopper* (2025) (P)
- *Reid Wilson* (2025) (RE)
- Howard Cohen (2027) (RE)
- Jim Dougherty (2027) (RE)

⁶ Through REPTL's 2025 annual section meeting.

⁷ Following REPTL's 2025 annual section meeting.

⁸ While the general rule is that terms will be four years, the bylaws call for terms to begin and end in odd-numbered years (right after a legislative session), and rather than have some initial directors serve one-year terms, these initial terms are either three or five years.

⁹ The names of current or past REPTL chairs are italicized.

- Lauren Hunt (2027) (P)
- Marc Markel (2027) (RE)
- Shannon Guthrie (2027) (P)
- Gene Wolf (2027) (P)



Including the ex-officio members, only six of the 13 board members are past-chairs or current officers. Shannon Guthrie serves as T-REP's chair/president; Roland Love serves as vice chair, and Gene Wolf serves as secretary/treasurer. In addition to the officers, TREP has hired a lobbyist, Jocelyn Dabeau, and legislative research assistants, Caitlin Haney Johnson and Amber Haney, who provide invaluable service tracking legislation for TREP and assist TREP before and during the legislative session.

The Statutory Probate Judges.

The vast majority of probate and guardianship cases are heard by the judges of the Statutory Probate Courts (24 of them in 12 of Texas' 15 largest counties). Judge Guy Herman of the Probate Court No. 1 of Travis County (Austin) is the Presiding Statutory Probate Judge and has been very active in promoting legislative solutions to problems in our area for many years.

The Bankers.

There are two groups of bankers that T-REP deals with. One is the Wealth Management and Trust Division of the Texas Bankers Association ("TBA"), which tends to represent the larger corporate fiduciaries, while the other is the Independent Bankers Association of Texas ("IBAT"), which tends to represent the smaller corporate fiduciaries, although the distinctions are by no means hard and fast.

The Texas Legislative Council.

Among other duties, the Texas Legislative Council¹⁰ provides bill drafting and research services to the Texas Legislature and legislative agencies. All proposed legislation must be reviewed (and usually revised) by Leg. Council before a Representative or Senator may introduce it. In addition, as part of its continuing statutory revision program, Leg. Council was the primary drafter of the Texas Estates Code, a nonsubstantive revision of the Texas Probate Code.

The Authors and Sponsors.

All legislation needs an author, the Representative or Senator who introduces the legislation. A sponsor is the person who introduces a bill from the other house in the house of which he or she is a member. Many bills have authors in both houses originally, but either the

¹⁰ We usually refer to the Texas Legislative Council as simply "Leg. (pronounced "ledge") Council."

House or Senate version will eventually be voted out if it is to become law; and so, for example, the Senate author of a bill may become the sponsor of a companion House bill when it reaches the Senate. In any event, the sponsor or author controls the bill and its fate in their respective house. Without the dedication of the various authors and sponsors, legislative success in this session could not be possible. The unsung heroes are the staffs of the legislators, who make sure that the bill does not get off track.

The Committees.

All legislation goes through a committee in each chamber. In the House, most bills in our area go through the House Committee on Judiciary and Civil Jurisprudence, or “Judiciary.” This session, a Judiciary subcommittee, Family & Fiduciary Relationships, heard several bills. In the Senate, most of our bills are split between the Senate Committee on State Affairs, or “State Affairs,” and the Senate Committee on Jurisprudence, or “Jurisprudence.”

Key Dates.

Key dates for the enactment of bills in the 2025 legislative session include:

