

SCAC MEETING AGENDA
Friday, June 21, 2019, 9:00 a.m. – 5:00 p.m.

Location: State Bar of Texas
1414 Colorado Street
Austin, TX 78701
(512) 427-1516

1. WELCOME (Babcock)

2. STATUS REPORT FROM CHIEF JUSTICE HECHT

Chief Justice Hecht will report on Supreme Court actions and those of other courts related to the Supreme Court Advisory Committee since the May 3 meeting.

3. COMMENTS FROM JUSTICE BOYD

4. JOINT JUDICIAL CAMPAIGN ACTIVITY

Legislative Mandates Sub-Committee Members:

Jim M. Perdue, Jr. - Chair
Hon. Jane Bland - Vice Chair
Hon. Robert H. Pemberton
Pete Schenckan
Hon. David L. Evans
Robert Levy
Prof. Elaine A. G. Carlson
Richard Orsinger

(a) Joint Judicial Campaign-- For SCAC Discussion June 21

5. MDL APPLICABILITY

Judicial Administration Sub-Committee Members:

Nina Cortell - Chair
Kennon Wooten – Vice Chair
Hon. David Peebles
Hon. Tom Gray
Prof. Lonny Hoffman
Hon. David Newell
Hon. Bill Boyce
Michael A. Hatchell

(b) MDL Transfers

6. EXPEDITED ACTIONS

171-205 Sub-Committee Members:

Robert Meadows – Chair
Hon. Tracy Christopher – Vice Chair
Prof. Alexandra Albright
Hon. Jane Bland
Hon. Harvey Brown
David Jackson
Hon. Ana Estevez

- Kimberly Phillips*
(c) June 12, 2019 Memo re: Expedited Actions
7. **DISMISSAL**
15-165a Sub-Committee Members:
Richard Orsinger – Chair
Frank Gilstrap – Vice Chair
Prof. Alexandra Albright
Prof. Elaine Carlson
Nina Cortell
Prof. Bill Dorsaneo
Pete Schenkkan
Hon. Ana Estevez
8. **NOTICE OF APPEAL**
Appellate Sub-Committee Members:
Pamela Baron – Chair
Prof. Bill Dorsaneo – Vice Chair
Hon. Bill Boyce
Prof. Elaine Carlson
Frank Gilstrap
Charles R. Watson, Jr.
Evan Young
Scott Stolley
(d) June 11, 2019 Memo re: Notice of Appeal
9. **WILL KIT FORMS**
Legislative Mandates Sub-Committee Members:
Jim M. Perdue, Jr. - Chair
Hon. Jane Bland - Vice Chair
Hon. Robert H. Pemberton
Pete Schenkkan
Hon. David L. Evans
Robert Levy
Prof. Elaine A. G. Carlson
Richard Orsinger
(e) 2018-12-18 SCAC Referral Letter with Will Kit attachments only
10. **TEXAS RULE OF CIVIL PROCEDURE 167**
166-166a Sub-Committee Members:
Richard Munzinger – Chair
Pete Schenkkan – Vice Chair
Hon. David Peebles
Hon. Jeffrey Boyd
Prof. Elaine Carlson
Nina Cortell
Rusty Hardin
(f) Report of Rule 167 Subcommittee

- (g) Correspondence to Ms. Newton
- (h) TRCP 167

11. **NAME CHANGE FORMS**

Rule 215 Sub-Committee Members:

Pete Schenckan - Chair

Hon. David L. Evans – Vice Chair

Jim M. Perdue, Jr.

Pamela Baron

Hon. Levi Benton

Hon. Tracy Christopher

Robert Meadows

Lisa Hobbs

Trish McAllister (Texas Access To Justice)

- (i) Pro Se Name Change Instructions, Petitions and Orders
- (j) Relevant Statutes and Rules
- (k) 2019-6 Adult Name Change Instructions CLEAN
- (l) 2019-6 Adult Name Change Petition CLEAN
- (m) 2019-6 Adult Name Change Order CLEAN
- (n) 2019-6 Child Name Change Instructions CLEAN
- (o) 2019-6 Child Name Change Petition CLEAN
- (p) 2019-6 Child Name Change Consent CLEAN
- (q) 2019-6 Child Name Change Order CLEAN

Tab A

Memorandum



To: Supreme Court Advisory Committee

From: Legislative Mandates Subcommittee

Date: June 10, 2019

Re: Joint Judicial Campaign Activity

The Texas Supreme Court has referred a new provision addressing joint judicial campaign activity to the Supreme Court Rules Advisory Committee to address whether the text of the Code of Judicial Conduct “should be changed or a comment added to reference or restate the statute.”

I. Election Code Amendment: New Section 253.1612

The Governor signed House Bill 3233, from the 86th Legislative Session, into law on June 2, 2019. It is effective immediately. HB 3233 amends the Election Code to include new section 253.1612. Entitled “Certain Campaign Activities Authorized,” it provides:

The Code of Judicial Conduct may not prohibit, and a judicial candidate may not be penalized for, a joint campaign activity conducted by two or more judicial candidates.

See 2019 Bill Text TX H.B. 3233.

II. Affected Provisions of the Code of Judicial Conduct

The Code of Judicial Conduct has two provisions that implicate judicial endorsements, Canons 2B and 5(2).

Canon 2B states in part:

A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or

permit others to convey the impression that they are in a special position to influence the judge.

Canon 5(2) states:

A judge or judicial candidate shall not authorize the public use of his or her name endorsing another candidate for any public office, except that either may indicate support for a political party. A judge or judicial candidate may attend political events and express his or her views on political matters in accord with this Canon and Canon 3B(10).

See TEX. CODE JUD. CONDUCT, Canons 2B & 5(2).

III. Background

Last December, the State Commission on Judicial Conduct publicly warned two Dallas County State District Judges for violating Canons 5(2) and 2B of the Code of Judicial Conduct.

The Commission found that, during the 2018 campaign for reelection, the judges together produced and distributed a campaign mailer that featured their names, titles, and likenesses, and urged constituents to vote for each of them in their respective judicial races. The judges also produced campaign videos and posted them to social media, in which they asked voters to support both of them in their respective reelection efforts. Finally, the judges jointly hosted a fundraising event where donations were made to each campaign individually. The judges' individual campaigns shared equally in the costs associated with the mailer, videos, and fundraising event.

The Commission concluded that, by engaging in joint campaign efforts, the judges suggested they were “running as a team,” and by authorizing the use of their names, titles, and likenesses on advertisements supporting both candidates, their conduct constituted a public endorsement, in violation of Canons 5(2) and 2B.

IV. History of Canon 5

There was no Code of Judicial Conduct in Texas until 1974, when it was enacted by the Texas Supreme Court. The first version of the Code contained an “endorsement” prohibition:

A judge or candidate for election to judicial office should not: ... (b) make political speeches for a political organization or candidate or publicly endorse a candidate for public office.

TEX. CODE JUD. CONDUCT, Canon 7A(1)(b), 37 TEX. B.J. 853 (1974) (now Canon 5(2)).

The American Bar Association model code, from which the rule against endorsement is derived, justified the restriction on endorsement based on the danger of “abusing the prestige of judicial office to advance the interests of others.” Model Code of Judicial Conduct R. 4.1 cmt. [4] (2014).

In 1976, the Texas Supreme Court removed the endorsement prohibition from the Code, but Canon 2B remained.

In 1980, the Committee on Judicial Ethics issued an opinion in answer to the question: “May a judge endorse a specific candidate or candidates?” The opinion stated the Code did not “specifically prohibit a judge from supporting a candidate or candidates.” But, after reviewing the provisions of Canon 2, the opinion concluded:

The Committee is of the opinion that endorsing a candidate or candidates is within the discretion of a judge provided the nature and type of endorsement does not contravene Canon 1, Canon 2A and Canon 2B of the Code of Judicial Conduct.

