

# PROBATE CODE

## Chapter 1. General Provisions

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### Statutes in Context

#### § 1

Although called a "Code," the Probate Code is not a true "code" because it was enacted in 1955 which was before the 1953 Legislature began the process of codifying Texas law into 27 codes. The 2009 Legislature began the process of codifying the current Probate Code into a "real" code, the Estates Code.

The portion of the Estates Code passed by the 2009 Legislature focuses on intestacy, wills, and estate administration. The guardianship and durable power of attorney provisions were added in 2011. The 2011 Legislature also made changes to the previously enacted portions of the Estates Code to be consistent with Probate Code amendments. The 2013 Legislature will have the opportunity to make certain everything fit together nicely and that any substantive changes to the Probate Code are properly integrated into the Estates Code.

The entire Estates Code is slated to become effective on January 1, 2014.

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#### § 1. Short Title

This Act shall be known, and may be cited, as the "Texas Probate Code."

*Acts 1955, 54<sup>th</sup> Leg., p. 88, ch. 33, eff. Jan. 1, 1956.*

#### § 2. Effective Date and Application

(a) **Effective Date.** This Code shall take effect and be in force on and after January 1, 1956. The procedure herein prescribed shall govern all probate proceedings in county and probate courts brought after the effective date of this Act, and also all further procedure in proceedings in probate then pending, except to the extent that, in the opinion of the court, with respect to proceedings in probate then pending, its application in particular proceedings or parts thereof would not be feasible or would work injustice, in which event the former procedure shall apply.

(b) **Rights Not Affected.** No act done in any proceeding commenced before this Code takes effect, and no accrued right, shall be impaired by the provisions of this Code. When a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time which has commenced to run by the provision of any statute in force before this Code takes effect, such provision shall remain in force and be

deemed a part of this Code with respect to such right. All things properly done under any previously existing statute prior to the taking effect of this Code shall be treated as valid. Where citation or other process or notice is issued and served in compliance with existing statutes prior to the taking effect of this Code, the party upon whom such citation or other process has been served shall have the time provided for under such previously existing statutes in which to comply therewith.

(c) **Substitutions Have No Legal Effect.** The division of this Code into Chapters, Parts, Sections, Subsections, and Paragraphs is solely for convenience and shall have no legal effect.

(d) **Severability.** If any provision of this Code, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be severable, and the Legislature hereby states that it would have enacted such portions of the Code which can lawfully be given effect regardless of the possible invalidity of other provisions of the Code.

(e) **Nature of Proceeding.** The administration of the estate of a decedent, from the filing of the application for probate and administration, or for administration, until the decree of final distribution and the discharge of the last personal representative, shall be considered as one proceeding for purposes of jurisdiction. The entire proceeding is a proceeding in rem.

*Acts 1955, 54<sup>th</sup> Leg., p. 88, ch. 33, eff. Jan. 1, 1956. Amended by Acts 1993, 73<sup>rd</sup> Leg., ch. 937, § 2, eff. Sept. 1, 1993. Transferred to Estates Code by Acts 2009, 81<sup>st</sup> Leg., ch. 660, § 2, eff. Jan. 1, 2014 and amended to read only existing subsection (c) by Acts 2009, 81<sup>st</sup> Leg., ch. 660, § 6, eff. Jan. 1, 2014. Subsection (e) transferred to Estates Code § 52.00 (a) by Acts 2013, 83<sup>rd</sup> Leg., ch. 1136, § 2, eff. Jan. 1, 2014.*

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### Statutes in Context

#### § 3

The definitions in § 3 apply to the entire Probate Code except as otherwise provided by Chapter XIII which governs guardianships.

