

AN ACT

relating to procedures and fees for the deposit and safekeeping of wills.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 252.001, Estates Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) An attorney, business entity, or other person in possession of a testator's will may deposit the will with the county clerk of the county of the testator's last known residence if the attorney, business entity, or other person is unable to maintain custody of the will and, after a diligent search, the attorney, business entity, or other person is not able to contact or locate the testator. The attorney, business entity, or other person shall provide to the county clerk at the time the will is deposited:

(1) the name and last known address of the testator;

and

(2) if the will names an executor, the name and last known address, if available, of each executor named in the will, including any alternate executors.

(b) The county clerk shall receive and keep a ~~the~~ will deposited under this section on the payment of a \$5 fee.

SECTION 2. Section 252.002, Estates Code, is amended by amending Subsection (b) and adding Subsection (c) to read as

1 follows:

2 (b) The wrapper of a will deposited under Section 252.001(a)  
3 must be endorsed with:

4 (1) "Will of," followed by the name, address, and  
5 signature of the testator; and

6 (2) the name and current address of each person who is  
7 to be notified of the deposit of the will after the testator's  
8 death.

9 (c) The wrapper of a will deposited under Section  
10 252.001(a-1) must be endorsed with:

11 (1) "Will of," followed by the name and last known  
12 address of the testator; and

13 (2) if the will names an executor, the name and last  
14 known address, if available, of each executor named in the will,  
15 including any alternate executors.

16 SECTION 3. Section 252.101, Estates Code, is amended to  
17 read as follows:

18 Sec. 252.101. NOTIFICATION BY COUNTY CLERK. A county clerk  
19 shall notify[~~, by registered mail, return receipt requested,~~] each  
20 person named on the endorsement of the will wrapper that the will is  
21 on deposit in the clerk's office if:

22 (1) an affidavit is submitted to the clerk stating  
23 that the testator has died; or

24 (2) the clerk receives other notice or proof of the  
25 testator's death sufficient to convince the clerk that the testator  
26 has died.

27 SECTION 4. Section 252.104, Estates Code, is amended to

1 read as follows:

2           Sec. 252.104. NOTICE AND DELIVERY OF WILL TO EXECUTOR. If a  
3 county clerk inspects a will under Section 252.103 and the will  
4 names an executor, the clerk shall:

5           (1) notify the person named as executor [~~by~~  
6 ~~registered mail, return receipt requested,~~] that the will is on  
7 deposit with the clerk; and

8           (2) deliver, on request, the will to the person named  
9 as executor.

10          SECTION 5. Section 252.105(a), Estates Code, is amended to  
11 read as follows:

12          (a) If a county clerk inspects a will under Section 252.103,  
13 the clerk shall notify [~~by registered mail, return receipt~~  
14 ~~requested,~~] the devisees named in the will that the will is on  
15 deposit with the clerk if:

16           (1) the will does not name an executor;

17           (2) the person named as executor in the will:

18               (A) has died; or

19               (B) fails to take the will before the 31st day  
20 after the date the notice required by Section 252.104 is mailed to  
21 the person; or

22           (3) the notice mailed to the person named as executor  
23 is returned as undelivered.

24          SECTION 6. Section 252.151, Estates Code, is amended to  
25 read as follows:

26          Sec. 252.151. DEPOSIT HAS NO LEGAL SIGNIFICANCE. The  
27 provisions of Subchapter A providing for the deposit of a will with

1 a county clerk [~~during the lifetime of a testator~~] are solely for  
2 the purpose of providing a safe and convenient repository for a  
3 will. For purposes of probate, a will deposited as provided by  
4 Subchapter A may not be treated differently than a will that has not  
5 been deposited.

6 SECTION 7. Section 252.201, Estates Code, is amended to  
7 read as follows:

8 Sec. 252.201. WILL DELIVERY. (a) On receiving notice of a  
9 testator's death, the person who has custody of the testator's will  
10 shall deliver the will to the clerk of the court that has  
11 jurisdiction of the testator's estate.