- **Tuesday, November 5, 2024** – General election for federal, state, and county offices on the first Tuesday after the first Monday in November of even-numbered years. [*Election Code, Sec. 41.002, U.S. Statutes at Large, 28th Congress, 2nd Session, p. 721*]
- **Tuesday, November 12, 2024** – Prefiling of legislation for the 89th Legislature begins.
- **Tuesday, January 14, 2025** (1st day) – 89th Legislature convenes at noon on the second Tuesday in January of each odd-numbered year. [*Government Code, Sec. 301.001*]
- **Friday, March 14, 2025** (60th day) – Deadline for filing most bills and joint resolutions. [*House Rule 8, Sec. 8; Senate Rule 7.07(b); Senate Rule 10.01 subjects joint resolutions to the rules governing proceedings on bills*]
- **Monday, May 12, 2025** (119th day) – Last day for House committees to report House bills and joint resolutions. [*a “soft” deadline that relates to House Rule 6, Sec. 16(a), requiring 36-hour layout of daily calendars prior to consideration, and House Rule 8, Sec. 13(b), the deadline for consideration*]
- **Thursday, May 15, 2025** (122nd day) – Last day for House to consider nonlocal House bills and joint resolutions on **second** reading. [*House Rule 8, Sec. 13(b)*]
- **Friday, May 16, 2025** (123rd day) – Last day for House to consider nonlocal House bills and joint resolutions on **third** reading. [*House Rule 8, Sec. 13(b)*]
- **Saturday, May 24, 2025** (131st day) – Last day for House committees to report Senate bills and joint resolutions. [*relates to House Rule 6, Sec. 16(a), requiring 36-hour layout of daily calendars prior to consideration, and House Rule 8, Sec. 13(c), the deadline for consideration*]
- **Tuesday, May 27, 2025** (134th day) – Last day for House to consider most Senate bills and joint resolutions on **second** reading. [*House Rule 8, Sec. 13(c)*]
- **Wednesday, May 28, 2025** (135th day) – Last day for House to consider most Senate bills or joint resolutions on **third** reading. [*House Rule 8, Sec. 13(c)*]
Last day for Senate to consider any bills or joint resolutions on third reading. [*Senate Rule 7.25; Senate Rule 10.01 subjects joint resolutions to the rules governing proceedings on bills*]
- **Friday, May 30, 2025** (137th day) – Last day for House to consider Senate amendments. [*House Rule 8, Sec. 13(d)*]
Last day for Senate committees to report all bills. [*relates to Senate Rule 7.24(b), but note that the 135th day (two days earlier) is the last day for third reading in the senate; practical deadline for senate committees is before the 135th day; Senate Rule 10.01 subjects joint resolutions to the rules governing proceedings on bills*]
- **Sunday, June 1, 2025** (139th day) – Last day for House to adopt conference committee reports. [*House Rule 8, Sec. 13(e)*]
Last day for Senate to concur in House amendments or adopt conference committee reports. [*relates to Senate Rule 7.25, limiting a vote on the passage of any bill during the last 24 hours of the session to correct an error in the bill*]
- **Monday, June 2, 2025** (140th day) – Last day of 89th Regular Session; corrections only in House and Senate. [*Sec. 24(b), Art. III, Texas Constitution; House Rule 8, Sec. 13(f); Senate Rule 7.25*]
- **Sunday, June 22, 2025** (20th day following final adjournment) – Last day Governor can sign or veto bills passed during the previous legislative session. [*Section 14, Art. IV, Texas Constitution*]¹¹

¹¹ A few words of further explanation about this deadline. This provision states the general rule that if the Governor doesn’t return a vetoed bill to the Legislature within 10 days (excluding Sundays) after it’s presented to him (gender specific pronoun in original), it becomes law as if [s]he’d

- **Monday, September 1, 2025** (91st day following final adjournment) – Date that bills without specific effective dates (that could not be effective immediately) become law. [*Sec. 39, Art. III, Texas Constitution*] (Note that most bills in recent years include a standard specific effective date of September 1st of the year of enactment.)

10.6 Resources Regarding the Legislative Process.

Summary of the Legislative Process.

Watching the process is like being on a roller coaster; one minute a bill is sailing along, and the next it is in dire trouble. And even when a bill has “died,” its substance may be resurrected in another bill. The real work is done in committees, and the same legislation must ultimately pass both houses. Thus, even if an identical bill is passed by the Senate as a Senate bill and by the House as a House bill, it cannot be sent to the Governor until either the House has passed the Senate bill or vice-versa. At any point in the process, members can and often do put on amendments which require additional steps and additional shuttling. It is always a race against time, and it is much easier to kill legislation than to pass it. You can find an “official” description of how a bill becomes a law prepared by the Texas Legislative Council at:

tlc.texas.gov/docs/legref/legislativeprocess.pdf

Where You Can Find Information About Filed Bills.

