

# The 2025 Texas Estate and Trust Legislative Update

(Including Decedents' Estates, Guardianships, Trusts, Powers of Attorney, and Other Related Matters)

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This version was last substantively updated **February 14, 2025**. REPTL members can check for a more recent version on the REPTL website's [Estate and Trust Legislative Update page](#).

(See the note on page 6 about hyperlinking to the online version of this paper.)

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Note: This 2025 Texas Estate and Trust Legislative Update has been prepared by T-REP and provided to REPTL members by agreement between the two organizations.

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## 1. The Preliminaries.

**1.1 Thank You, Bill.** Bill Pargaman, long-time author of this paper, died on August 3, 2023. A friend and teacher to many, he was deeply committed to his family, community, and the State Bar. Bill spent more than two decades contributing to the Real Estate, Probate, and Trust Law section of the State Bar of Texas, serving on the Trusts and Legislative Affairs Committees, REPTL Council, and ultimately as Chair of REPTL in 2015-2016. Following his tenure as REPTL Chair, he continued his service to the State Bar by volunteering countless hours researching, writing, speaking, and advancing legislation to further the practice of law in estate planning and probate. Bill was instrumental in forming the Texas Real Estate and Probate Institute and served on its inaugural board beginning in 2022.

This paper would not be possible without the time, energy, intellectual contributions, and mentorship Bill provided over many years. Thank you, Bill, for these gifts and to his family and colleagues for supporting him in his dedication to the State Bar.

**1.2 Introduction and Scope.** The 89<sup>th</sup> Regular Session of the Texas Legislature spans the 140 days beginning January 14, 2025 and ending June 2, 2025. This paper presents a summary of the 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. Issues of interest to elder law practitioners are touched upon, but are not a focus of this paper.

**1.3 CMA Disclaimers.** While reading this paper, please keep in mind the following:

- We've made every reasonable attempt to provide accurate descriptions of the contents of bills, their effects, and in some cases, their background. Nevertheless, we're human and have been known to make mistakes.

- In addition, some of the descriptions in this paper admittedly border on editorial opinion, in which case the opinion is the authors', and not necessarily that of REPTL, T-REP, or anyone else.
- As companion bills make their way through the legislative process, we usually base descriptions on the most recently approved version in either chamber. In the case of T-REP bills, we sometimes have access to drafts of substitutes before they are officially posted, in which case the descriptions may be based on what we think the bill will look like, rather than what the currently-online version looks like.
- As a consequence, while the descriptions contained in this paper are hopefully accurate at the time they are written, they may no longer accurately reflect the contents of a bill at a later stage in the legislative process.

Therefore, you'll find directions in Section 11.3 on page 6 for obtaining copies of the actual bills themselves so you may review and analyze them yourself before relying on any information in this paper.

**1.4 T-REP and REPTL.** The Texas Real Estate and Probate Institute ("T-REP") prepares and promotes legislation to enhance state law relating to real estate, decedents' estates, trusts, guardianship, and powers of attorney and advanced directives.<sup>1</sup> Recommendations for legislation come from a variety of sources and are considered by T-REP's substantive committees and board. Once a legislative package has been prepared, T-REP's Estates and Trusts Legislative Affairs Committee and lobbyist help encourage the legislation's passage. The Real Estate, Probate, and Trust Law section of the State Bar of Texas ("REPTL") contracts with T-REP to keep its members informed of changes of interest.

**1.5 Procedural Matters, Processes, and Players.** This paper has a wealth of knowledge regarding the legislative process, the people who make REPTL and

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<sup>1</sup> This paper focuses on these areas, which together make up the "death" side of T-REP. The real estate side of T-REP, or the "dirt" side, prepares a similar legislative update relating to

real estate matters, which can also be found on REPTL's website.

T-REP function, and context about how this paper can be used. In response to feedback from readers, this contextual information has been moved to the end of the paper to allow the legislation to take front stage. Please turn to **Part 11 on page 6** for these valuable resources.

## **2. The T-REP Bills.**

### **2.1 The Original T-REP Legislative Package.**

T-REP’s 2025 legislative package consists of a number of bills covering three general areas: (i) decedents’ estates; (ii) guardianships; and (iii) trusts. Section 35(a), Article III, of the Texas Constitution contains the “one-subject” rule:

No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject.

Because of this rule, T-REP (or sometimes Legislative Council<sup>2</sup>) will strip out provisions from one or more of the “general” bills that may violate the one-subject rule and place them in separate, smaller bills. In each of the substantive sections of this paper, we will identify any T-REP bills and begin with descriptions of them.

**2.2 Consolidation of Bills.** As hearings begin, legislators often ask interested parties to try to consolidate as many of the various bills on similar subjects as possible, in order to reduce the number of bills that would need to move through the legislature. Pursuant to this request, T-REP and the statutory probate judges often agree to consolidate all or a portion of a number of other bills into one or more of T-REP’s bills. Therefore, keep in mind that not everything that may end up in a T-REP bill by the time it passes was originally a T-REP proposal.