Comm. on Jud. Ethics, State Bar of Tex., Op. 53A (1980).

In 1989, the Texas Committee of Judicial Ethics answered “no,” when asked whether a judge may endorse a candidate for public office:

The Judicial Ethics Committee concludes again that a judge’s public endorsement of a candidate for public office violates the Code of Judicial Conduct because such an endorsement tends to diminish public confidence in the independence and impartiality of the judiciary and may give the appearance of involvement in partisan interests and of judicial concern about public clamor or criticism, and because such an endorsement of necessity involves the use of the prestige of the judge and the prestige of his office.

Op. No. 130 (1989).

In 1990, the Texas Supreme Court amended the canons to include a no endorsement provision:

A judge or judicial candidate shall not authorize the public use of his or her name endorsing another candidate for any public office, except that a candidate may indicate support for a political party.

TEX. CODE JUD. CONDUCT, Canon 7(3), 53 TEX. B.J. 240–41 (1990) [now found in Canon 5].

In later litigation about the provision, Supreme Court Justice Hecht observed that the “authorization” provision was generated at the request of the judges:

The problem, the reason that 5(2) was proposed in the first place, the judges were concerned that county officials were muscling them into endorsements that they didn’t want to make. And they said, look, you’ve got to endorse me for, let’s say a district judge, you have to endorse me for County Commissioner. The district judge didn’t want to do it, but he didn’t have any way of saying no. If he said no, then he was afraid of what was going to happen to him in the budgeting process. So he wanted cover for that. So that’s why the judges came to us back in 88 and said, we’re tired of getting hammered on here, and we want an excuse that we can hold up and say, we don’t have to do this anymore.

In re Hecht, 213 S.W. 3d 547 (Tex. 2006).

In *Republican Party of Minnesota v. White*, the United States Supreme Court held that a canon of judicial conduct that prohibits a candidate for a judicial office from “announc[ing] his or her views on disputed legal or political issues” is an unconstitutional violation of the First Amendment. 536 U.S. 765 (2002). The Court applied strict scrutiny to the canon and determined that, while a state has a compelling interest in maintaining the impartiality of judges, the Minnesota canon was not narrowly tailored to achieve that end.

In *White*, Gregory Wersal ran for associate justice of the Minnesota Supreme Court. During the course of his campaign, he distributed literature criticizing several Minnesota Supreme Court decisions involving crime, welfare, and abortion. Wersal sued, seeking a declaration that the clause violated the First Amendment and an injunction against its enforcement. The Court acknowledged that a state has an interest in maintaining the impartiality of judges but acknowledged that the way the canon was written prevented judicial candidates from stating their view that prior decisions were erroneous. The Court held that this announcement clause was overbroad and violated the First Amendment.

Two appellate courts have addressed “endorsement” clauses and their constitutionality with the First Amendment. In *Werssal v. Sexton*, the United States Court of Appeals for the Eighth Circuit held that Minnesota’s “no endorsement” clause did not violate the First Amendment. *Werssal v. Sexton*, 674 F.3d 1010 (8th Cir. 2012). The Minnesota endorsement clause stated that a judge or judicial

candidate shall not “publicly endorse or, except for the judge or candidate’s opponent, publicly oppose another candidate for public office.” 52. Minn. Stat. Ann., Code of Judicial Conduct, Canon 4.1(A)(3). The Eighth Circuit concluded that Minnesota’s interest in preserving impartiality was compelling and the provision survived strict scrutiny. *Id.* The court concluded that the endorsement clause is a restriction of speech for or against particular parties, rather than for or against particular issues, distinguishing *White*:

When a judge or judicial candidate endorses another candidate, it creates a risk of partiality toward the endorsed party and his or her supporters, as well as a risk of partiality against other candidates opposing the endorsed party. The endorsement clause is directly aimed at this speech about parties, as it prevents potential litigants in a case from the risk of having an unfair trial. At the very least, the clause serves the State’s interest in avoiding the appearance of impropriety. Namely, even if a particular endorsement does not serve to create an actual bias toward or against a particular party, the act of endorsement itself undermines the judiciary’s appearance of impartiality because the public may perceive the judge to be beholden to political interests.”

674 F.3d at 1020.

The Seventh Circuit similarly has upheld Wisconsin’s no-endorsement clause. *See Seifert v. Alexander*, 608 F.3d 974 (7th Cir. 2010). There, the court upheld Wisconsin Supreme Court Rule 60.06(2)(b)4, which states: “[n]o judge or candidate for judicial office or judge-elect may ...[p]ublicly endorse or speak on behalf of its candidates or platforms”, did not violate the First Amendment.

The Seventh Circuit observed, “[w]hile an interest in the impartiality and perceived impartiality of the judiciary does not justify forbidding judges from identifying as members of political parties, a public endorsement is not the same type of campaign speech targeted by the impermissible rule against party affiliation in this case....” *Id.* at 984.

Following the Supreme Court decision in *Republican Party of Minn. v. White*, the Texas Code of Judicial Conduct was amended. Supreme Court of Texas Justice Nathan L. Hecht wrote in a concurrence to the amendments that, “Before promulgating any rule, the Supreme Court of Texas must, in my view, determine that the rule does not violate the United States Constitution, the Texas Constitution, or federal or state law. The Court should not adopt rules of doubtful validity.”

III. Recommendation

Any section of the Code should comply with state law.

There are two options: eliminating the no-endorsement provisions entirely or limiting their reach to comply with the new statute. The latter is possible because the new statute does not require the repeal of the no-endorsement provisions in their entirety. Instead, as its title states, the new law authorizes “certain campaign activities.”

The subcommittee recommends the following amendments:

Canon 2B:

A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. **Nothing in this provision precludes two or more judicial candidates from conducting joint campaign activity.**

Canon 5(2):

A judge or judicial candidate shall not authorize the public use of his or her name endorsing another candidate for any public office, except that either may indicate support for a political party. A judge or judicial candidate may attend political events and express his or her views on political matters in accord with this Canon and Canon 3B(10). **Two or more judicial candidates may conduct joint campaign activity.**

Comment: The revisions to Canons 2B and 5(2) address section 253.1612 of the Election Code, which provides that the Code of Judicial Conduct may not prohibit or penalize joint campaign activity conducted by two or more judicial candidates.

Tab B

MDL Transfers

Memorandum

1. Assignment
2. SB 827
3. House Research Organization Analysis
4. TX Rule of Judicial Admin 13
5. Gov't Code Provisions on MDL

MEMORANDUM

To: Texas Supreme Court Advisory Committee
From: Judicial Administration Subcommittee
Subject: Limitation on MDL Transfers: SB 827
Date: June 21, 2019

Background.

We have been asked to consider whether an amendment to Texas Rule of Judicial Administration 13 is needed in light of SB 827, which prohibits the transfer of certain actions. Attached to this memorandum are:

1. Our referral from Chief Justice Hecht.
2. SB 827.
3. House Research Organization Analysis of SB 827.
4. Texas Rule of Judicial Administration 13.
5. Government Code Provisions on MDLs.

Recommendation:

While the Subcommittee believes that no change may be required—because the primary stakeholders will be aware of the new law—we concluded that, in the interest of ensuring notice to all and the avoidance of unnecessary expenditure of judicial resources and unnecessary expenses by counsel, the following provision should be added to Rule 13:

13.1(d) *Prohibited Transfers.* Notwithstanding any other law, the judicial panel on multidistrict litigation may not transfer:

- (1) an action brought under Subchapter E, Chapter 17, Business & Commerce Code, except an action specifically authorized by Section 17.50 of that code; or
- (2) an action brought under Chapter 36, Human Resources Code.