You can find information about any of the bills mentioned in this paper (whether or not they passed), including text, lists of witnesses and analyses (if available), and actions on the bill, at the Texas Legislature Online website: www.legis.state.tx.us. The website allows you to perform your own searches for legislation based on your selected search criteria. You can even create a free account and save that search criteria (go to the “My TLO” tab). Additional information on following a bill using this site can be found at:

www.legis.state.tx.us/resources/FollowABill.aspx

signed it. Regular sessions of the Legislature always end on a Monday, which means that there are two Sundays included in the 10 calendar days preceding adjournment. Since we don't count those Sundays, this means that for regular sessions, the 10-day period is really a 12-day period. **However**, if the Governor can't return it because the Legislature has adjourned by the end of this 12-day period, the Governor has until 20 days (*no Sunday exclusion*) after adjournment to veto it. Therefore, bills passed in the 2025 regular session must be sent to the Governor by May 21st in order to avoid the 20-day post adjournment deadline.

Where You Can Find Information About Previous Versions of Statutes.

We frequently see requests on Glenn Karisch's [Texas Probate E-Mail List](#) for older versions of statutes, such as the intestacy laws applicable to a decedent dying many years ago. You can find old law on your own (for free) rather than asking the list, and here's an example using the intestacy statutes.

- Former Texas Probate Code Sec. 38 had the rules for non-community property. If you've got a copy of it with the enactment information,¹² you'll see that it came from “Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956.” That means it was part of the original Probate Code and was never amended. The key information you'll need is that it was from the **54th Legislature**, and it's found in **chapter 55**.
- Next, go to the search page of the Legislative Reference Library:
www.lrl.state.tx.us/legis/billsearch/lrlhome.cfm
- Since you've got the session and chapter number, use the option to “Search by session law chapter.” Click the down arrow and scroll down to “54th R.S. (1955).” Then type “55” as the Chapter number. Click “Search by chapter.”
- You'll arrive at a page that has a hyperlink to chapter 55. Click on that and Voilà – you've got a PDF of the entire original Probate Code! Since Sec. 38 was never amended prior to its repeal on December 31, 2013 (and replacement by Estates Code Secs. 201.001 and 201.002), you've got the language of that section as it existed before 1993.
- Former Texas Probate Code Sec. 45 had the rules for community property. The PDF you just downloaded had the version in effect when the Probate Code went into effect in 1956. But if you've got the enactment information, you'll see that it was amended by Acts 1991, 72nd Leg., ch. 895, § 4, eff. Sept. 1, 1991, and by Acts 1993, 73rd Leg., ch. 846, § 33, eff. Sept. 1, 1993.
- If you're researching the law applicable to someone who died before September 1, 1991, look no further – the original version was still the law. But if your decedent happened to die on or after September 1, 1991, but before September 1, 1993, you need to see what the 1991 amendment did. Go back to the

¹² If you don't have a copy of the Probate Code with enactment information, you can get one! Prof. Gerry Beyer's website (professorbeyer.com) contains a copy of the Probate Code as it existed immediately prior to its repeal effective December 31, 2013, with post-1955 amendment information following each section. Click on Legal Updates | Texas Estates Code, and you'll find the link to the final Probate Code at the upper portion of the page.

search page mentioned above. Scroll to 72nd R.S. (1991) (you don't want either of the "called sessions"), type in 895 for the chapter number, and click on the search button. Again, click on the hyperlink to chapter 895, and you'll download all of that chapter. You need to scroll down to Section 4 of the act to find the 1991 amendment to Texas Probate Code Sec. 45.

- The same procedure should work for any bill or amendment.

Other Legislative Information and Resources.

Leg. Council has also prepared a guide designed to help interested persons track the work of current legislatures and research the work of past legislatures. You can download a copy at:

tli.texas.gov/docs/legref/gtli.pdf

If You Have Suggestions.

If you have comments or suggestions, you should feel free to contact any of TREP's board members identified in Section 10.4(b) on page 8. You can find contact information on T-REP's website:

<https://www.t-rep.org/>

Selected Bills that DID NOT Pass

12. Decedents' Estates.

12.1

Remote Technology in Uncontested Probates. (Sec. 53.108).