## **3. Decedents’ Estates.<sup>3</sup>**

**3.1 T-REP Decedents’ Estates Bill.** T-REP’s decedents’ estates bill is SB \_\_\_\_\_ (Hughes).

**(a) Delivery of Original Will upon Transfer. (Sec. 33.105).** This change provides that an original will or a paper copy of a will not produced in court must be delivered to the transferee court by qualified delivery method, with costs paid by the party requesting the transfer. This was a change proposed during the 2023 legislative session in **HB 2893** (Clardy | Zaffirini, et al.), which required the probate clerk of a transferring court to use the electronic filing system when sending case documents to the transferee court. That bill also required an original will to be transferred to the transferee court

at the expense of the party requesting the transfer. Most of the provisions of **HB 2893** were rolled into **HB 3474** (Leach, et al. | Hughes, et al.), an omnibus bill relating to the administration of the judicial branch, which passed. However, the language requiring the transfer or the original will was omitted from **HB 3474**.

**(b) Copy of Self-Proving Affidavit. (Sec. 256.156).** When a copy of a will is probated, a handful of courts require an original self-proving affidavit to be filed to make the will self-proved. In most cases, this means that a copy of a will cannot be self-proved, since the original affidavit is often attached to the original will. This proposal would allow a copy of a self-proving affidavit to be sufficient to make a copy of a will not produced in court self-proving. An original self-proving affidavit is not required. This is a clarification and not intended to change existing law.

**(c) Paper Copy of Will Not Produced in Court. (Sec. 256.202).** This change provides that if a paper copy of a will not produced in court is filed with the clerk, the paper copy must be retained by the clerk in the same manner as an original will.

**(d) Marital Property Character of Assets on Inventory. (Secs. 309.051 & 309.052).** The Estates Code currently requires an inventory, appraisal, and list of claims to separately specify which portions of the property that are separate property and which are community property. The T-REP bill changes this provision to require the inventory, appraisal, and list of claims to state whether the decedent was married at the time of death and only specify the separate or community nature of the assets if the decedent was married.

**(e) Citation for Certain Accountings. (Sec. 354.001).** Currently a court may adjust, correct, settle, allow, or disallow a personal representative’s account without notice in small estate proceedings under Estates Code Chapter 354. This change clarifies that, in such cases, citation need not be issued.

**(f) Requirement of Heirs to Give Bond. (Sec. 403.060).** A rarely used section of the Estates Code requires heirs to give bond in independent administrations upon application to the court by a creditor of the estate. The decedents’ estate bill repeals this section.

**(g) Proof of Service in Temporary Administrations. (Sec. 452.006).** The Estates Code currently does not have a time limit for providing proof of service in temporary administrations. However, heirs

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<sup>2</sup> The role of Legislative Council is discussed in Part 11.4(e).

<sup>3</sup> In general, section references throughout this part of the paper are to the Texas Estates Code unless otherwise noted.

have a limited period for contesting the appointment. This change requires temporary administrators to provide proof within seven days of the appointment that the heirs were notified by qualified delivery method.

**(h) Community Debts. (Sec. 453.003).** During the 2023 legislative session, T-REP's decedents' estates bill, **SB 1373** (Hughes | Smithee) replaced references to "community debts" with references to "debts for which a portion of community property is liable for payment" in several provisions of the Estates Code. The 2025 bill cleans up a couple of references to "community debts" and "community obligations" that were not changed in the 2023 legislation.

**(i) Electronic Orders. (Gov't Code Sec. 80.002).** This change requires statutory probate courts to deliver copies of orders to the parties through the state's electronic filing system. In 2023, **HB 3474** applied this change to orders entered by statutory county courts, district courts, and appellate courts.

**3.2 Uniform Partition of Heirs' Property Act. (Gov't Code Sec. 72.040 & Prop. Code Secs. 5.251-5.254, 23.0014-23.0019, 23A.002-23A.0041, 23A.006-23A.007, 23A.010, & 23A.0115).** **SB 600** (West) amends portions of the Property Code, including the Uniform Partition of Heirs' Property Act relating to property acquired as a tenancy in common from a relative by will, intestacy, or a transfer on death deed. These changes require certain information to be included in a petition to partition, add notice and citation provisions, and mandate that a notice of an heir's property rights be provided, with proof to the court that these requirements have been met. This bill also provides for the appointment of an attorney ad litem for unknown or unidentified joint owners and a required settlement conference if requested by a party. A right of first refusal is given to heir cotenants if a sale is proposed to a non-heir cotenant who is not a relative of an heir cotenant.

**3.3 New Firearms Regulations Don't Apply to Inherited Firearms. (Bus. & Com. Code Secs. 205.001-205.054, Gov't Code Sec. 41.0522, Ins. Code 2002.007, & Penal Code 46.06 & 46.135).** **SB 908** (Blanco), like 2023's **HB 3996** (Bryant) and **SB 1274** (Gutierrez, *et al.*) proposes a new regime regulating the transfer of firearms. However, it doesn't apply to the transfer of firearms by inheritance or bequest.

**3.4 Procedural Matters Affecting Decedents' Estates.** Don't forget to check out matters that may affect decedents' estates discussed in Parts 7 – Jurisdiction and Venue and 8 – Court Administration.

#### **4. Guardianships and Persons With Disabilities.**

**4.1 The T-REP Guardianship Bill.** T-REP's guardianship bill is **HB 1954** (Thompson) and **SB 746** (Zaffirini).

**(a) GAL for Proposed Ward. (Secs. 1002.013, 1054.051, 1054.054, & 1054.056).** This clarifies that the court may appoint a guardian ad litem to represent a *proposed* ward, in addition to a ward. This is intended as a clarification and not a change to existing law.

**(b) Private Process Server for Temporary Guardianship. (Sec. 1051.103).** The Estates Code requires personal service by a sheriff or other officer – typically a constable – on a proposed ward who is 12 years old or older in temporary guardianships. However, in some cases, it is difficult to secure service timely in temporary guardianship cases. This change allows a private process server to personally serve citation upon a proposed ward when an application for temporary guardianship has been filed.

**(c) Action by Party Adverse to Ward. (Sec. 1055.001).** T-REP's guardianship bill further limits those with adverse interests from participating in guardianship proceedings affecting the ward or proposed ward. This amendment provides that a person with interest adverse to a ward cannot apply for appointment of a guardian, file a motion to request removal, or contest a request for removal of a guardian. Currently, the statute only prevents those with adverse interests from being a party to an application to create a guardianship, contest the appointment of a proposed guardian, or contest an application to restore a ward's capacity.

**(d) Duty to Preserve Ward's Estate Plan. (Sec. 1151.165).** This provision requires the guardian of the estate to preserve the ward's probate and non-probate estate plan to the extent possible if the guardian has actual knowledge of the estate plan. Court approval is required for changing beneficiary designations and payees or closing certain accounts. Additionally, the guardian of the estate may request the court's permission to restore a beneficiary designation or payee if they were cancelled due to the closure of a ward's account.

**(e) Order on Annual Account and Report. (Secs. 1163.051 & 1163.104).** The bill requires an order to be issued following a judge's review of an annual accounting and an annual report in order to prevent the inadvertent cancellation of letters of guardianship. The judge may either approve the accounting or report or require the guardian to file another accounting or report within 20 days of the court's order.

**4.2 Scope of Supported Decision-Making Agreement (Secs. 1357.051 & 1357.056).** **SB 66**

(Zaffirini) expands the scope of a supported decision-making agreement to include assistance in legal matters in which the supported person is involved, in both civil and criminal proceedings.

**4.3 Advanced Practice Registered Nurses (Sec. 1101.100).** **SB 911** (Blanco, *et al.*) establishes the definition of an “advanced practice registered nurse” to have the meaning assigned in Section 301.002 of the Occupations Code. **HB 3009** (VanDeaver | Zaffirini), which passed in 2023, allows APRNs to sign certificates of medical examinations in guardianship matters.

**4.4 Modification of Possession Order for Child of Incapacitated Conservator (Family Code Sec. 156.107).** **HB 1914** (Cook) proposes a new Family Code section providing that the temporary or permanent incapacity of a child’s conservator is a material and substantial change in circumstances, sufficient to justify a modification of an existing court order regarding conservatorship. If there is a co-conservator, that person is temporarily entitled to exercise the possession rights of the incapacitated conservator. The standard for incapacity is defined as a physical or mental condition or incarceration that prevents the conservator from caring for the child.

**4.5 Prevention of Abuse of Elderly and Disabled.** **HB 1347** (Turner) expands the offense of exploitation of a child, elderly individual, or disabled individual to include statutorily defined exploitation, deception, coercion, or isolation for the monetary or personal benefit of another.

**4.6 Procedural Matters Affecting Guardianships.** Don’t forget to check out the matters affecting guardianships discussed in Parts 7—Jurisdiction and Venue. and 8—Court Administration.

## 5. Trusts.<sup>4</sup>

**5.1 The T-REP Trusts Bill.** This session’s T-REP’s trusts bill is **SB 1218** (Hughes). The bill modifies Property Code sections 113.151 and 113.152 regarding trust accountings. Currently, an accounting is required to show income and principal separately for receipts and disbursements. The change proposed by the T-REP bill removes this requirement if the beneficiaries and distribution standards are the same for both income and principal. However, the court can require an accounting to separately account for the income or principal nature of receipts and disbursements upon showing of good cause.

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<sup>4</sup> Section references in Part 5 are to the Texas Property Code unless otherwise noted.

## 6. Disability Documents.<sup>5</sup>

**6.1 The Anti-Norwood Bill: Financial Powers of Attorney and Home Equity Loans (Secs. 751.203 & 752.051; Const. Art. XVI, Sec. 50).** If you go back and read Special Supplement No. 1 in the 2015 legislative update, you’ll understand why the *Norwood* case held that powers of attorney used in a home equity loan must be signed in the office of a lender, an attorney, or a title company, and why it would take a constitutional amendment to fix this problem. **HB 957** (Toth) and **HJR 75** (Toth), like 2023’s **HB 264** (Toth, *et al.*) and **HJR 20** (Toth, *et al.*) and 2021’s **HB 2284** (Toth) and **HJR 104** (Toth), attempt to partially fix the problem. If a home equity loan borrower is (1) located out of state at the time of closing and a member of the U.S. armed forces, (2) has a disability that prohibits travel or is quarantined, or (3) is incarcerated, the borrower may close the loan from a remote location using online notarization or through an agent under a financial power of attorney that expressly grants the agent the authority to engage in a home equity loan transaction and who must appear in person at the closing.

**6.2 Additional Forms of Medical Power (H&S Code Secs. 166.012, 166.163, & 166.164).** **HB 1059** (Bhojani) would allow a health care provider or residential care provider to presume that an advance directive under the chapter has been validly executed in the absence of actual knowledge to the contrary. The bill would also direct the executive commissioner of the Health and Human Services Commission to review and approve (by December 1<sup>st</sup>) medical power of attorney forms promulgated by a national nonprofit organization or the American Bar Association Commission on Law and Aging that have been approved by at least 40 other states. The current statutory form would then become permissive, and the forms approved by the HHS commissioner could be used instead. Very similar legislation was proposed during the 2023 legislative session in **HB 4989** (Bhojani, *et al.*) and did not pass.

**6.3 Felony Offense for Withdrawing Treatment Contrary to Patient Directive (Civ. Prac. & Rem. Code Secs. 74.251, 74.252, & 74.304, H&S Code Secs. 166.045 & 166.048).** **HB 2072** (Hull) would make it a first-degree felony offense to withdraw or withhold life-sustaining treatment from a patient contrary to a validly executed or issued directive, regardless of the health care provider’s knowledge of the directive. A claim under this new statute would not be subject to a statute of limitations.

<sup>5</sup> Section references in Part 6 are to the Texas Estates Code unless otherwise noted.

**6.4 Cremation of Human Remains (H&S Code Secs. 711.001, 716.001, 716.002, 716.151, & 716.1525, Occ. Code Secs. 651.001 & 651.651).** **HB 2200** (Hernandez) proposes to allow for cremation through natural organic reductions, and directs the creation of rules and requirements for the process.

## **7. Jurisdiction and Venue.**

**7.1 Court-Ordered Mental Health Services. (H&S Code Sec. 574.001).** **SB 643** (Johnson) provides that an application for court-ordered mental health services may be filed in the county in which the patient is located at the time the application is filed or where the patient was apprehended.

## **8. Court Administration.**

**8.1 Payment of Costs Associated with Assigned SPC Judge (Sec. 352.054; Gov't Code Sec. 25.0022).** **SB 302** (Perry) and **HB 1928** (Gerdes) is similar to 2023's **HB 251** (Murr), which was similar to 2021's **HB 262** (Murr), which was similar to 2019's **HB 3267** (Murr), which in turn was similar to 2017's **HB 1744** (Murr | Perry). If the judge of a constitutional county court requests, on his or her own motion, the assignment of a statutory probate judge under Estates Code Section 32.003, the court shall, to the extent possible, order the estate to reimburse the county for the costs of the assignment. If a party requests the assignment, and the request is granted, then the court must order that the county be reimbursed for those costs, with the costs allocated among the estate and the parties as the court considers equitable.

**8.2 Recusal or Disqualification of SPC Judge. (Gov't Code Secs. 25.0022-25.002201 & 25.00255).** **SB 1222** (Hughes) allows a former or retired appellate court justice to be assigned as a presiding judge of a statutory probate court if the statutory probate judge is recused or disqualified.

**8.3 Recording Real or Personal Property Documents. (Civ. Prac. & Rem. Code 12.003, Gov't Code 51.901, & Prop. Code 12.001).** Gov't Code Sec. 51.901 already provides that if a district, county, or municipal clerk has reason to believe certain filed documents are fraudulent, including a document purporting to place a lien on property, the clerk is required to send notice to the last known address of the debtor or obligor. **SB 647** (West) modifies regulations regarding filing and recording of documents that convey or assert a claim or lien against real or personal property. If the clerk believes in good faith that the document is fraudulent, the clerk can provide notice to the last known address of the grantor or last owner (if different from the grantor, obligor, or debtor named in the document) and

can refuse to file or record a document if listed statutory requirements are met.

## **9. Selected Family Law Issues.**

**9.1 Separate Homesteads for Spouses. (Tax Code Sec. 11.13).** **HB 1243** (Guillen) allows spouses living in separate residences to each claim an ad valorem homestead exemption.

**9.2 Minimum Marriage Age (Fam Code Secs. 2.009, 2.101, & 6.205).** The Family Code requires both applicants for a marriage license to be at least 18, or to have their disabilities of minority removed by a court. **HB 168** (Rosenthal) and **SB 967** (Zaffirini), like 2023's **HB 924** (Rosenthal) and 2021's **HB 1590** (Rosenthal), require both applicants to be at least 18. Period.

**9.3 Void Marriages and Divorce Decrees (Fam. Code Secs. 6.202 & 9.401).** Family Code Section 6.202 provides that a marriage is void if either party has an undissolved prior marriage. The later marriage becomes valid once the prior marriage is dissolved if the parties have lived together and represented themselves as husband and wife following dissolution of the prior marriage. **HB 2240** (Dutton), like 2023's **HB 3431** (Dutton | Hughes) removes that validation if a party didn't know, and a reasonably prudent person would not have known, that the later void marriage was entered into when the other party had an existing marriage. The bill also voids a decree of divorce or annulment if the court rendering the decree lacked jurisdiction because the marriage was void under the laws of the jurisdiction in which the marriage was entered into.

## **10. Stuff That Doesn't Fit Elsewhere.**

**10.1 Licensed Legal Paraprofessionals – Rules Delayed.** On August 6, 2024, the Texas Supreme Court issued **preliminary rules** allowing certain licensed non-attorney professionals to provide limited legal services in estate planning and probate law, among other areas. The rules are an effort to increase access to legal services for low-income Texans. A licensing system is proposed for individuals to become licensed as a "licensed legal paraprofessional" in either family law, estate planning and probate law, or consumer debt law. Candidates must have certain work experience, pass an ethics and subject matter exam, pay annual dues to the State Bar, and comply with annual licensing requirements. Services may only be provided to low-income clients, defined as being at or below 200% of the federal policy guidelines. Regarding estate planning and probate law services, some of the permitted actions include advising clients on completing and filing disability planning documents, deeds, small estate affidavits, and muniment of title applications; advising clients on completing other estate planning forms that have been approved by a statute or

approved entity, and representing a client in an uncontested muniment of title court proceeding. As a result of comments received in response to the proposed rules, the Supreme Court **announced** that the effective date of the rules will be delayed indefinitely.