(The Committee might additionally want to consider the withdrawal of Rules of Judicial Administration 13.1(c), 13.11, and 11, as those rules refer to cases filed before September 1, 2003, and thus may no longer have any relevance. *But see* Rule of Judicial Administration 11.7(c), which might have continuing relevance (“An assignment of a pretrial judge to any case after September 1, 2003, must be made in consultation with the Chair of the Multidistrict Litigation Panel.”).

Assignment

MDL Applicability. Government Code §§ 74.161-201 create the Judicial Panel on Multidistrict Litigation, and Rule of Judicial Administration 13 governs its operation. SB 827, § 2 adds § 74.1625 to prohibit the MDL panel from transferring two types of actions: (1) DTPA actions (unless specifically allowed under the DTPA) and (2) Texas Medicaid Fraud Prevention Act actions. The amendment does not direct that Rule 13 be changed, but the Committee should consider whether the text of Rule 13.1 should be changed and a comment added to reference or restate the statute.

SB 827

1 AN ACT
2 relating to the transfer of civil cases by the judicial panel on
3 multidistrict litigation.

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

5 SECTION 1. Section 74.162, Government Code, is amended to
6 read as follows:

7 Sec. 74.162. TRANSFER OF CASES BY PANEL. Subject to Section
8 74.1625 and notwithstanding ~~(Notwithstanding)~~ any other law ~~(to the~~
9 ~~contrary)~~, the judicial panel on multidistrict litigation may
10 transfer civil actions involving one or more common questions of
11 fact pending in the same or different constitutional courts, county
12 courts at law, probate courts, or district courts to any district
13 court for consolidated or coordinated pretrial proceedings,
14 including summary judgment or other dispositive motions, but not
15 for trial on the merits. A transfer may be made by the judicial
16 panel on multidistrict litigation on its determination that the
17 transfer will:

- 18 (1) be for the convenience of the parties and
19 witnesses; and
20 (2) promote the just and efficient conduct of the
21 actions.

22 SECTION 2. Subchapter H, Chapter 74, Government Code, is
23 amended by adding Section 74.1625 to read as follows:

24 Sec. 74.1625. PROHIBITED TRANSFER OF CASES.

1 (a) Notwithstanding any other law, the judicial panel on
2 multidistrict litigation may not transfer:

3 (1) an action brought under Subchapter E, Chapter 17,
4 Business & Commerce Code, except an action specifically authorized
5 by Section 17.50 of that code; or

6 (2) an action brought under Chapter 30, Human
7 Resources Code.

8 (b) Notwithstanding Section 22.004, the supreme court may
9 not amend or adopt rules in conflict with this section.

10 SECTION 3. The changes in law made by this Act apply to an
11 action commenced on or after the effective date of this Act, or
12 pending on that date, and for which the trial, or any new trial or
13 retrial following a motion, appeal, or otherwise, begins on or
14 after that date.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2019.

House Research Organization
Analysis of SB 827

SUBJECT: Prohibiting referral of state enforcement actions to multidistrict litigation

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Leach, Krause, Meyer, Smith, White

3 nays — Farrar, Julie Johnson, Neave

1 absent — Y. Davis

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 2083:*
For — (*Registered, but did not testify*: Lee Parsley, Texans for Lawsuit Reform)

Against — None

On — Ryan Bangert, Office of the Attorney General

BACKGROUND: Government Code sec. 74.162 allows the judicial panel on multidistrict litigation to transfer civil actions involving one or more common questions of fact pending in the same or different constitutional courts, county courts at law, probate courts, or district courts to any district court for consolidated or coordinated pretrial proceedings, including summary judgment and other dispositive motions, but not for trial on the merits.

Business and Commerce Code ch. 17, also known as the Deceptive Trade Practices Act, protects consumers against false, misleading, and deceptive business practices, unconscionable actions, and breaches of warranty.

Secs. 17.47 and 17.48 allow the attorney general and district and county attorneys to obtain injunctive relief and penalties from persons engaged in such practices, actions, or breaches of warranty. Sec. 17.50 also provides consumers with causes of action in certain circumstances.

Human Resources Code ch. 36, or the Medicaid Fraud Prevention Act,

allows the attorney general to obtain injunctive relief and penalties from persons engaging in certain unlawful acts with regard to benefits and payments under the Medicaid program. The act also authorizes private persons to bring certain causes of actions on behalf of the state.

DIGEST: SB 827 would prohibit the judicial panel on multidistrict litigation from transferring actions brought under the Deceptive Trade Practices Act, except for certain actions brought by consumers, or under the Medicaid Fraud Prevention Act.

The Texas Supreme Court could not amend or adopt rules in conflict with the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019, and would apply only to actions commenced on or after that date.

SUPPORTERS SAY: SB 827 would allow the state to take swift action against bad actors by prohibiting actions brought under the Deceptive Trade Practices Act (DTPA) and Medicaid Fraud Prevention Act (TMFPA) from being referred to the multidistrict litigation process.

The attorney general is charged with enforcing the DTPA and TMFPA, which protect consumers from scammers, promote fair markets, and allow for the recovery of taxpayer dollars. While private actions also can be brought, only the state can sue for injunctions to prevent immediate harm to citizens from ongoing violations of these acts.

However, the attorney general's recent enforcement actions have been hampered by being referred to the multidistrict litigation process, an administrative process that allows multiple related cases throughout the state to be referred to a single judicial panel for pretrial proceedings. Referral of enforcement actions to the multidistrict litigation process has led to indefinite delays in the attorney general's ability to investigate and enjoin persons who may continue to violate the DTPA and TMFPA.

While the multidistrict litigation process serves an important purpose in promoting judicial economy, it should not prevent the state from protecting the public from ongoing violations of the DTPA and TMFPA. SB 827 would correct this problem by exempting suits brought by the state in enforcing these acts from being referred to the multidistrict litigation process. The bill would not apply to private parties seeking to bring claims under the DTPA.

**OPPONENTS
SAY:**

SB 827 could allow the state to jump ahead of pending private litigation by prohibiting certain state actions from being referred to the multidistrict litigation process. This could potentially leave private parties that later prevailed in such litigation with less money for damages and relief.

**Texas Rule of
Judicial Administration 13**

3. Rule 12.8 allows a records custodian to deny a record request that would substantially and unreasonably impede the routine operation of the court or judicial agency. As an illustration, and not by way of limitation, a request for “all judicial records” that is submitted every day or even every few days by the same person or persons acting in concert could substantially and unreasonably impede the operations of a court or judicial agency that lacked the staff to respond to such repeated requests.

4. Comment to 2008 change: The Attorney General’s rule, adopted in accordance with Section 552.262 of the Government Code, is in Section 70.3 of Title I of the Texas Administrative Code.

Rule 13. Multidistrict Litigation

13.1 Authority and Applicability.

(a) *Authority.* This rule is promulgated under sections 74.161-74.164 of the Texas Government Code and chapter 90 of the Texas Civil Practices and Remedies Code.

(b) *Applicability.* This rule applies to:

(1) civil actions that involve one or more common questions of fact and that were filed in a constitutional county court, county court at law, probate court, or district court on or after September 1, 2003;

(2) civil actions filed before September 1, 2003, that involve claims for asbestos- or silica-related injuries, to the extent permitted by chapter 90 of the Texas Civil Practice and remedies Code.

(c) *Other Cases.* Cases to which this rule does not apply are governed by Rule 11 of these rules.

Comment - 2005

Subsections (a) and (b) are amended and subsection (c) is added to provide procedures for cases covered by chapter 90 of the Texas Civil Practices and Remedies Code, enacted effective September 1, 2005.

13.2 Definitions. As used in this rule:

(a) *MDL Panel* means the judicial panel on multidistrict litigation designated pursuant to section 74.161 of the Texas Government Code, including any temporary members designated by the Chief Justice of the Supreme Court of Texas in his or her discretion when regular members are unable to sit for any reason.

(b) *Chair* means the chair of the MDL Panel, who is designated by the Chief Justice of the Supreme Court of Texas.

(c) *MDL Panel Clerk* means the Clerk of the Supreme Court of Texas.

(d) *Trial court* means the court in which a case is filed.

(e) *Pretrial court* means the district court to which related cases are transferred for consolidated or coordinated pretrial proceedings under this rule.

(f) *Related* means that cases involve one or more common questions of fact.

(g) *Tag-along case* means a case related to cases in an MDL transfer order but not itself the subject of an initial MDL motion or order.

13.3 Procedure for Requesting Transfer.

(a) *Motion for Transfer; Who May File; Contents.* A party in a case may move for transfer of the case and related cases to a pretrial court. The motion must be in writing and must:

(1) state the common question or questions of fact involved in the cases;

(2) contain a clear and concise explanation of the reasons that transfer would be for the convenience of the parties and witnesses and would promote the just and efficient conduct of the cases;

(3) state whether all parties in those cases for which transfer is sought agree to the motion; and

(4) contain an appendix that lists:

(A) the cause number, style, and trial court of the related cases for which transfer is sought; and

(B) all parties in those cases and the names, addresses, telephone numbers, fax numbers, and email addresses of all counsel.

(b) *Request for Transfer by Judges.* A trial court or a presiding judge of an administrative judicial region may request a transfer of related cases to a pretrial court. The request must be in writing and must list the cases to be transferred.

(c) *Transfer on the MDL Panel's Own Initiative.* The MDL Panel may, on its own initiative, issue an order to show cause why related cases should not be transferred to a pretrial court.

(d) *Response; Reply; Who May File; When to File.* Any party in a related case may file:

(1) a response to a motion or request for transfer within twenty days after service of such motion or request;

(2) a response to an order to show cause issued under subparagraph (c) within the time provided in the order; and

(3) a reply to a response within ten days after service of such response.

(e) *Form of Motion, Response, Reply, and Other Documents.* A motion for transfer, response, reply, or other document addressed to the MDL Panel must conform to the requirements of Rule 9.4 of the Texas Rules of Appellate Procedure. Without leave of the MDL Panel, the following must not exceed 20 pages: the portions of a motion to transfer required by subparagraphs (a)(1)-(2); a response; and a reply. The MDL Panel may request additional briefing from any party.

(f) *Filing.* A motion, request, response, reply, or other document addressed to the MDL Panel must be filed with the MDL Panel Clerk. The MDL Panel Clerk may require that all documents also be transmitted to the clerk electronically. In addition, a party must send a copy of the motion, response, reply, or other document to each member of the MDL Panel.

(g) *Filing Fees.* The MDL Panel Clerk may set reasonable fees approved by the Supreme Court of Texas for filing and other services provided by the clerk.

(h) *Service.* A party must serve a motion, response, reply, or other document on all parties in related cases in which transfer is sought. The MDL Panel Clerk may designate a party or parties to serve a request for transfer on all other parties. Service is governed by Rule 9.5 of the Texas Rules of Appellate Procedure.

(i) *Notice to Trial Court.* A party must file in the trial court a notice -- in the form prescribed by the MDL Panel -- that a motion for transfer has been filed. The MDL Panel Clerk must cause such notice to be filed when a request for transfer by a judge has been filed.

(j) *Evidence.* The MDL Panel will accept as true facts stated in a motion, response, or reply unless another party contradicts them. A party may file evidence with the MDL Panel Clerk only with leave of the MDL Panel. The MDL Panel may order parties to submit evidence by affidavit or deposition and to file documents, discovery, or stipulations from related cases.

(k) *Hearing.* The MDL Panel may decide any matter on written submission or after an oral hearing before one or more of its members at a time and place of its

choosing. Notice of the date of submission or the time and place of oral hearing must be given to all parties in all related cases.

(l) *Decision.* The MDL Panel may order transfer if three members concur in a written order finding that related cases involve one or more common questions of fact, and that transfer to a specified district court will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of the related cases.

(m) *Orders Signed by Chair or Clerk; Members Identified.* Every order of the MDL Panel must be signed by either the chair or by the MDL Panel Clerk, and must identify the members of the MDL Panel who concurred in the ruling.

(n) *Notice of Actions by MDL Panel.* The MDL Panel Clerk must give notice to all parties in all related cases of all actions of the MDL Panel, including orders to show cause, settings of submissions and oral arguments, and decisions. The MDL Panel Clerk may direct a party or parties to give such notice. The clerk may determine the manner in which notice is to be given, including that notice should be given only by email or fax.

(o) *Retransfer.* On its own initiative, on a party's motion, or at the request of the pretrial court, the MDL Panel may order cases transferred from one pretrial court to another pretrial court when the pretrial judge has died, resigned, been replaced at an election, requested retransfer, recused, or been disqualified, or in other circumstances when retransfer will promote the just and efficient conduct of the cases.

13.4 Effect on the Trial Court of the Filing of a Motion for Transfer.

(a) *No Automatic Stay.* The filing of a motion under this rule does not limit the jurisdiction of the trial court or suspend proceedings or orders in that court.

(b) *Stay of Proceedings.* The trial court or the MDL Panel may stay all or part of any trial court proceedings until a ruling by the MDL Panel.

13.5 Transfer to a Pretrial Court.

(a) *Transfer Effective upon Notice.* A case is deemed transferred from the trial court to the pretrial court when a notice of transfer is filed with the trial court and the pretrial court. The notice must:

- (1) list all parties who have appeared and remain in the case, and the names, addresses, phone numbers, and bar numbers of their attorneys or, if a party is pro se, the party's name, address, and phone number;
- (2) list those parties who have not yet appeared in the case; and
- (3) attach a copy of the MDL transfer order.

(b) *No Further Action in Trial Court.* After notice of transfer is filed in the trial court, the trial court must take no further action in the case except for good cause stated in the order in which such action is taken and after conferring with the pretrial court. But service of any process already issued by the trial court may be completed and the return filed in the pretrial court.

(c) *Transfer of Files; Master File and New Files in the Pretrial Court.* If the trial court and pretrial court are in the same county, the trial court must transfer the case file to the pretrial court in accordance with local rules governing the courts of that county. If the trial court and pretrial court are not in the same county, the trial court clerk must transmit the case file to the pretrial court clerk. The pretrial court clerk, after consultation with the judge of the pretrial court, must establish a master file and open new files for each case transferred using the information provided in the notice of transfer. The pretrial court may direct the manner in which pretrial documents are filed, including electronic filing.

(d) *Filing Fees and Costs.* Unless the MDL Panel assesses costs otherwise, the party moving for transfer must pay the cost of refiling the transferred cases in the pretrial court, including filing fees and other reasonable costs.

(e) *Transfer of Tag-along Cases.* A tag-along case is deemed transferred to the pretrial court when a notice of transfer -- in the form described in Rule 13.5(a) -- is filed in both the trial court and the pretrial court. Within 30 days after service of the notice, a party to the case or to any of the related cases already transferred to the pretrial court may move the pretrial court to remand the case to the trial court on the ground that it is not a tag-along case. If the motion to remand is granted, the case must be returned to the trial court, and costs including attorney fees may be assessed by the pretrial court in its remand order. The order of the pretrial court may be appealed to the MDL Panel by a motion for rehearing filed with the MDL Panel Clerk.

13.6 Proceedings in Pretrial Court.

(a) *Judges Who May Preside.* The MDL Panel may assign as judge of the pretrial court any active district judge, or any former or retired district or appellate judge who is approved by the Chief Justice of the Supreme Court of Texas. An assignment under this rule is not subject to objection under chapter 74 of the Government Code. The judge assigned as judge of the pretrial court has exclusive jurisdiction over each related case transferred pursuant to this rule unless a case is retransferred by the MDL Panel or is finally resolved or remanded to the trial court for trial.

(b) *Authority of Pretrial Court.* The pretrial court has the authority to decide, in place of the trial court, all pretrial matters in all related cases transferred to the court. Those matters include, for example, jurisdiction, joinder, venue, discovery, trial preparation (such as motions to strike expert witnesses, preadmission of exhibits, and motions in limine), mediation, and disposition by means other than conventional trial on the merits (such as default judgment, summary judgment, and settlement). The pretrial court may set aside or modify any pretrial ruling made by the trial court before transfer

over which the trial court's plenary power would not have expired had the case not been transferred.

(c) *Case Management.* The pretrial court should apply sound judicial management methods early, continuously, and actively, based on its knowledge of each individual case and the entire litigation, in order to set fair and firm time limits tailored to ensure the expeditious resolution of each case and the just and efficient conduct of the litigation as a whole. After a case is transferred, the pretrial court should, at the earliest practical date, conduct a hearing and enter a case management order. The pretrial court should consider at the hearing, and its order should address, all matters pertinent to the conduct of the litigation, including:

(1) settling the pleadings;

(2) determining whether severance, consolidation, or coordination with other actions is desirable and whether identification of separable triable portions of the case is desirable;

(3) scheduling preliminary motions;

(4) scheduling discovery proceedings and setting appropriate limitations on discovery, including the establishment and timing of discovery procedures;

(5) issuing protective orders;

(6) scheduling alternative dispute resolution conferences;

(7) appointing organizing or liaison counsel;

(8) scheduling dispositive motions;

(9) providing for an exchange of documents, including adopting a uniform numbering system for documents, establishing a document depository, and determining whether electronic service of discovery materials and pleadings is warranted;

(10) determining if the use of technology, videoconferencing, or teleconferencing is appropriate;

(11) considering such other matters the court or the parties deem appropriate for the just and efficient resolution of the cases; and

(12) scheduling further conferences as necessary.

(d) *Trial Settings.* The pretrial court, in conjunction with the trial court, may set a transferred case for trial at such a time and on such a date as will promote the

convenience of the parties and witnesses and the just and efficient disposition of all related proceedings. The pretrial court must confer, or order the parties to confer, with the trial court regarding potential trial settings or other matters regarding remand. The trial court must cooperate reasonably with the pretrial court, and the pretrial court must defer appropriately to the trial court's docket. The trial court must not continue or postpone a trial setting without the concurrence of the pretrial court.

13.7 Remand to Trial Court.

(a) *No Remand if Final Disposition by Pretrial Court.* A case in which the pretrial court has rendered a final and appealable judgment will not be remanded to the trial court.

(b) *Remand.* The pretrial court may order remand of one or more cases, or separable triable portions of cases, when pretrial proceedings have been completed to such a degree that the purposes of the transfer have been fulfilled or no longer apply.

(c) *Transfer of Files.* When a case is remanded to the trial court, the clerk of the pretrial court will send the case file to the trial court without retaining a copy unless otherwise ordered. The parties may file in the remanded case copies of any pleadings or orders from the pretrial court's master file. The clerk of the trial court will reopen the trial court file under the cause number of the trial court, without a new filing fee.

13.8 Pretrial Court Orders Binding in the Trial Court After Remand.

(a) *Generally.* The trial court should recognize that to alter a pretrial court order without a compelling justification would frustrate the purpose of consolidated and coordinated pretrial proceedings. The pretrial court should recognize that its rulings should not unwisely restrict a trial court from responding to circumstances that arise following remand.

(b) *Concurrence of the Pretrial Court Required to Change Its Orders.* Without the written concurrence of the pretrial court, the trial court cannot, over objection, vacate, set aside, or modify pretrial court orders, including orders related to summary judgment, jurisdiction, venue, joinder, special exceptions, discovery, sanctions related to pretrial proceedings, privileges, the admissibility of expert testimony, and scheduling.

(c) *Exceptions.* The trial court need not obtain the written concurrence of the pretrial court to vacate, set aside, or modify pretrial court orders regarding the admissibility of evidence at trial (other than expert evidence) when necessary because of changed circumstances, to correct an error of law, or to prevent manifest injustice. But the trial court must support its action with specific findings and conclusions in a written order or stated on the record.

(d) *Unavailability of Pretrial Court.* If the pretrial court is unavailable to rule, for whatever reason, the concurrence of the MDL Panel Chair must be obtained.

13.9 Review.

(a) *MDL Panel Decision.* An order of the MDL Panel, including one granting or denying a motion for transfer, may be reviewed only by the Supreme Court in an original proceeding.

(b) *Orders by the Trial Court and Pretrial Court.* An order or judgment of the trial court or pretrial court may be reviewed by the appellate court that regularly reviews orders of the court in which the case is pending at the time review is sought, irrespective of whether that court issued the order or judgment to be reviewed. A case involving such review may not be transferred for purposes of docket equalization among appellate courts.

(c) *Review Expedited.* An appellate court must expedite review of an order or judgment in a case pending in a pretrial court.

Comment - 2005

Subsection (b) is amended and subsection (c) is added to clarify the handling of appeals by appellate courts. Subsection (b) forbids transfer for docket equalization but not for other purposes that might arise. Subsection (c) does not require that an appeal from an order or judgment of a case pending in a pretrial court be treated as an accelerated appeal under the Texas Rules of Appellate Procedure if it would otherwise not be accelerated. Rather, subsection (c) requires expedited consideration by the appellate court regardless of whether review is sought by an appeal that is or is not accelerated, or by mandamus.

13.10 MDL Panel Rules. The MDL Panel will operate at the direction of its Chair in accordance with rules prescribed by the panel and approved by the Supreme Court of Texas.

13.11 Civil Actions Filed Before September 1, 2003, Involving Claims for Asbestos- and Silica-Related Injuries.

(a) *Applicability.* To the extent permitted by chapter 90 of the Texas Civil Practice and Remedies Code, Rule 13.11 applies to civil actions filed before September 1, 2003, that involve claims for asbestos- or silica-related injuries.

(b) *Statutory Reference; Definitions.* Statutory references in Rule 13.11 are to chapter 90 of the Texas Civil Practice and Remedies Code. “Claimant” has the meaning assigned in section 90.001(6). “Report” has the meaning assigned in section 90.001(24).

(c) *Notice to Transfer Under Section 90.011(b).* A notice of transfer under section 90.010(b) must be filed in the trial court and the pretrial court and must:

- (1) be titled “Notice of Transfer Under Section 90.010(b)”;

(2) list all parties who have appeared and remain in the case, and the names, addresses, phone numbers, and bar numbers of their attorneys or, if a party is pro se, the party's name, address and phone number;

(3) state the name of each claimant transferred;

(4) attach to the notice filed in the pretrial court a copy of the claimant's live petition; and

(5) if filed by a defendant, contain a certificate stating that the filing party conferred, or at least made a reasonable attempt to confer, with opposing counsel about whether the notice of transfer is appropriate as to each individual claimant transferred.

(d) *Effect on Pending Motion for Severance.* If, when a notice of transfer is filed in the trial court, a motion for severance has been filed but the trial court has not ruled, the trial court must rule on the motion within 14 days of the date the notice of transfer is filed, or the motion is deemed granted by operation of law.

(e) *When Transfer Effective.* A case is deemed transferred from the trial court to the pretrial court when a notice of transfer is filed with the trial court unless a motion for severance is pending. If a motion for severance is pending when a notice of transfer is filed with the trial court, a case is deemed transferred when the trial court rules on the motion or the motion is deemed granted by operation of law.

