

The 2021 Texas Estate and Trust Legislative Update

Statutory Language Supplement

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(See the note on page 1 about hyperlinking to the online version of this supplement.)

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What Is This?

Since the 2009 legislative session, I've¹ written the legislative update on behalf of the Real Estate, Probate, and Trust Law Section of the State Bar of Texas covering 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. Since 2011, I've added attachments that contained the statutory language of most of those bills, marked to show additions and deletions. Beginning in 2019, I've published the statutory language as a separate supplement that won't automatically be printed at each seminar or meeting at which the legislative update is presented. Think of this as a greener alternative. **That's what this is.**

CMA Disclaimers.

While reviewing the attachments, please keep in mind the following:

- I've made every reasonable attempt to compile the statutory language, including additions and deletions, accurately.
- Despite rumors to the contrary, I am human. And have been known to make mistakes.
- I often work on this late at night, past my normal bedtime, perhaps, even, under the influence of strategic amounts of Johnnie Walker Black (donations of Red, Black, Green, Gold, Blue, Platinum, or even Swing happily accepted!).

Therefore, you'll find directions in the last section on this page for obtaining copies of the actual bills themselves so you may review the changes they contain yourself.

A Note About Linking to the Electronic Versions.

Feel free to link to the electronic versions of the paper or this supplement if you'd like. If you do, use the URLs found on the cover page to link to the most recent versions. The link to the main legislative update paper is:

www.snpalaw.com/resources/2021LegislativeUpdate

And the link to this statutory language supplement is:

www.snpalaw.com/resources/2021LegislativeSupplement

Once you click on either link, you'll open a PDF. However, **don't** copy the URL that you'll find in your browser's address bar when you open the PDF! That's likely to be a 100+ character web address that will take you to that particular version of the paper only, and only so long as that version remains posted. Trust me – the links I've given you will take you to the right version each time.

As an alternative, you can go to the [Resources](#) page at snpalaw.com and scroll to the legislative update materials posted "[For Professional Advisors](#)."

Obtaining Copies of Bills.

If you want to obtain copies of any of the bills, directions are contained in Part 1 of the main legislative update paper. Or, if you're viewing an electronic version of that paper, most of the bill numbers are hyperlinked to the bill's page on the legislative website. Click on the Text tab once there. If you want to read the final version, look for the Enrolled version.

¹ In this supplement, "I" refers to Bill Pargaman, the author of this legislative update since the 2009 legislative session. However, this year, Meredith McIver has provided invaluable

assistance in preparing both the legislative update itself and this supplement.

2021 Amendments to the Texas Estates Code (Other Than Guardianship Provisions)

[The following excerpts reflect amendments made by HB 1297, HB 1514, HB 3774, SB 615, SB 626]

Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS PROPER.

If probate proceedings involving the same estate are commenced in more than one county and the court making a determination of venue as provided by Section 33.053 determines that venue is proper in another county, the court clerk shall make and retain a copy of the entire file in the case and transmit the original file in electronic or paper form to the court in the county in which venue is proper. The court to which the file is transmitted shall conduct the proceeding in the same manner as if the proceeding had originally been commenced in that county.

Amended by Acts 2021, 87th Legislature, Ch. ____ (SB 615), effective September 1, 2021.

Amended by Acts 2021, 87th Legislature, Ch. ____ (SB 626), effective September 1, 2021.

Sec. 33.102. TRANSFER FOR WANT OF VENUE.

(a) If it appears to the court at any time before the final order in a probate proceeding is rendered that the court does not have priority of venue over the proceeding, the court shall, on the application of an interested person, transfer the proceeding to the proper county by transmitting to the proper court in that county in electronic or paper form:

(1) the original file in the case; and

(2) certified copies of all entries that have been made in the judge's probate docket in the proceeding.

(b) – (c) [No change.]

Amended by Acts 2021, 87th Legislature, Ch. ____ (SB 615), effective September 1, 2021.

Amended by Acts 2021, 87th Legislature, Ch. ____ (SB 626), effective September 1, 2021.

Sec. 33.103. TRANSFER FOR CONVENIENCE.

(a) – (b) [No change.]

(c) The transmittal under Subsection (b) of the original file and the certified copy of the index may be in electronic or paper form, except that an original will filed in the probate proceeding, if any, must be delivered to the court to which the proceeding is transferred.

Added by Acts 2021, 87th Legislature, Ch. ____ (SB 615), effective September 1, 2021.

Added by Acts 2021, 87th Legislature, Ch. ____ (SB 626), effective September 1, 2021.

Sec. 51.003. CONTENTS OF CITATION OR NOTICE.

(a) [No change.]

(b) A citation or notice issued by the county clerk must be styled "The State of Texas" and be signed by the clerk under the court's ~~clerk's~~ seal.

(c) – (d) [No change.]

Amended by Acts 2021, 87th Legislature, Ch. ____ (SB 615), effective September 1, 2021.

Amended by Acts 2021, 87th Legislature, Ch. ____ (SB 626), effective September 1, 2021.

Sec. 51.103. PROOF OF SERVICE.

(a) [No change.]

(b) Proof of service consists of:

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

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

(3) if the service is made by mail:

(A) the certificate of the county clerk making the service, or the affidavit of the personal representative or other person making the service, stating that the citation or notice was mailed and the date of the mailing; and

(B) the return receipt attached to the certificate or affidavit, as applicable, if the mailing was by registered or certified mail and a receipt has been returned; and

(4) if the service is made by publication:

(A) a statement ~~[an affidavit]~~:

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

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

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

(B) an affidavit:

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"Legislative Update"