**10.2 TBLS Certification for Fiduciary Litigation.** The Texas Board of Legal Specialization (TBLS) has recommended that the Supreme Court adopt a new board-certified specialization for Trust, Estate, and Guardianship Litigation Law. This effort is supported by REPTL, the Texas statutory probate judges, and many other organizations and attorneys. The purpose of the proposed specialization is to recognize attorneys who have special competence in the listed areas. Obtaining the certification will require (i) proof of skill and accomplishments in the relevant practice, (ii) devoting a minimum of 30% of time practicing in the relevant areas, (iii) passing a specialty area examination, and (iv) 5-year recertification compliance. Among other substantive requirements, a candidate for certification must have participated as lead counsel or with substantial involvement in at least 8 contested trials or binding arbitrations in Texas cases that progressed to the point that a court or arbitrator determined issues involving fiduciary matters.

TBLS submitted the proposed standards to the Supreme Court on February 6, 2025, and we are awaiting updates as the proposal progresses through the review and adoption process.

**10.3 Supreme Court's Promulgation of Will Forms.** Back in 2015, **SB 512** (Zaffirini | Thompson, S.) directed the Supreme Court to promulgate forms with accompanying instructions for use in certain probate matters or in making certain wills, including simple wills for married and single individuals with adult, minor, or no children. The forms and instructions were to be written in plain, easy-to-understand language, with a conspicuous statement that the form was not a substitute for legal advice. Spanish language translations would be made available for the purpose of assisting in understanding the forms, but those translations would not be submitted to the Supreme Court. Any court would be required to accept a promulgated form unless completed in a way that caused a substantive defect that could not be cured.

It took a while, but the Supreme Court posted will forms and instructions for comment on September 6, 2022, in [Misc. Docket No. 22-9076](#). Then, on May 5, 2023, the Court gave final approval to those forms and instructions in [Misc. Docket No. 23-9022](#). They are posted at:

[www.txcourts.gov/forms](http://www.txcourts.gov/forms)

Texas Legal Services Center has also posted these forms with explanations on its website, [TexasLawHelp.org](http://TexasLawHelp.org), at: [texaslawhelp.org/article/will-forms-approved-by-the-supreme-court-of-texas](http://texaslawhelp.org/article/will-forms-approved-by-the-supreme-court-of-texas)

## 11. Procedural Matters, Processes, and Players

**11.1 A Note About Linking to the Electronic Version.** The primary location where this paper will be posted is [the REPTL Estate & Trust Legislative Update page](#). We recommend using the following link to find the most recent version of the paper:

[www.reptl.org/Private/DrawOnePage.aspx?PageID=119](http://www.reptl.org/Private/DrawOnePage.aspx?PageID=119)

You'll find the current and previous legislative updates going as far back as 1983. Once you click on the link to an update, you should open a new browser tab with a PDF version of this paper. However, **don't** copy that URL, because it will only be a link to that particular version of the paper, and will only work so long as that version remains posted.

**11.2 Where You'll Be Able to Find the Statutory Language After the Session's Over.** Beginning with the 2019 update, in an effort to be green (for anyone getting a hard copy), an entirely separate supplement containing the actual statutory language that's changing, or being added, was published rather than adding it as attachments to the paper itself. Sometime after the 2025 session is over, you'll be able to find that supplement containing the changed or added statutory language – or at least the language we deem worthy to include on the same [REPTL Estate & Trust Legislative Update page](#).

**11.3 Obtaining Copies of Bills.** If you want to obtain copies of any of the bills discussed here, go to [www.legis.state.tx.us](http://www.legis.state.tx.us). Near the top of the page, in the middle column, you'll see **Search Legislation**. First, select the legislative session you wish to search (for example, the 2025 regular legislative session that spans from January through June is "89(R) – 2025"). Select the Bill Number button, and then type your bill number in the box below. So, for example, if you wanted to find the House version of the 2025 Guardianship bill prepared by T-REP, you'd type "HB 1954" and press Go. (It's fairly forgiving – if you type in lower case, place periods after the H and the B, or include a space before the actual number, it's still likely to find your bill.)

Then click on the Text tab. You'll see multiple versions of bills. The "engrossed" version is the one that passes the chamber where a bill originated. When an engrossed version of a bill passes the other chamber without amendments, it is returned to the originating chamber where it is "enrolled." If the other chamber does make

changes, then when it is returned, the originating chamber must concur in those amendments before the bill is enrolled. Either way, it's the "enrolled" version you'd be interested in.

**11.4 The People and Organizations Most Involved in the Process.** A number of organizations and individuals get involved in the legislative process:

**(a) REPTL.** In years past, the Real Estate, Probate & Trust Law Section of the State Bar of Texas was active in proposing legislation. However, starting with the 88<sup>th</sup> Legislative Session, the Texas Real Estate and Probate Institute, or T-REP, began to take the lead on legislative initiatives. The reason this legislative role has moved from REPTL to T-REP is discussed in detail in **Part 3 of the 2023 Legislative Update**.