12 (b) The clerk of the court shall handle the will in the same  
13 manner prescribed by Subchapter A for a will deposited under  
14 Section 252.001 other than collection of a fee under Section  
15 252.001(b).

16 SECTION 8. Subchapter E, Chapter 252, Estates Code, is  
17 amended by adding Section 252.2015 to read as follows:

18 Sec. 252.2015. NOTICE AND DELIVERY OF WILL TO EXECUTOR OR  
19 DEVISEES. (a) On the deposit of a will under Section 252.201 that  
20 names an executor, the clerk of the court shall:

21 (1) notify the person named as executor in the manner  
22 prescribed by Section 252.104; and

23 (2) deliver, on request, the will to the person named  
24 as executor.

25 (b) On the deposit of a will under Section 252.201, the  
26 clerk of the court shall notify the devisees named in the will in  
27 the manner prescribed by Section 252.105(a) if:

- 1           (1) the will does not name an executor;
- 2           (2) the person named as executor in the will:
- 3                 (A) has died; or
- 4                 (B) fails to take the will before the 31st day
- 5 after the date the notice required by Subsection (a) is mailed to
- 6 the person; or
- 7           (3) the notice mailed to the person named as executor
- 8 is returned as undelivered.
- 9           (c) On request, the clerk of the court shall deliver the
- 10 will to any or all of the devisees notified under Subsection (b).

11           SECTION 9. Section [101.0815](#), Government Code, is amended to  
12 read as follows:

13           Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS:  
14 ESTATES CODE. The clerk of a statutory county court shall collect  
15 fees and costs under the Estates Code as follows:

16           (1) fee for deposit of a will with the county clerk by  
17 a testator or another person for a testator during the testator's  
18 lifetime or by an attorney, business entity, or other person unable  
19 to maintain custody of a testator's will and unable to contact or  
20 locate the testator (Sec. [252.001](#), Estates Code) . . . \$5;

21           (2) security deposit on filing, by any person other  
22 than the personal representative of an estate, an application,  
23 complaint, or opposition in relation to the estate, if required by  
24 the clerk (Sec. [53.052](#), Estates Code) . . . probable cost of the  
25 proceeding;

26           (3) fee on filing an application, complaint, petition,  
27 or other paper in a guardianship proceeding, which includes a

1 deposit for payment to an attorney ad litem (Sec. 1052.051, Estates  
2 Code) . . . cost of filing and payment of attorney ad litem;

3 (4) security deposit on filing, by any person other  
4 than the guardian, attorney ad litem, or guardian ad litem, an  
5 application, complaint, or opposition in relation to a guardianship  
6 matter, if required by the clerk (Sec. 1053.052, Estates Code)  
7 . . . probable cost of the guardianship proceeding;

8 (5) nonrefundable fee to cover the cost of  
9 administering Subchapter G, Chapter 1104, Estates Code  
10 (Sec. 1104.303, Estates Code) . . . \$40; and

11 (6) costs for attorney ad litem appointed to pursue  
12 the restoration of a ward's capacity or modification of the ward's  
13 guardianship (Sec. 1202.102, Estates Code) . . . reasonable  
14 compensation.

15 SECTION 10. Section 101.1014, Government Code, is amended  
16 to read as follows:

17 Sec. 101.1014. STATUTORY PROBATE COURT FEES AND COSTS:  
18 ESTATES CODE. The clerk of a statutory probate court shall collect  
19 fees and costs under the Estates Code as follows:

20 (1) fee for deposit of a will with the county clerk by  
21 a testator or another person for a testator during the testator's  
22 lifetime or by an attorney, business entity, or other person unable  
23 to maintain custody of a testator's will and unable to contact or  
24 locate the testator (Sec. 252.001, Estates Code) . . . \$5;

25 (2) security deposit on filing, by any person other  
26 than the personal representative of an estate, an application,  
27 complaint, or opposition in relation to the estate, if required by