(f) *Further Action in Trial Court Limited.* After a notice of transfer is filed, the trial court must take no further action in the case except:

(1) to rule on a motion for severance pending when the notice of transfer was filed, or

(2) for good cause stated in the order in which such action is taken and after conferring with the pretrial court.

But service of any process already issued by the trial court may be completed and the return filed in the pretrial court.

(g) *Severed Case File.* If a claim is severed from a case that includes one or more claimants covered by section 90.010(a), the file for the severed claims in the trial court should be numerically linked to the original case file and should contain only the live petition containing the severed claim. The severed case file is deemed to include all papers in the original case file. The pretrial court may require a different procedure in the interests of justice and efficiency.

(h) *Transfer of Files.* The pretrial court may order the trial court clerk to transfer a case file to the pretrial court. A case file must not be transferred to the pretrial court except as ordered by that court.

(i) *Filing Fees and Costs.* A defendant who files a notice of transfer must pay the cost of filing the case in the pretrial court, including filing fees and other reasonable costs. If the pretrial court remands the case to the trial court, the pretrial court may order that costs be allocated between the parties in a way that encourages just and efficient compliance with this rule, and may award appropriate and reasonable attorney fees.

Comments - 2005

1. Rule 13.11 is added to provide procedures for cases covered by chapter 90 of the Texas Civil Practice and Remedies Code, enacted effective September 1, 2005.
2. The rule does not require a statement in the notice of transfer that no report has been served under chapter 90, or that a report has been served but does not comply with the provisions of that statute. The omission of such a requirement in the notice of transfer is not intended to limit the pretrial court's authority under Rule 166 of the Texas Rules of Civil Procedure to employ appropriate procedures to ascertain a party's position on the issue.
3. It is anticipated that the party filing a notice of transfer will usually be a defendant, and that the party filing a motion for severance will usually be a claimant. Ordinarily, a party filing the notice of transfer is responsible for filing fees and costs in the pretrial court, although there may be exceptions. See Rule 13.5(d). Also, a party who successfully moves to sever a claim into a separate proceeding in the trial court is customarily responsible for filing fees and costs, although severance is "on such terms as are just", Tex. R. Civ. P. 41, and again, there may be exceptions. The intent of this rule is that severance and transfer procedures minimize costs and burdens on parties and the courts.
4. A pretrial court has discretion under Rule 13.11(g)-(i) to order the maintenance and transfer of physical case files and to allocate costs and fees so as to minimize costs and burdens on parties and the courts.

Rule 14. Special Three-Judge District Court

14.1 Applicability

This rule applies to cases filed in a district court in this state in which the state or a state officer or agency is a defendant in a claim that:

- (a) challenges the finances or operations of this state's public school system; or

Gov't Code
Provisions on MDL

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle F. Court Administration
Chapter 74. Court Administration Act (Refs & Annos)
Subchapter H. Judicial Panel on Multidistrict Litigation (Refs & Annos)

V.T.C.A., Government Code § 74.161

§ 74.161. Judicial Panel on Multidistrict Litigation

Effective: September 1, 2003

Currentness

(a) The judicial panel on multidistrict litigation consists of five members designated from time to time by the chief justice of the supreme court. The members of the panel must be active court of appeals justices or administrative judges.


(b) The concurrence of three panel members is necessary to any action by the panel.

Credits

Added by Acts 2003, 78th Leg., ch. 204, § 3.02, eff. Sept. 1, 2003.

V. T. C. A., Government Code § 74.161, TX GOVT § 74.161

Current to legislation effective May 20, 2019, of the 2019 Regular Session of the 86th Legislature. Some statute sections may be more current, but not necessarily complete through the whole Session. See credits for details.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle F. Court Administration
Chapter 74. Court Administration Act (Refs & Annos)
Subchapter H. Judicial Panel on Multidistrict Litigation (Refs & Annos)

V.T.C.A., Government Code § 74.162

§ 74.162. Transfer of Cases by Panel

Effective: September 1, 2003

[Currentness](#)

Notwithstanding any other law to the contrary, the judicial panel on multidistrict litigation may transfer civil actions involving one or more common questions of fact pending in the same or different constitutional courts, county courts at law, probate courts, or district courts to any district court for consolidated, or coordinated pretrial proceedings, including summary judgment or other dispositive motions, but not for trial on the merits. A transfer may be made by the judicial panel on multidistrict litigation on its determination that the transfer will:

- (1) be for the convenience of the parties and witnesses; and
- (2) promote the just and efficient conduct of the actions.

Credits

Added by [Acts 2003, 78th Leg., ch. 204, § 3.02, eff. Sept. 1, 2003.](#)

V. T. C. A., Government Code § 74.162, TX GOVT § 74.162

Current to legislation effective May 20, 2019, of the 2019 Regular Session of the 86th Legislature. Some statute sections may be more current, but not necessarily complete through the whole Session. See credits for details.

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle F. Court Administration
Chapter 74. Court Administration Act (Refs & Annos)
Subchapter H. Judicial Panel on Multidistrict Litigation (Refs & Annos)

V.T.C.A., Government Code § 74.163

§ 74.163. Operation; Rules

Effective: September 1, 2003

[Currentness](#)

(a) The judicial panel on multidistrict litigation must operate according to rules of practice and procedure adopted by the supreme court under [Section 74.024](#). The rules adopted by the supreme court must:

- (1) allow the panel to transfer related civil actions for consolidated or coordinated pretrial proceedings;
- (2) allow transfer of civil actions only on the panel's written finding that transfer is for the convenience of the parties and witnesses and will promote the just and efficient conduct of the actions;
- (3) require the remand of transferred actions to the transferor court for trial on the merits; and
- (4) provide for appellate review of certain or all panel orders by extraordinary writ.

(b) The panel may prescribe additional rules for the conduct of its business not inconsistent with the law or rules adopted by the supreme court.

Credits

Added by [Acts 2003, 78th Leg., ch. 204, § 3.02, eff. Sept. 1, 2003](#).

V. T. C. A., Government Code § 74.163, TX GOVT § 74.163

Current to legislation effective May 20, 2019, of the 2019 Regular Session of the 86th Legislature. Some statute sections may be more current, but not necessarily complete through the whole Session. See credits for details.

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle F. Court Administration
Chapter 74. Court Administration Act (Refs & Annos)
Subchapter H. Judicial Panel on Multidistrict Litigation (Refs & Annos)

V.T.C.A., Government Code § 74.164

§ 74.164. Authority to Preside

Effective: September 1, 2003

[Currentness](#)

Notwithstanding any other law to the contrary, a judge who is qualified and authorized by law to preside in the court to which an action is transferred under this subchapter may preside over the transferred action as if the transferred action were originally filed in the transferor court.

Credits

Added by Acts 2003, 78th Leg., ch. 204, § 3.02, eff. Sept. 1, 2003.

V. T. C. A., Government Code § 74.164, TX GOVT § 74.164

Current to legislation effective May 20, 2019, of the 2019 Regular Session of the 86th Legislature. Some statute sections may be more current, but not necessarily complete through the whole Session. See credits for details.

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle F. Court Administration
Chapter 74. Court Administration Act (Refs & Annos)
Subchapter I. Judge Presiding over Multidistrict Litigation

V.T.C.A., Government Code § 74.201

§ 74.201. Staff

Effective: June 15, 2007

[Currentness](#)

A district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries may appoint one briefing attorney and not more than three clerks to assist the judge.

Credits

Added by [Acts 2007, 80th Leg., ch. 393, § 2, eff. June 15, 2007](#).

V. T. C. A., Government Code § 74.201, TX GOVT § 74.201

Current to legislation effective May 20, 2019, of the 2019 Regular Session of the 86th Legislature. Some statute sections may be more current, but not necessarily complete through the whole Session. See credits for details.