Despite REPTL's reduced role in the legislative process, it will continue to educate its members on important legislative changes in the areas of real estate, decedents' estates, trusts, and other areas of interest.<sup>6</sup> Additionally, with its more than forty-year history and breadth of expertise in developing legislative packages and working to get them enacted, REPTL provides guidance to T-REP that is worthy of acknowledgment. REPTL will also provide the same great benefits it's been providing for years, including:

- The REPTL Reporter.
- The REPTL Leadership Academy.
- The REPTL CLE Library.
- CLE discounts at a number of TexasBarCLE seminars.
- Discounted subscription to the State Bar's Online CLE Library.
- Partial funding of Title Standards Joint Editorial Board with the Oil, Gas, and Energy Resources Law (OGERL) Section and free access to the most current Title Examination Standards.

REPTL's officers during the 89<sup>th</sup> session are:

- Richard Crow of Houston, Chair
- Lora Davis of Dallas, Chair-Elect/Secretary
- Sara Dysart of San Antonio, Treasurer
- Melissa Willms of Houston, Immediate Past Chair

Following REPTL's annual section meeting during the summer of 2025, assuming nothing unexpected happens, REPTL's officers will be:

- Lora Davis of Dallas, Chair
- Sara Dysart of San Antonio, Chair-Elect/Secretary
- Lauren Hunt of Austin, Treasurer
- Richard Crow of Houston, Immediate Past Chair

**(b) T-REP.** In the summer of 2022, the Texas Real Estate and Probate Institute was formed as an independent entity by a group of practitioners who had previously had substantial involvement in the legislative process (many through REPTL) so that there would still be some entity promoting the type of legislation that REPTL had previously worked on.



T-REP conducts its own legislative activities, both with respect to proposing legislation and monitoring other legislation in areas of interest to REPTL members and reports back to REPTL on both. It gathers ideas for legislation from a variety of sources. These may be ideas that T-REP board of directors or REPTL members come up with, or they may be suggestions from practitioners around the state, accountants, law professors, legislators, or judges. Most suggestions will receive at least some review. If you have ideas for the 2027 legislative package, you can contact T-REP's officers (listed below).

REPTL and T-REP communicate and cooperate, but T-REP is independent of, and not controlled by, REPTL. The T-REP bylaws provide for a board of directors consisting of between three and 20 members. There are two ex-officio members of the board: the then-serving REPTL chair and REPTL's immediate past-chair. However, no other then-serving REPTL officer may be elected to the T-REP board, and a majority of the board must consist of persons who are neither past-chairs of REPTL nor currently-serving REPTL Council members. Except for the ex-officio members of the board, members of the board will serve staggered four-year terms. The current board members, the expiration dates of their staggered terms, and whether they are real estate (RE) or probate lawyers (P) are:

- *Richard Crow* (ex-officio) (RE)<sup>7</sup>
- *Melissa Willms* (ex-officio) (P)<sup>8</sup>
- *Mickey Davis* (2025) (P)<sup>9</sup>

<sup>6</sup> REPTL has entered into a State Bar-approved contract to pay T-REP to keep REPTL, and its membership, informed of legislative activities affecting REPTL's members. This legislative update, along with the similar update prepared on real estate matters, constitutes a large portion of that service.

<sup>7</sup> Through REPTL's 2025 annual section meeting.

<sup>8</sup> Following REPTL's 2025 annual section meeting.

<sup>9</sup> While the general rule is that terms will be four years, the bylaws call for terms to begin and end in odd-numbered years

- *Eric Reis* (2025) (P)<sup>10</sup>
- *Roland Love* (2025) (RE)
- *Craig Hopper* (2025) (P)
- *Reid Wilson* (2025) (RE)
- Howard Cohen (2027) (RE)
- Jim Dougherty (2027) (RE)
- Lauren Hunt (2027) (P)
- Marc Markel (2027) (RE)
- Shannon Guthrie (2027) (P)
- Gene Wolf (2027) (P)

Including the ex-officio members, only six of the 13 board members are past-chairs or current officers. Shannon Guthrie serves as T-REP's chair/president; Roland Love serves as vice chair, and Gene Wolf serves as secretary/treasurer. In addition to the officers, T-REP has hired a lobbyist, Jocelyn Dabeau, and legislative research assistants, Caitlin Haney Johnson and Amber Haney, who provide invaluable service tracking legislation for T-REP, assist T-REP before and during the legislative session.

**(c) The Statutory Probate Judges.** The vast majority of probate and guardianship cases are heard by the judges of the Statutory Probate Courts (24 of them in 12 of Texas' 15 largest counties). Judge Guy Herman of the Probate Court No. 1 of Travis County (Austin) is the Presiding Statutory Probate Judge and has been very active in promoting legislative solutions to problems in our area for many years.

**(d) The Bankers.** There are two groups of bankers that T-REP deals with. One is the Wealth Management and Trust Division of the Texas Bankers Association ("TBA"), which tends to represent the larger corporate fiduciaries, while the other is the Independent Bankers Association of Texas ("IBAT), which tends to represent the smaller corporate fiduciaries, although the distinctions are by no means hard and fast.

**(e) The Texas Legislative Council.** Among other duties, the Texas Legislative Council<sup>11</sup> provides bill drafting and research services to the Texas Legislature and legislative agencies. All proposed legislation must be reviewed (and usually revised) by Leg. Council before a Representative or Senator may introduce it. In addition, as part of its continuing statutory revision program, Leg. Council was the primary drafter of the Texas Estates Code, a nonsubstantive revision of the Texas Probate Code.