1 the clerk (Sec. 53.052, Estates Code) . . . probable cost of the  
2 proceeding;

3 (3) fee on filing an application, complaint, petition,  
4 or other paper in a guardianship proceeding, which includes a  
5 deposit for payment to an attorney ad litem (Sec. 1052.051, Estates  
6 Code) . . . cost of filing and payment of attorney ad litem;

7 (4) security deposit on filing, by any person other  
8 than the guardian, attorney ad litem, or guardian ad litem, an  
9 application, complaint, or opposition in relation to a guardianship  
10 matter, if required by the clerk (Sec. 1053.052, Estates Code)  
11 . . . probable cost of the guardianship proceeding;

12 (5) nonrefundable fee to cover the cost of  
13 administering Subchapter G, Chapter 1104, Estates Code  
14 (Sec. 1104.303, Estates Code) . . . \$40; and

15 (6) costs for attorney ad litem appointed to pursue  
16 the restoration of a ward's capacity or modification of the ward's  
17 guardianship (Sec. 1202.102, Estates Code) . . . reasonable  
18 compensation.

19 SECTION 11. Section 101.1215, Government Code, is amended  
20 to read as follows:

21 Sec. 101.1215. COUNTY COURT FEES AND COSTS: ESTATES CODE.  
22 The clerk of a county court shall collect the following fees and  
23 costs under the Estates Code:

24 (1) fee for deposit of a will with the county clerk by  
25 a testator or another person for a testator during the testator's  
26 lifetime or by an attorney, business entity, or other person unable  
27 to maintain custody of a testator's will and unable to contact or

1 locate the testator (Sec. 252.001, Estates Code) . . . \$5;

2 (2) security deposit on filing, by any person other  
3 than the personal representative of an estate, an application,  
4 complaint, or opposition in relation to the estate, if required by  
5 the clerk (Sec. 53.052, Estates Code) . . . probable cost of the  
6 proceeding;

7 (3) fee on filing an application, complaint, petition,  
8 or other paper in a guardianship proceeding, which includes a  
9 deposit for payment to an attorney ad litem (Sec. 1052.051, Estates  
10 Code) . . . cost of filing and payment of attorney ad litem;

11 (4) security deposit on filing, by any person other  
12 than the guardian, attorney ad litem, or guardian ad litem, an  
13 application, complaint, or opposition in relation to a guardianship  
14 matter, if required by the clerk (Sec. 1053.052, Estates Code)  
15 . . . probable cost of the guardianship proceeding;

16 (5) nonrefundable fee to cover the cost of  
17 administering Subchapter G, Chapter 1104, Estates Code  
18 (Sec. 1104.303, Estates Code) . . . \$40; and

19 (6) costs for attorney ad litem appointed to pursue  
20 the restoration of a ward's capacity or modification of the ward's  
21 guardianship (Sec. 1202.102, Estates Code) . . . reasonable  
22 compensation.

23 SECTION 12. Section 118.052, Local Government Code, is  
24 amended to read as follows:

25 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court  
26 shall collect the following fees for services rendered to any  
27 person:



(1) CIVIL COURT ACTIONS

(A) Filing of Original Action (Sec. 118.053):

(i) Garnishment after judgment . . . \$15.00

(ii) All others . . . \$40.00

(B) Filing of Action Other than Original (Sec. 118.054) . . . \$30.00

(C) Services Rendered After Judgment in Original Action (Sec. 118.0545):

(i) Abstract of judgment . . . \$ 5.00

(ii) Execution, order of sale, writ, or other process . . . \$ 5.00

(2) PROBATE COURT ACTIONS

(A) Probate Original Action (Sec. 118.055):

(i) Probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title . . . \$40.00

(ii) Community survivors . . . \$40.00

(iii) Small estates . . . \$40.00

(iv) Declarations of heirship . . . \$40.00

(v) Mental health or chemical dependency services . . . \$40.00

(vi) Additional, special fee (Sec. 118.064) . . . \$ 5.00

(B) Services in Pending Probate Action (Sec. 118.056):