HB 3819 (Johnson) requires courts to allow each party to an uncontested probate proceeding the option to attend through remote technology. The court must allow public access and make guidelines regarding the conduct of such proceedings available.

Claims for Delinquent Child Support Prioritized Over Matured Secured Claims. (Secs. 255.102).

HB 3311 (Swanson, *et al.*) requires the court (in a dependent administration) or the personal representative (in an independent administration) to set a family allowance sufficient for the maintenance of the decedent's minor children until the later of the minor child's 18th birthday or high school graduation. This family allowance is in addition to the one-year family allowance and is payable in a lump sum. Additionally, **HB 3311** prioritizes claims for delinquent child support and child support arrearages that have been adjudicated over matured secured claims.

Uniform Partition of Heirs' Property Act. (Gov't Code Sec. 72.040 & Prop. Code Secs. 5.251-5.254, 23.0014-23.0019, 23A.002-23A.0041, 23A.006-23A.007, 23A.010, & 23A.0115).

SB 600 (West) and **HB 4011** (Darby) amend portions of the Property Code, including the Uniform Partition of Heirs' Property Act, relating to property acquired as a tenancy in common from a relative by will, intestacy, or a transfer on death deed. These changes require certain information to be included in a petition to partition, add notice and citation provisions, and mandate that a notice of an heir's property rights be provided, with proof to the court that these requirements have been met. This bill also provides for the appointment of an attorney ad litem for unknown or unidentified joint owners and a required settlement conference if requested by a party. A right of first refusal is given to heir cotenants if a sale is proposed to a non-heir cotenant who is not a relative of an heir cotenant.

New Firearms Regulations Don't Apply to Inherited Firearms. (Bus. & Com. Code Secs. 205.001-205.054, Gov't Code Sec. 41.0522, Ins. Code 2002.007, & Penal Code 46.06 & 46.135).

SB 908 (Blanco) and **HB 461** (Meza) propose a new regime regulating the transfer of

firearms. However, neither applies to the transfer of firearms by inheritance or bequest.

13. Guardianships and Persons With Disabilities.

Guardian Ad Litem Training. (Sec. 1054.0541).

SB 2939 (Menéndez) mandates 4.75 hours of training every two years for guardians ad litem relating to representation of an incapacitated person in a guardianship proceeding. A guardian ad litem can be excused from this training by the court if found to have experience equivalent to the required education.

Advanced Practice Registered Nurses (Sec. 1101.100).

SB 911 (Blanco, *et al.*) defines "advanced practice registered nurse" as having the meaning assigned in Section 301.002 of the Occupations Code. **HB 3009** (VanDeaver | Zaffirini), which passed in 2023, allows APRNs to sign certificates of medical examinations in guardianship matters.

Designation of Advocate in Assisted Living Facilities. (H&S Code Secs. 247.0011, 247.002, 247.021, 247.064, 247.073).

SB 1472 (Hall) allows for advocates to be appointed for residents of assisted living facilities. The bill requires assisted living facilities to implement procedures to allow residents to designate an advocate for whom the facility will provide meaningful in-person access to the resident, specifically during the resident's final days of life, regardless of any declared public health disaster or emergency restricting in-person visitation.

Modification of Possession Order for Child of Incapacitated Conservator (Family Code Sec. 156.107).

HB 1914 (Cook, *et al.*) proposes a new Family Code section providing that the temporary or permanent incapacity of a child's conservator is a material and substantial change in circumstances sufficient to justify a modification of an existing court order regarding conservatorship. If there is a co-conservator, that person is temporarily entitled to exercise the possession rights of the incapacitated conservator to the degree necessary to ensure the health and welfare of the child. The standard for incapacity is defined as a physical or mental condition or incarceration that prevents the conservator from caring for the child.

Physical Exam for Inpatient Treatment. (H&S Code Sec. 575.004).

SB 1608 (Campbell, Johnson) requires a physical examination of each patient admitted to an inpatient mental health facility.

Selected Bills that ***DID NOT*** Pass

13.6

13.7 Criminal History Records.

Individuals with Care and Custody. (Secs. 1101.001, 1104.402, 1104.405, 1151.006 & Gov't Code Secs. 155.205 & 411.1386).