Some terms are defined contrary to their traditional meanings. For example, the term "devise," which usually refers to a gift of real property in a will, is defined to encompass gifts of both real and personal property in substantive (a). Likewise, "legacy," which normally refers to a gift of money (personal property) in a will, is deemed

# Texas Probate Code 2002 Edition

**R. R. Bowker LLC**



## **Texas Probate Code 2002 Edition:**

*Texas Penal Code 2002* West Group Publishing,2000-09      Comparative Succession Law Kenneth Reid,Marius de Waal,Reinhard Zimmermann,2015-08-27 Intestate Succession is the second volume in the Comparative Succession Law series which examines the principles of succession law from a comparative and historical perspective This volume discusses the rules which apply where a person dies either without leaving a valid will or leaving a will which fails to dispose of all of the person s assets Among the questions considered are the following What is the nature of the rules for the disposal of the deceased s assets Are they mechanical or is there an element of discretion Are particular types of property dealt with in particular ways Is there entitlement to individual assets as opposed to money Do the rules operate in a parentelic system or a system of some other kind Are spouses treated more favourably than children What provision is made for extra marital children for adopted children for step children Does cohabitation give rise to entitlement How are same sex couples treated Broader questions also arise of a historical and comparative nature Where for example do the rules in intestate succession come from in particular legal systems Have they been influenced by the rules in other countries How are the rules explained and how are they justified To what extent have they changed over time What are the long term trends And finally are the rules satisfactory and is there pressure for their reform As in the first volume this book will focus on Europe and on countries which have been influenced by the European experience such as Australia New Zealand South Africa the United States of America Quebec and the countries of Latin America Further chapters are devoted to Islamic Law and Nordic law Opening with a discussion on Roman law and concluding with an assessment of the overall development of the law in the countries surveyed this book will provide a wider reflection on the nature and purpose of the law of intestate succession      Johanson's Texas Probate Code Annotated 2004 Stanley Johanson,2004      Texas Insurance Code Texas,2001      Texas Probate Code 2022 Edition Texas Government,2023-01-24      *Texas Corp and Partnership Law02* Texas,West,2001-11      *Subject Guide to Books in Print* ,1991      The Southwestern Reporter ,1892      **Family and Succession Law in the USA** Lynn Dennis Wardle,William C. Duncan,Laurence C. Nolan,2022-07-20 Derived from the renowned multi volume International Encyclopaedia of Laws this concise exposition and analysis of the essential elements of law with regard to family relations marital property and succession to estates in the USA covers the legal rules and customs pertaining to the intertwined civic status of persons the family and property After an informative general introduction the book proceeds to an in depth discussion of the sources and instruments of family and succession law the authorities that adjudicate and administer the laws and issues surrounding the person as a legal entity and the legal disposition of property among family members Such matters as nationality domicile and residence marriage divorce and cohabitation adoption and guardianship succession and inter vivos arrangements and the acquisition and administration of estates are all treated to a degree of depth that will prove useful in nearly any situation likely to arise in legal practice The book is primarily designed to assist lawyers who find

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**Confirmation Hearings on Federal Appointments** United States. Congress. Senate. Committee on the Judiciary,2003  
, Martindale-Hubbell Law Digest ,2003 Ohio Probate Code, Annotated Ohio,2014 The Administration of Estates in Texas William Stewart Simkins,1908 **Ulrich's Periodicals Directory 2005** R. R. Bowker LLC,2004  
Practical Drafting ,2004 *Family Code Sel St and Ali Principles Student Edition 06e* Weisberg,D. Kelly Weisberg,2006-12 **The Law and Older Persons** Marshall B. Kapp,2003 Therapeutic Jurisprudence TJ is a way of exploring the ways in which the law in practice as opposed to theory can exert positive or negative effects on real people in actual situations This book applies the inquiries of TJ to the areas of geriatrics and gerontology focusing on facets of laws pertaining specifically to older persons in the United States Through a series of thoroughly referenced chapters mixing analytic discussion and case examples Kapp asks such questions as Is legal involvement and intervention in the lives of older persons a good thing for both the intended beneficiaries and society as a whole What is therapeutic jurisprudence and why is it relevant to older Americans What is the intent of the laws pertaining to older persons in such contexts as nursing home and home health care regulation end of life medical decision making regulation of research involving older persons as human subjects the role of consumer choice and control for older persons in selecting among health plans and directing their own long term care guardianship and other interventions for the incapacitated aged employment retirement age discrimination and the professional liability tort system Most importantly when regulation fails what are our best alternatives as advocates for the elderly and for our future selves This book should be a must read for legislators and policy makers dealing with the elderly Advocacy groups for the elderly would also be well served to read this book Margaret Davino Care Management Journals

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