(i) Filing an inventory and appraisalment as

- 1 provided by Section [118.056](#)(d) . . . \$25.00
- 2                   (ii) Approving and recording bond . . .
- 3 \$ 3.00
- 4                   (iii) Administering oath . . . \$ 2.00
- 5                   (iv) Filing annual or final account of
- 6 estate . . . \$25.00
- 7                   (v) Filing application for sale of real or
- 8 personal property . . . \$25.00
- 9                   (vi) Filing annual or final report of
- 10 guardian of a person . . . \$10.00
- 11                   (vii) Filing a document not listed under
- 12 this paragraph after the filing of an order approving the inventory
- 13 and appraisement or after the 120th day after the date of the
- 14 initial filing of the action, whichever occurs first, if more than
- 15 25 pages . . . \$25.00
- 16                   (C) Adverse Probate Action (Sec. [118.057](#)) . . .
- 17 \$40.00
- 18                   (D) Claim Against Estate (Sec. [118.058](#)) . . .
- 19 \$10.00
- 20                   (E) Supplemental Court-Initiated Guardianship
- 21 Fee in Probate Original Actions and Adverse Probate Actions
- 22 (Sec. [118.067](#)) . . . \$20.00
- 23                   (F) Supplemental Public Probate Administrator
- 24 Fee For Counties That Have Appointed a Public Probate Administrator
- 25 (Sec. [118.068](#)) . . . \$10.00
- 26                   (3) OTHER FEES
- 27                   (A) Issuing Document (Sec. [118.059](#)):

1 original document and one copy . . . \$ 4.00

2 each additional set of an original and one copy . . . \$ 4.00

3 (B) Certified Papers (Sec. 118.060):

4 for the clerk's certificate . . . \$ 5.00

5 plus a fee per page or part of a page of . . . \$ 1.00

6 (C) Noncertified Papers (Sec. 118.0605):

7 for each page or part of a page . . . \$ 1.00

8 (D) Letters Testamentary, Letter of  
9 Guardianship, Letter of Administration, or Abstract of Judgment  
10 (Sec. 118.061) . . . \$ 2.00

11 (E) Deposit and Safekeeping of Wills (Sec.  
12 118.062) . . . \$ 5.00

13 (F) Mail Service of Process (Sec. 118.063) . . .  
14 same as sheriff

15 (G) Records Management and Preservation Fee  
16 . . . \$ 5.00

17 (H) Records Technology and Infrastructure Fee if  
18 authorized by the commissioners court of the county (Sec. 118.026)  
19 . . . \$ 2.00

20 SECTION 13. Section 118.062, Local Government Code, is  
21 amended to read as follows:

22 Sec. 118.062. DEPOSIT AND SAFEKEEPING OF WILLS. The fee for  
23 "Deposit and Safekeeping of Wills" under Section 118.052(3) is for  
24 receiving [~~filings~~] and keeping wills deposited [~~held~~] for  
25 safekeeping. The fee must be paid at the time the will is deposited  
26 with the county clerk [~~filed~~].

27 SECTION 14. Sections 252.001 and 252.201, Estates Code, as

1 amended by this Act, and Section 252.2015, Estates Code, as added by  
2 this Act, apply to a will deposited with or delivered to a clerk  
3 described by those sections on or after the effective date of this  
4 Act. A will deposited with or delivered to a clerk described by  
5 those sections before the effective date of this Act is governed by  
6 the law in effect on the date the will was deposited or delivered,  
7 and the former law is continued in effect for that purpose.

8 SECTION 15. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2207 was passed by the House on May 4, 2017, by the following vote: Yeas 142, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2207 on May 21, 2017, by the following vote: Yeas 131, Nays 8, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2207 was passed by the Senate, with amendments, on May 19, 2017, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor