

- SUBJECT:** Revising provisions of Estates Code for disposition of decedents' estates
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Leach, Julie Johnson, Krause, Middleton, Schofield, Smith  
0 nays  
3 absent — Davis, Dutton, Moody
- WITNESSES:** For — Lauren Hunt, State Bar of Texas Real Estate, Probate, and Trust Law Section; (*Registered, but did not testify:* Craig Hopper, State Bar of Texas Real Estate, Probate, and Trust Law Section; Guy Herman, Statutory Probate Courts of Texas as Presiding Judge)  
Against — None
- BACKGROUND:** Interested parties have suggested that changes to the Estates Code are needed related to the procedures surrounding the disposition of decedents' estates.
- DIGEST:** HB 2182 would revise provisions of the Estates Code related to decedents' estates by authorizing alternatives to registered or certified mail to meet statutory notice requirements, describing the liability for debt related to community property assets on the death of a spouse, changing the age for waiver of citation for certain proceedings, allowing unsworn declarations, and various other modifications.
- Qualified delivery method.** HB 2182 would define "qualified delivery method" as:
- hand delivery by courier, with the courier's proof of delivery receipt;
  - certified or registered mail, return receipt requested, with return receipt; or
  - a private delivery service designated as a designated delivery

service by the U.S. Secretary of the Treasury under applicable law, with proof of delivery receipt.

The bill would expand the approved delivery method for certain notices and citations under the Estates Code to include delivery by any qualified delivery method.

**Community property assets.** The bill would specify that a surviving spouse was liable for debts related to 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 the marriage. The deceased spouse's heirs or devisees would be liable for debts related to 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.

**Age for waiver of service.** The age at which a minor could waive citation in an heirship proceeding or in a proceeding to probate a copy of a written will not produced in court would be raised from 12 to 16 and certain individuals could waive citation on behalf of a minor under the age of 16.

**Heirship proceedings.** The bill would specify that only property that was subject to distribution under a judgment in an heirship proceeding would have to be listed in the application for the proceeding.

The bill also would specify that an affidavit of heirship could serve as testimony in a proceeding to declare heirship.

**Identifying information.** The bill would remove the requirement for an applicant to list the last three digits of his or her Social Security number and driver's license number in applications to probate wills and in applications for letters testamentary or of administration.

**Unsworn declarations.** An individual would be allowed to make an unsworn declaration in lieu of taking a sworn oath for qualification 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 would provide the form to which the declaration must substantially conform.

**Sale of estate personal property.** The bill would specify that only a successful bid or contract for the sale of estate personal property would be included in the requirement to report to the court such a sale.

**Other provisions.** The bill would specify that the provisions relating to listed property and testimony in heirship proceedings, the sale of estate personal property, and community debts would be intended to clarify rather than to change existing law.

The bill would take effect September 1, 2021, and would apply only to affected actions, proceedings, accounts, applications, or orders on or after that date.