Tab C

Memorandum



To: Supreme Court Advisory Committee
From: Rule 171-205 Subcommittee
Date: June 12, 2019
Re: Issue 3 on Chief Justice Hecht's Referral Letter

Our subcommittee was assigned the third matter **Expedited Actions** in Chief Justice Hecht's referral letter and SB 2342.

I. Changes to Government Code §22.004

SB 2342, among other changes, amends Government Code §22.004(h) and adds a new subsection (h-1).

SECTION 1. Section 22.004, Government Code, is amended by amending Subsection (h) and adding Subsection (h-1) to read as follows:

(h) The supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions. The rules shall apply to civil actions in district courts, county courts at law, and statutory probate courts in which the amount in controversy, inclusive of all claims for damages of any kind, whether actual or exemplary, a penalty, attorney's fees, expenses, costs, interest, or any other type of damage of any kind, does not exceed \$100,000. The rules shall address the need for lowering discovery costs in these actions and the procedure for ensuring that these actions will be expedited in the civil justice system. The supreme court may not adopt rules under this subsection that conflict with other statutory law ~~{a provision of:~~

~~{(1) Chapter 74, Civil Practice and Remedies Code;~~

~~{(2) the Family Code;~~

~~{(3) the Property Code; or~~

~~{(4) the Tax Code}.~~

(h-1) In addition to the rules adopted under Subsection (h), the supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions filed in county courts at law in which the amount in controversy does not exceed \$250,000. The rules shall balance the need for lowering discovery costs in these actions against the complexity of and discovery needs in these actions. The supreme court may not adopt rules under this subsection that conflict with other statutory law.

An earlier version of this bill, would have just amended (h) to raise the limit to \$250,000 for all cases but the final version instead added (h-1). The Supreme Court has until 1/1/21 to adopt the new rule.

In connection with the new rules, our subcommittee has identified the following issues:

1. Find out why the final version was limited to county courts.
2. Notwithstanding the legislative amendment, should the Court consider a rule that would apply in all courts for cases between \$100,000 and \$250,000?
3. Could we just amend current rule 169 and up the limit to \$250,000?
At first glance, most of the committee does not recommend doing that because:
 - a. discovery may be too limited for a case where the amount in controversy is between \$100,000 and \$250,000 (currently level one discovery in Rule 169)
 - b. the trial time limits may be too restrictive (currently eight hours per side)
 - c. the amount in controversy is not defined in the same way in (h) and (h-1). This is important because the new \$250,000 limit for county courts excludes interest, statutory or punitive damages and penalties, and attorney's fees and costs, which can be substantial.
 - d. If all cases in a court fall into the limit (most county court cases), there would be no ability to move to the top of the docket.
4. Because we have time to work on this matter, should we get input from trial judges and lawyers as to whether or not Rule 169 is working as it is written? [Anecdotally very few parties have invoked Rule 169 in Harris County, and those that do almost always request a continuance. Justice Christopher is gathering comments from the Harris County district judges.]
5. Given the deletion of certain actions in (h) should we remove the current restrictions in Rule 169(a)(2), that exempts suits under the Family Code, the Property Code, the Tax Code and Chapter 74 CPRC (medical malpractice)? Suggested language: This rule applies to the extent it does not conflict with other state law.

II. The remainder of the changes

The remainder of SB 2342 amends various sections of Chapter 25 on statutory county courts. As a reminder, each county has a variety of county courts with different jurisdiction levels and specialties. For example in Dallas County, the county civil courts have concurrent jurisdiction with district courts, regardless of the amount in controversy. In Comal County, the county courts have concurrent jurisdiction with the district court in family cases. The remainder of SB 2342 appears to be enabling legislation to:

1. Allow many county courts to have a higher limit of cases (upping it from 50,000 or 200,000 to 250,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs) and
2. For those county courts that already have higher limits, requiring a 12 member jury for any case where the amount in controversy is over \$250,000, unless the parties agree to a lesser number or its waived.
3. Increases the jurisdiction in justice courts to \$20,000.

In connection with these changes, we need to change:

1. Rule 47

- (c) (3) monetary relief over \$100,000 but not more than ~~\$200,000~~ \$250,000; or
 - (4) monetary relief over ~~\$200,000~~ \$250,000 but not more than \$1,000,000

2. Rule 500.3

- (a) *Small claims case*. . . The Claim can be for no more than ~~\$10,000~~ \$20,000. . .

3. Possible changes to Rules 224, 225, 229, 231, 232, 233, 234

Rule 224, 225, 229, 231, 232, 233, 234 reflect 12 member juries in district court and 6 member juries in county court. These rules are basically unchanged from 1941 (except for some changes to 233 in 1989) and did not reflect the fact that some county courts already had twelve member juries before this latest change. (For example Austin County already required twelve member juries in a family case in county court.)

The committee does not recommend making changes to these rules—some are archaic and we think that the county courts that have a 12 member jury will know to follow the 12 member rules.

If we are going to change these rules, we should look at them and update them.

4. Possible change to Rule 226a

Rule 226a references both 6 and 12 without mentioning the court level but does not deal with a situation where the parties can agree to a lesser number than 12.

The committee does not think we need to change 226a as the odds are small that someone will agree to a jury with less than 12 but more than 6 and if they do, they should just agree on what the verdict split can be.

Maybe we could add a comment rather than a rule change?

Tab D

Memorandum



To: Supreme Court Advisory Committee

From: Appellate Rules Subcommittee

Date: June 11, 2019

Re: SB 891 § 7.02 Notice of Appeal

I. Matter referred to subcommittee

The Court's May 31, 2019 referral letter and Chairman Babcock's June 3 letter referred the following matter to the appellate rules subcommittee:

Notice of Appeal. SB 891, § 7.02, adds Civil Practice and Remedies Code § 51.017 to require service of notice of appeal on court reporters. . . . The statute is effective September 1, 2019.

The "good news" is that the Court's referral letter states that "The Committee has already considered this change." The "bad news" is that the subcommittee and SCAC have mostly, but not completely, considered this change.

II. SB 891

Section 7.02, SB 891, provides:

Subchapter B, Chapter 51, Civil Practice and Remedies Code, is amended by adding Section 51.017 to read as follows:

Sec. 51.017. SERVICE OF NOTICE ON COURT REPORTER. (a) In addition to requirements for service of notice of appeal imposed by Rule 25.1(e), Texas Rules of Appellate Procedure, notice of appeal, including an interlocutory appeal, must be served on each court reporter responsible for preparing the reporter's record.

The new statute applies to all appeals. It is not limited to accelerated appeals or accelerated appeals in parental termination and child protection cases.

III. Prior action by subcommittee and SCAC

By memo dated July 6, 2018, the appellate rules subcommittee proposed amending TRAP 28.4 to require service of the notice of appeal on the court reporter or reporters responsible for preparing the record.

The proposal was discussed at the July 13, 2019 meeting of the SCAC and passed without a formal vote because there was no opposition.

The proposed rule, with floor modifications, read as follows:

Rule 28.4 Accelerated Appeals in Parental Termination and Child Protection Cases

(b) Notice of Appeal.

(1) Service of Notice. In addition to requirements for service of notice of appeal imposed in Rule 25.1(e), the notice of appeal must be served on the court reporter or court reporters responsible for preparing the reporter's record.

(2) Trial Court Clerk's Duties. In addition to the responsibility imposed on the trial court clerk in Rule 25.1(f), the trial court clerk must immediately send a copy of the notice of appeal to the judge who tried the case.

~~(b)~~ Appellate Record. [text unchanged]

~~(e)~~ Remand for New Trial. [text unchanged]

The proposed rule, because of its placement, was limited to accelerated appeals in parental termination and child protection cases and thus does not fully satisfy the new statutory mandate.