**(f) The Authors and Sponsors.** All legislation needs an author, the Representative or Senator who

introduces the legislation. A sponsor is the person who introduces a bill from the other house in the house of which he or she is a member. Many bills have authors in both houses originally, but either the House or Senate version will eventually be voted out if it is to become law; and so, for example, the Senate author of a bill may become the sponsor of a companion House bill when it reaches the Senate. In any event, the sponsor or author controls the bill and its fate in their respective house. Without the dedication of the various authors and sponsors, legislative success in this session could not be possible. The unsung heroes are the staffs of the legislators, who make sure that the bill does not get off track.

**(g) The Committees.** All legislation goes through a committee in each chamber. In the House, most bills in our area go through the House Committee on Judiciary and Civil Jurisprudence, or "Judiciary." In the Senate, most of our bills are split between the Senate Committee on State Affairs, or "State Affairs," and the Senate Committee on Jurisprudence, or "Jurisprudence."

**11.5 Key Dates.** Key dates for the enactment of bills in the 2025 legislative session include:

- **Tuesday, November 5, 2024** – General election for federal, state, and county offices on the first Tuesday after the first Monday in November of even-numbered years. [*Election Code, Sec. 41.002, U.S. Statutes at Large, 28<sup>th</sup> Congress, 2<sup>nd</sup> Session, p. 721*]
- **Tuesday, November 12, 2024** – Prefiling of legislation for the 89<sup>th</sup> Legislature begins.
- **Tuesday, January 14, 2025** (1<sup>st</sup> day) – 89<sup>th</sup> Legislature convenes at noon on the second Tuesday in January of each odd-numbered year. [*Government Code, Sec. 301.001*]
- **Friday, March 14, 2025** (60<sup>th</sup> day) – Deadline for filing most bills and joint resolutions. [*House Rule 8, Sec. 8; Senate Rule 7.07(b); Senate Rule 10.01 subjects joint resolutions to the rules governing proceedings on bills*]
- **Monday, May 12, 2025** (119<sup>th</sup> day) – Last day for House committees to report House bills and joint resolutions. [*a "soft" deadline that relates to House Rule 6, Sec. 16(a), requiring 36-hour layout of daily calendars prior to consideration, and House Rule 8, Sec. 13(b), the deadline for consideration*]
- **Thursday, May 15, 2025** (122<sup>nd</sup> day) – Last day for House to consider nonlocal House bills and joint resolutions on **second** reading. [*House Rule 8, Sec. 13(b)*]

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(right after a legislative session), and rather than have some initial directors serve one-year terms, these initial terms are either three or five years.

<sup>10</sup> The names of current or past REPTL chairs are italicized.

<sup>11</sup> We usually refer to the Texas Legislative Council as simply "Leg. (pronounced "ledge") Council."

- **Friday, May 16, 2025** (123<sup>rd</sup> day) – Last day for House to consider nonlocal House bills and joint resolutions on **third** reading. [*House Rule 8, Sec. 13(b)*]
- **Saturday, May 24, 2025** (131<sup>st</sup> day) – Last day for House committees to report Senate bills and joint resolutions. [*relates to House Rule 6, Sec. 16(a), requiring 36-hour layout of daily calendars prior to consideration, and House Rule 8, Sec. 13(c), the deadline for consideration*]
- **Tuesday, May 27, 2025** (134<sup>th</sup> day) – Last day for House to consider most Senate bills and joint resolutions on **second** reading. [*House Rule 8, Sec. 13(c)*]
- **Wednesday, May 28, 2025** (135<sup>th</sup> day) – Last day for House to consider most Senate bills or joint resolutions on **third** reading. [*House Rule 8, Sec. 13(c)*]  
Last day for Senate to consider any bills or joint resolutions on third reading. [*Senate Rule 7.25; Senate Rule 10.01 subjects joint resolutions to the rules governing proceedings on bills*]
- **Friday, May 30, 2025** (137<sup>th</sup> day) – Last day for House to consider Senate amendments. [*House Rule 8, Sec. 13(d)*]  
Last day for Senate committees to report all bills. [*relates to Senate Rule 7.24(b), but note that the 135<sup>th</sup> day (two days earlier) is the last day for third reading in the senate; practical deadline for senate committees is before the 135<sup>th</sup> day; Senate Rule 10.01 subjects joint resolutions to the rules governing proceedings on bills*]
- **Sunday, June 1, 2025** (139<sup>th</sup> day) – Last day for House to adopt conference committee reports. [*House Rule 8, Sec. 13(e)*]  
Last day for Senate to concur in House amendments or adopt conference committee reports. [*relates to Senate Rule 7.25, limiting a vote on the passage of any bill during the last 24 hours of the session to correct an error in the bill*]
- **Monday, June 2, 2025** (140<sup>th</sup> day) – Last day of 89<sup>th</sup> Regular Session; corrections only in House and Senate. [*Sec. 24(b), Art. III, Texas Constitution; House Rule 8, Sec. 13(f); Senate Rule 7.25*]
- **Sunday, June 22, 2025** (20<sup>th</sup> day following final adjournment) – Last day Governor can sign or veto

bills passed during the previous legislative session. [*Section 14, Art. IV, Texas Constitution*].<sup>12</sup>

- **Monday, September 1, 2025** (91<sup>st</sup> day following final adjournment) – Date that bills without specific effective dates (that could not be effective immediately) become law. [*Sec. 39, Art. III, Texas Constitution*] (Note that most bills in recent years include a standard specific effective date of September 1<sup>st</sup> of the year of enactment.)