Last session, **HB 4123** (Guillen | Zaffirini) expanded on the provisions relating to criminal history information required to be provided for a guardian. This session **SB 2342** (Zaffirini) builds on those provisions by requiring the phone number and date of birth to be provided in a guardianship application for any person who will have care and custody of the proposed ward or the proposed ward's estate. That information must be used for the clerk to obtain criminal history for any guardian other than an attorney, certified guardian, or any other person not otherwise required to submit to a criminal background check under the Code. Attorneys and certified guardians acting as guardian must provide the court with identifying information relating to anyone with care and custody of the proposed ward or the proposed ward's estate on behalf of the guardian, to be used for a criminal background check for that individual, and must notify the court of certain changes relating to those individuals.

Adult Members of Guardian's Household. (Gov't Code Secs. 155.001 & 155.203).

SB 2940 (Menéndez) requires background checks for any adult who (i) resides in the household of a proposed guardian, (ii) will have regular contact with the proposed ward, or (iii) will be responsible for care, supervision, or assistance to the proposed ward.

13.8 Research and Training.

Study on Case Management Practices and Proceedings.

SB 2091 (Zaffirini) directs the Office of Court Administration of the Texas Judicial System to conduct a study on effective case management practices and procedures for courts in guardianship proceedings, to establish standardized case management practices, and to issue a report by September 1, 2027 regarding costs and recommendation for an electronic case management system.

Task Force on Disability Policy. (Gov't Code Secs. 550A.0001-550A.0012).

SB 2397 (Perry, *et al.*) creates a task force to develop a comprehensive 10-year plan for the state's disability policy. The task force will address specific issues including healthcare, education, early childhood care, transitional care, crisis prevention and intervention, juvenile justice, mental health care, long-term community-based services and support, and alternative funding sources and service delivery models.

13.9 Prevention of Abuse of Elderly and Disabled.

(a) **HB 1347** (Turner, *et al.*) expands the offense of exploitation of a child, elderly individual, or disabled individual to include statutorily defined exploitation, deception, coercion, or isolation for the monetary or personal benefit of another.

(b) **HB 2603** (Campos) requires the Department of Health and Human Services to assist an elderly person to obtain a temporary *ex parte* protective order against an individual who has committed physical or verbal abuse against the elderly person.

(c) **HB 2927** (Campos), like 2023's **HB 1421** increases the criminal penalty from a misdemeanor to a felony if a peace officer encounters suspected abuse, neglect, or exploitation of an elderly person while on the job and fails to report it.

(d) **HB 4785** (Lowe), **SB 1167** (Paxton), and **HB 2022** (Meyer) eliminate the statute of limitations for suits for personal injuries arising out of certain sexual offenses involving a disabled individual. The current statute of limitations is 30 years.

(e) **SB 2905** (Paxton) extends the list of offenses for which the statute of limitations will be eliminated beyond those listed in **HB 4785**, **SB 1167**, and **HB 2022** to include additional for suits for personal injuries arising from certain offenses against a child or disabled individual.

14. Trusts.

Self-Settled Asset Protection Trusts (Secs. 112.035, & 112.151-112.162)

HB 4058 (VanDeaver) would add protection for self-settled asset protection trusts. While the bill did not pass this session, it is likely that self-settled asset

protection trust legislation will continue to be proposed in future sessions. Here's a description of some (but not all) of the provisions in this year's version. To be entitled to spendthrift protection from the settlor's creditors, the trust must be created by a signed instrument, irrevocable, not require any distributions to the settlor, and not be intended to hinder, delay, or defraud creditors. No specific language is required to create a self-settled asset protection trust – the settlor need only manifest an intention to create one. At least one trustee must be a Texas resident, a trust company that maintains a Texas office, or a financial institution with trust powers that

Selected Bills that DID NOT Pass

maintains a Texas office. It remains protected even if the settlor:

- may prevent distributions;
- holds a lifetime or testamentary special power of appointment in favor of others;
- is a beneficiary of a charitable remainder trust (even if the settlor may release the retained interest in favor of the remainder beneficiaries);
- is entitled to an annuity or unitrust distribution so long as the amount does not exceed the portion considered income for federal income tax purposes, or RMD's with respect to retirement plans;
- is entitled to a GRAT or GRUT payment under the income tax regulations;
- is entitled to occupy a residence held in a QPRT or entitled to a qualified annuity interest;
- is entitled to income or principal in the discretion of another person;
- is authorized to use real or personal property held in the trust.

