

BILL ANALYSIS

H.B. 2182
By: Moody
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Real Estate, Probate, and Trust Law Section of the State Bar of Texas has pointed out that certain notice procedures relating to the disposition of decedents' or multiple-party estates are outdated or require clarification, in addition to other issues. H.B. 2182, among other changes, provides for the following changes: alternatives to registered or certified mail to meet statutory notice requirements; clarification regarding the liability of community property assets of a married couple to creditors' claims when a spouse dies; and the waiver of citation by certain persons on behalf of a minor under the age of 16.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

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

ANALYSIS

H.B. 2182 amends the Estates Code to revise provisions relating to decedents' estates and to authorize the delivery of certain communications in connection with those estates or multiple-party accounts to be made by a qualified delivery method as an alternative to certified or registered mail. The bill defines "qualified delivery method" as delivery by a courier by hand, with courier's proof of delivery receipt; a private delivery service designated as a designated delivery service by the IRS, with proof of delivery receipt; or certified or registered mail, return receipt requested, with return receipt.

H.B. 2182 expands the approved delivery methods for the following notices and citations to include delivery by any qualified method:

- certain citations and required notices in probate proceedings;
- notice of the resignation of a resident agent of a personal representative to allow service of process;
- notice of the pledge of a security interest on a multi-party account sent by the applicable secured creditor to any other party to that account;
- citation in a proceeding to declare heirship when the recipient's name and address are known or ascertainable;
- certain notices sent by a personal representative of an estate to beneficiaries and claimants for the purposes of administering the estate;
- notice sent by a personal representative of an estate, before the purchase of the estate by the representative, to distributees and creditors;
- notice sent by the court to a personal representative or independent executor regarding the removal of that representative or executor;

- citation on the presentation of an account for final settlement and the copies of that account;
- notice of certain claims against an estate sent by creditors to the independent executor of that estate or the executor's attorney;
- notice of the appointment of a temporary administrator of an estate sent by the appointee to the decedent's known heirs;
- citation for an application for the ancillary probate of a certain type of foreign will to be sent to each devisee and heir identified in the application;
- certain notices or processes relating to an action or proceeding regarding a trust, estate, fund, or other matter involving a foreign corporate fiduciary required to be forwarded by the secretary of state to the officer, agent, or other person designated by the fiduciary; and
- notice sent by a foreign executor or administrator of a person who was a nonresident at the time of their death to all creditors of that decedent in Texas who have filed a claim against the decedent's estate.

H.B. 2182 clarifies that a surviving spouse is liable for the undivided one-half interest that the surviving spouse owned in community property that was by law under the sole management, control, and disposition of the deceased spouse during marriage and that the deceased spouse's heirs or devisees are liable for the undivided one-half interest that the deceased spouse owned in community property that was by law under the sole management, control, and disposition of the surviving spouse during marriage.

H.B. 2182 clarifies that the requirement to report to the court a sale of estate personal property applies to a successful bid or contract for the sale.

H.B. 2182, with respect to a waiver of service of citation in a proceeding to declare heirship, increases from 12 years of age to younger than 16 years of age the maximum age of a distributee for whom a parent, managing conservator, guardian, attorney ad litem, or guardian ad litem may waive the citation required to be served on the distributee.

H.B. 2182 authorizes a required testimony regarding a decedent's heirs and family history, in a proceeding to declare heirship, to be taken by a recorded statement of facts contained in an affidavit or instrument or in a judgment of a court of record if the affidavit, instrument, or judgment qualifies as prima facie evidence of heirship under related statutory provisions.

H.B. 2182 removes the requirement to include the last three numbers of an applicant's driver's license number and social security number from the following applications:

- the probate of a will;
- the probate of a will as a muniment of title; and
- letters of administration when no will is alleged to exist.

H.B. 2182 authorizes the following persons to waive the citation required to be served on an heir on the filing of an application for the probate of a will that cannot be produced in court:

- an heir who is 16 years of age or older; and
- the parent, managing conservator, guardian, attorney ad litem, or guardian ad litem of an heir who is younger than 16 years of age.

H.B. 2182 authorizes a person to make and sign a declaration as an alternative to taking an oath to be qualified to serve as a personal representative or to be issued letters of administration to serve as an executor or administrator or temporary administrator for the estate of a deceased person. The bill sets out the form to which the declaration must substantially conform.

EFFECTIVE DATE

September 1, 2021.