## 11.6 Resources Regarding the Legislative Process.

### (a) Summary of the Legislative Process.

Watching the process is like being on a roller coaster; one minute a bill is sailing along, and the next it is in dire trouble. And even when a bill has “died,” its substance may be resurrected in another bill. The real work is done in committees, and the same legislation must ultimately pass both houses. Thus, even if an identical bill is passed by the Senate as a Senate bill and by the House as a House bill, it cannot be sent to the Governor until either the House has passed the Senate bill or vice-versa. At any point in the process, members can and often do put on amendments which require additional steps and additional shuttling. It is always a race against time, and it is much easier to kill legislation than to pass it. You can find an “official” description of how a bill becomes a law prepared by the Texas Legislative Council at:

[tlc.texas.gov/docs/legref/legislativeprocess.pdf](http://tlc.texas.gov/docs/legref/legislativeprocess.pdf)

**(b) Where You Can Find Information About Filed Bills.** You can find information about any of the bills mentioned in this paper (whether or not they passed), including text, lists of witnesses and analyses (if available), and actions on the bill, at the Texas Legislature Online website: [www.legis.state.tx.us](http://www.legis.state.tx.us). The website allows you to perform your own searches for legislation based on your selected search criteria. You can even create a free account and save that search criteria (go to the “My TLO” tab). Additional information on following a bill using this site can be found at:

[www.legis.state.tx.us/resources/FollowABill.aspx](http://www.legis.state.tx.us/resources/FollowABill.aspx)

**(c) Where You Can Find Information About Previous Versions of Statutes.** We frequently see requests on Glenn Karisch’s [Texas Probate E-Mail List](#)

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<sup>12</sup> A few words of further explanation about this deadline. This provision states the general rule that if the Governor doesn’t return a vetoed bill to the Legislature within 10 days (*excluding Sundays*) after it’s presented to him (*gender specific pronoun in original*), it becomes law as if [s]he’d signed it. Regular sessions of the Legislature always end on a Monday, which means that there are two Sundays included in the 10 calendar days preceding adjournment. Since we don’t

for older versions of statutes, such as the intestacy laws applicable to a decedent dying many years ago. You can find old law on your own (for free) rather than asking the list, and here's an example using the intestacy statutes.

- Former Texas Probate Code Sec. 38 had the rules for non-community property. If you've got a copy of it with the enactment information,<sup>13</sup> you'll see that it came from "Acts 1955, 54<sup>th</sup> Leg., p. 88, ch. 55, eff. Jan. 1, 1956." That means it was part of the original Probate Code and was never amended. The key information you'll need is that it was from the **54<sup>th</sup> Legislature**, and it's found in **chapter 55**.
- Next, go to the search page of the Legislative Reference Library:  
[www.lrl.state.tx.us/legis/billsearch/lrlhome.cfm](http://www.lrl.state.tx.us/legis/billsearch/lrlhome.cfm)
- Since you've got the session and chapter number, use the option to "Search by session law chapter." Click the down arrow and scroll down to "54<sup>th</sup> R.S. (1955)." Then type "55" as the Chapter number. Click "Search by chapter."
- You'll arrive at a page that has a hyperlink to chapter 55. Click on that and Voilà – you've got a PDF of the entire original Probate Code! Since Sec. 38 was never amended prior to its repeal on December 31, 2013 (and replacement by Estates Code Secs. 201.001 and 201.002), you've got the language of that section as it existed before 1993.
- Former Texas Probate Code Sec. 45 had the rules for community property. The PDF you just downloaded had the version in effect when the Probate Code went into effect in 1956. But if you've got the enactment information, you'll see that it was amended by Acts 1991, 72<sup>nd</sup> Leg., ch. 895, § 4, eff.

Sept. 1, 1991, and by Acts 1993, 73<sup>rd</sup> Leg., ch. 846, § 33, eff. Sept. 1, 1993.

- If you're researching the law applicable to someone who died before September 1, 1991, look no further – the original version was still the law. But if your decedent happened to die on or after September 1, 1991, but before September 1, 1993, you need to see what the 1991 amendment did. Go back to the search page mentioned above. Scroll to 72<sup>nd</sup> R.S. (1991) (you don't want either of the "called sessions"), type in 895 for the chapter number, and click on the search button. Again, click on the hyperlink to chapter 895, and you'll download all of that chapter. You need to scroll down to Section 4 of the act to find the 1991 amendment to Texas Probate Code Sec. 45.
- The same procedure should work for any bill or amendment.

**(d) Other Legislative Information and Resources.** Leg. Council has also prepared a guide designed to help interested persons track the work of current legislatures and research the work of past legislatures. You can download a copy at:

[tlc.texas.gov/docs/legref/gtli.pdf](http://tlc.texas.gov/docs/legref/gtli.pdf)

### 12. If You Have Suggestions ...

If you have comments or suggestions, you should feel free to contact any of T-REP's board members identified in Section 11.4(b) on page 7. You can find contact information on T-REP's website:

<https://www.t-rep.org/>

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<sup>13</sup> If you don't have a copy of the Probate Code with enactment information, you can get one! Prof. Gerry Beyer's website ([professorbeyer.com](http://professorbeyer.com)) contains a copy of the Probate Code as it existed immediately prior to its repeal effective

December 31, 2013, with post-1955 amendment information following each section. Click on Legal Updates | Texas Estates Code, and you'll find the link to the final Probate Code at the upper portion of the page.