The settlor may not hold a power to make distributions to himself or herself without the consent of another person. Distributions must be for the support, education, maintenance, and benefit of the beneficiary without reference to or limitation by the beneficiary's needs, station in life, or mode of life, or the needs of any other person. If the trustee has discretion for certain distribution decisions, the discretion is "absolute."

A creditor of the settlor at the time of a transfer to a self-settled asset protection trust may not challenge the transfer after the later of two years after the transfer or the 180th day after the date on which the creditor discovers, or reasonably should have discovered, the transfer. A person who becomes a creditor of the settlor after a transfer to a self-settled asset protection

trust may not challenge the transfer after two years from the date of the transfer. If a creditor does bring a challenge to a transfer within the required time, the creditor bears the burden of proving that it was a fraudulent transfer by clear and convincing evidence, or that it violates a legal obligation to the creditor. An "advisor" to the settlor or trustee is also provided broad protection. If the trustee of a self-settled asset protection trust decants property to a second trust, the second trust is considered a self-settled asset protection trust if it meets the requirements of such a trust, and the property is considered to have been transferred to the trust on the date of the original transfer to the first trust.

Unlike 2023's [HB 4376](#) (VanDeaver) and [SB 2317](#) (Hughes), this bill does not prevent the settlor's child support obligations from being satisfied by the trust's assets.

Trust Settlement of Accounts. (Sec. 114.009).

[HB 5069](#) (Leach) permits a trustee to seek a settlement of accounts if the trust terminates or the trustee resigns or is removed. An interim settlement can be obtained for a continuing trust. The bill lists information required to be provided to the beneficiaries and authorizes the trustee to provide the information to anyone the trustee believes may have an interest in the trust. The beneficiary or other interested party has 45 days to object, otherwise the information provided is deemed to be approved by the recipient. If a recipient approves or fails to object to the information within the 45-day period, he or she is barred from bringing a claim against the trustee or challenging the validity of the trust.

15. Disability Documents.

Additional Forms of Medical Power (H&S Code Secs. 166.012, 166.163, & 166.164).

HB 1059 (Bhojani) allows a health care provider or residential care provider to presume that an advance directive under the chapter has been validly executed in the absence of actual knowledge to the contrary. The bill also directs the executive commissioner of the Health and Human Services Commission to review and approve (by December 1st) medical power of attorney forms promulgated by a national nonprofit organization or the American Bar Association Commission on Law and Aging that have been approved by at least 40 other states. The current statutory form would then become permissive, and the forms approved by the HHS commissioner could be used instead. Very similar legislation was proposed during the 2023 legislative session in **HB 4989** (Bhojani, et al.) and did not pass.

The Anti-Norwood Bill: Financial Powers of Attorney and Home Equity Loans (Secs. 751.203 & 752.051; Const. Art. XVI, Sec. 50).

If you go back and read Special Supplement No. 1 in the 2015 legislative update, you'll understand why the *Norwood* case held that powers of attorney used in a home equity loan must be signed in the office of a lender, an attorney, or a title company, and why it would take a constitutional amendment to fix this problem. **HB 957** (Toth, Cain) and **HJR 75** (Toth), like 2023's **HB 264** (Toth, et al.) and **HJR 20** (Toth, et al.) and 2021's **HB 2284** (Toth) and **HJR 104** (Toth), attempt to partially fix the problem. If a home equity loan borrower

Selected Bills that DID NOT Pass

is (i) located out of state at the time of closing and a member of the U.S. armed forces, (ii) has a disability that prohibits travel or is quarantined, or (iii) is incarcerated, the borrower may close the loan from a remote location using online notarization or through an agent under a financial power of attorney that expressly grants the agent the authority to engage in a home equity loan transaction and who must appear in person at the closing.

Felony Offense for Withdrawing Treatment Contrary to Patient Directive (Civ. Prac. & Rem. Code Secs. 74.251, 74.252, & 74.304, H&S Code Secs. 166.045 & 166.048).

HB 2072 (Hull) makes it a first-degree felony offense to withdraw or withhold life-sustaining treatment from a patient contrary to a validly executed or issued directive, regardless of the health care provider's knowledge of the directive. A claim under this new statute would not be subject to a statute of limitations.

15.4 Disposition of Remains

Cremation Through Alkaline Hydrolysis. (H&S Code Secs. 711.011, 716.001-716.002, 716.1525 & Occ. Code Secs. 651.001 & 651.651).

SB 1327 (Johnson) allows for cremation by alkaline hydrolysis and directs the creation of rules and requirements for the process.

Cremation Through Organic Reduction (H&S Code Secs. 711.001, 716.001, 716.002, 716.151, & 716.1525, Occ. Code Secs. 651.001 & 651.651).

HB 2200 (Hernandez) proposes to allow for cremation through natural organic reduction and directs the creation of rules and requirements for the process.

Authorization for Donation of Body. (H&S Code Secs. 691.023 & 691.0235).

Under current law, if a body is not claimed for burial or is to be buried at public expense, the Health and Human Services Commissioner may have the body donated for the advancement of medical or forensic science. **SB 1406** (Parker) disallows such donations. Instead, a

body may be donated by will or other written instrument, or with consent of a person lawfully able to claim the body for burial.

Human Body Acquisition Services and Recipients. (H&S Code Ch. 692B).

SB 1973 (Kolkhorst) allows a human body acquisition service (a person or facility that manages bodies or anatomical gifts for education or research purposes) to receive bodies or anatomical parts from those entitled to consent under the Uniform Anatomical Gift Act. The bill sets forth standards for donations and authorized recipients and directs the Texas Funeral Service Commission and the Department of State Health Services to develop rules to implement and enforce the statute.

Disposition of Deceased Pauper's Remains. (H&S Code Sec. 694.004).

SB 2023 (Blanco, et al.) and **HB 5389** (Perez) was its companion authorize the Health and Human Services Commission to develop a grant program to pay certain costs of disposing of deceased paupers' bodies.

Regulation of Facilities that Provide Services Related to Remains. (H&S Code Chapter 691, various; Chapter 692A, various; Secs. 711.002 & 711.008; Occ. Code Secs. 651.202, 651.411, Chapter 651, Subchapter O).

SB 2721 (Parker, *et al.*) (**HB 5278** (Bell) was its companion) creates a State Anatomical Advisory Committee to advise the Health and Human Services Commission on regulation and operation of anatomical facilities. The bill updates requirements for the records that must be kept by facilities that receive anatomical donations, willed bodies, and other authorized recipients to require that each facility keep records of the informed consent documentation with a unique donor identifier. Failure to comply is a state jail felony. Similar to **SB 1406**, the bill also prohibits the donation of a body not claimed for burial or a body required to be buried at public expense from being donated to willed body programs or other organizations unless the donor does so by will or written instrument, or a person who may claim the body for burial provides informed consent.

16. Nonprobate Transfers.

Disclosure of TODD Option. (Occ. Code Sec. 1101.562).

HB 5642 (Garcia) requires real estate brokers and agents in a residential real estate transaction to provide their clients with written notice (i) that describes a transfer on death deed (TODD), including the benefits of a TODD, the impact of a TODD on a will, and the

repercussions of dying without a will or TODD, and (ii) includes a statement that the buyer can execute a TODD when closing on the real property and the role of the title company in assisting with the execution and filing of the TODD. In addition, at the time an offer to purchase residential real estate is signed, the broker or agent must advise the buyer in writing that the buyer may execute a TODD for the property.

Disclosure of Insurance Beneficiary to Funeral Director (Ins. Code Secs. 1103.201-1103.206).

SB 2250 (Kolkhorst) (like 2023's **HB 1554** (Raymond) and 2021's **HB 643** (Raymond)) requires a life insurance company to disclose a policy's beneficiary to a funeral director conducting the insured's funeral upon request, but only if the death benefit is \$15,000 or

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less and issued by a Texas company. The request must be made by a funeral director handling a funeral in Texas, and the director must be provided information by (and written consent from) the family leading to a reasonable belief that the decedent was insured, but no one knows who the beneficiary is.

Beneficiary Designation for Motor Vehicles. (Est. Code Secs. 115.002, 115.004-115.005 & Trans. Code 501.0315).

HB 5137 (Wilson) allows an owner of a motor vehicle to designate multiple beneficiaries to receive the vehicle at the owner's death.

17. Jurisdiction and Venue.

Court-Ordered Mental Health Services. (H&S Code Sec. 574.001).

HB 3163 (Leach) and **SB 643** (Johnson, et al.) was its companion provide that an application for court-ordered mental health services may be filed in the county in which the patient is located at the time the application is filed or where the patient was apprehended.

18. Court Administration.

New Statutory Probate Court.

SB 2135 (Hinojosa, Juan) adds a second statutory probate court in Hidalgo County.

Payment of Costs Associated with Assigned SPC Judge (Est. Code Sec. 352.054; Gov't Code Sec. 25.0022).

SB 302 (Perry) and **HB 1928** (Gerdes) is similar to 2023's **HB 251** (Murr), which was similar to 2021's **HB 262** (Murr), which was similar to 2019's **HB 3267** (Murr), which in turn was similar to 2017's **HB 1744** (Murr | Perry). If the judge of a constitutional county court requests, on his or her own motion, the assignment of a statutory probate judge under Estates Code Section 32.003, the court shall, to the extent possible and equitable, order the estate to reimburse the county for the costs of the assignment. If a party requests the assignment, and the request is granted, then the court must order that the county be reimbursed for those costs, with the costs allocated among the estate and the parties as the court considers equitable.

Eligibility for Assignment as Judge. (Gov't Code Secs. 25.0022-25.002201 & 25.00255).

SB 1222 (Hughes) allows a former or retired appellate court justice to be assigned to hold court in a statutory probate court, a county court, or any statutory court exercising probate jurisdiction where a statutory

probate judge or judge of a county court at law or constitutional county court exercising probate jurisdiction is recused or disqualified, or where a party in a contested probate matter in a constitutional county court requests assignment of a statutory probate judge.

Training for Judges. (Gov't Code Sec. 22.110).

Bills requiring training for judges include **SB 2933** (Menéndez, *et al.*) requiring training on elder abuse and **SB 2941** (Menéndez) requiring training on special needs.

Motion Procedure for Fraudulent Conveyances. (Gov't Code Sec. 51.9035).

SB 1853 (West) allows a property owner to file a motion in district court, and provides a suggested form for the motion, if the owner believes a recorded instrument conveying title is fraudulent. The district court may rule on the motion based solely on a review of the instrument without hearing any testimonial evidence and must provide findings of fact and conclusions of law that must be recorded without fee by the clerk.

Electronic Hearings to Approve Uncontested Agreements. (Civ. Prac. & Rem. Code Sec. 30.012).

SB 2468 (Menéndez) adds to the list of proceedings that can be held via electronic means by the agreement of the parties uncontested proceedings in which the court is approving an agreement.

19. Selected Family Law Issues.

Separate Homesteads for Spouses. (Tax Code Sec. 11.13).

HB 1243 (Guillen) allows spouses living in separate residences to each claim an ad valorem homestead exemption.

Minimum Marriage Age (Fam. Code Secs. 2.009, 2.101, & 6.205).

The Family Code requires both applicants for a marriage license to be at least 18, or to have their disabilities of minority removed by a court. **HB 168** (Rosenthal, *et al.*), **SB 967** (Zaffirini), and **SB 1280** (Parker, Cook), like 2023's **HB 924** (Rosenthal) and 2021's **HB 1590** (Rosenthal), require both applicants to be at least 18. Period.

Covenant of Marriage. (Fam. Code Secs. 2.0041, 2.009, 2.651-2.653, 6.851-6.852, 8.0511, H&S Code 194.001-194.0011 & Local Gov't Code 118.011 & 118.018).

HB 931 (Vasut) allows for the creation of a covenant of marriage if a couple completes premarital counseling,

signs an affidavit containing the statement provided in the bill, and submits the affidavit with the marriage license application.

20. Stuff That Doesn't Fit Elsewhere.

Notaries.

HB 4203 (Swanson) requires six hours of education and a written examination for an individual to be appointed as a notary. Three hours of continuing education is required for recertification.