IV. Proposed rule changes

To effectuate the statute, TRAP 25.1(e) and (f) should be amended as follows:

(e) Service of Notice. The notice of appeal must be served on all parties to the trial court's final judgment or, in an interlocutory appeal, on all parties to the trial court proceeding. The notice of appeal must also be served on each court reporter¹ responsible for preparing the reporter's record.

(f) Trial Court Clerk's Duties. The trial court clerk must immediately send a copy of the notice of appeal to the appellate court clerk, to the trial judge, and to ~~the~~ each court reporter ~~or reporters~~ responsible for preparing the reporter's record.²

Comment to 2019 change. Additional service and notice obligations for the notice of appeal are for administrative purposes and do not affect the appellate court's jurisdiction.³

¹ One member of the subcommittee has suggested adding the phrase "if any" to reflect that there may be no reporter's record in certain appeals because none was made. The issue is whether to stray from the language of the new statute.

² The last part of 25.1(f) requiring the clerk to forward notice to the reporter is redundant in light of the obligation to serve the court reporter. The subcommittee, on balance, decided to leave it in to further ensure prompt notice to the court reporter.

³ Nothing in the new statute indicates the service requirement is jurisdictional. This language had been recommended by the subcommittee last July in the more limited proposed rule to ensure that courts of appeals do not dismiss appeals based on a failure to serve a court reporter. The comment may not be necessary.

Tab E



The Supreme Court of Texas

CHIEF JUSTICE
NATHAN L. HECHT

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Telephone: 512/463-1312 Facsimile: 512/463-1365

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PUBLIC INFORMATION OFFICER
OSLER McCARTHY

December 18, 2018

Mr. Charles L. "Chip" Babcock
Chair, Supreme Court Advisory Committee
Jackson Walker L.L.P.
cbabcock@jw.com

Re: Referral of Rules Issues

Dear Chip:

The Supreme Court requests the Advisory Committee to study and make recommendations on the following matters.

Eviction Kit Forms. In response to SB 478, passed by the 84th Legislature, the Court established the Landlord-Tenant Forms Task Force to draft forms for use by individuals representing themselves in residential landlord-tenant matters. On November 28, 2018, the Task Force submitted their report and a proposed kit of forms to be used in eviction suits. The report and proposal are attached to this letter.

Will Kit Forms. In response to SB 512, passed by the 84th Legislature, the Court established the Probate Forms Task Force to draft forms for use by individuals representing themselves in certain probate matters. On November 26, 2018, the Task Force submitted their report and a proposed kit of simple will forms. The report and proposal are attached to this letter.

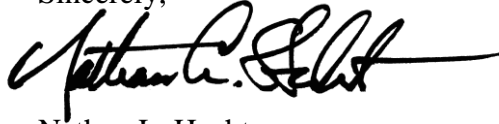
Name Change Forms. Trish McAllister, Executive Director of the Texas Access to Justice Commission, has asked the Court to promulgate two sets of name change forms—one set for an adult name change and one set for an uncontested name change of a child—that are attached to this letter.

Texas Rule of Civil Procedure 116. Rule 116 requires that citation served by publication be published in a newspaper. In the attached letter, Guy Choate and Hon. Sheri Woodfin suggest that notice might be more effective and economical if published on a website accessible to the public.

The Committee has discussed this matter before—on March 25, 2011 and May 13, 2011—but the Court has received further inquiries since then and asks the Committee to consider the matter again.

As always, the Court is grateful for the Committee’s counsel and your leadership.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan L. Hecht", with a long horizontal flourish extending to the right.

Nathan L. Hecht
Chief Justice

Attachments

Supreme Court of Texas Probate Forms Task Force

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Chair

Hon. Polly Jackson
Spencer

Members

Mr. Carlos Aguiñaga
Ms. Barbara Anderson
Ms. Julie Balovich
Mr. Craig Hopper
Ms. Cathy Horvath
Mr. Jerry Jones
Hon. Steve M. King
Ms. Trish McAllister
Ms. Christy Nisbett
Ms. Arielle Prangner

Supreme Court of Texas Liaison

Hon. Eva M. Guzman

Supreme Court of Texas Staff Representative

Osler McCarthy

November 26, 2018

The Supreme Court of Texas
Attn: Mr. Blake Hawthorne
Supreme Court Building
201 West 14th Street, Room 104
Austin, Texas 78701

RE: Report to the Supreme Court of Texas, Misc. Docket No. 16-9003

Dear Justices of the Supreme Court of Texas:

On behalf of the Supreme Court Probate Forms Task Force (“Task Force”), I am providing our written report to the Court summarizing the activities of the Task Force during 2018 as well as a set of four Will forms and instructions.

Background

In response to Senate Bill 512, passed during the 2015 legislative session, the Court entered an order establishing the Probate Forms Task Force on January 21, 2016. See Exhibits A and B.

The members of the Task Force are:

- Hon. Polly Jackson Spencer, Chair, San Antonio
 - Mr. Carlos Aguiñaga, Corpus Christi
 - Ms. Barbara McComas Anderson, Dallas
 - Ms. Julie Balovich, Alpine
 - Mr. Craig Hopper, Austin
 - Ms. Cathy Horvath, Seguin
 - Mr. Jerry Frank Jones, Austin
 - Hon. Steve M. King, Ft. Worth
 - Ms. Trish McAllister, Austin
 - Ms. Christy Nisbett, Austin
 - Ms. Arielle Prangner, Houston

With the exception of Christy Nisbett who has retired, all of us are still actively involved in this process. The Task Force receives staffing and support from the Texas Access to Justice Commission. The Court’s liaison is Justice Eva M. Guzman and the Court’s Public Information Officer, Osler McCarthy, serves as the Court’s staff representative.

Since our first meeting on March 3, 2016, we have met almost monthly to work on this project. It has been an interesting and challenging job for us, but we have enjoyed working on it and getting to know each other better in the process. We are grateful for that opportunity.

Probate Forms Development

We were given a specific charge to create three types of documents:

1. A Small Estate Affidavit under § 205 of the Estates Code;
2. Forms for the probate of a Will as a Muniment of Title under §257 of the Estates Code;
3. Simple Will Forms

We determined that Wills were an area of high need for low-income people and chose to work on them first. We thought it would be a fairly quick process. That has not proven to be true. The initial assignment for the creation of simple Wills forms was to create six forms:

1. Married with No Children Will
2. Married with Adult Children Will
3. Married with Minor Children Will
4. Single with No Children Will
5. Single with Adult Children Will
6. Single with Minor Children Will

Rather early in the process, the committee came to the conclusion that the forms for those with minor or adult children should be combined. As a result, we have prepared and include in Exhibit C with this report four forms as opposed to six:

1. Married with No Children Will
2. Married with Children Will
3. Unmarried with No Children Will
4. Unmarried with Children Will

The process has been much more difficult and time-consuming, I think, than any of us anticipated, and, at various times, we have all become quite frustrated. We are still friends, though. I believe the length of time this has taken and our frustration have been due to two specific factors: our need to write forms in “plain language that is easy to understand by the general public” and our belief that these forms needed to have a long “shelf life” and cover a variety of future contingencies. As directed, these documents are intended to be completed without the assistance of an attorney. This is significantly different from the preparation and execution of a Will prepared and overseen by an attorney.

Our initial work centered on reviewing a set of somewhat similar forms and instructions that came from California. We spent some time discussing the format of those forms. We determined that the forms should provide sufficient space for hand-entered information and directions to allow them to be completed accurately, as well as increase the likelihood that no changes or additions could later be made. This involved discussions about how many spaces we should provide for listing children, about

using boxes for these lists, about requiring signatures or initials for each space, and similar considerations. We were attempting to be certain that our instructions and formatting were understandable at a third grade education level.

We discussed many times the potential for people – the testator or possibly others – to tamper with these forms or add to them after they were signed and notarized. This could possibly invalidate the document and would certainly cause problems at the time of a probate. One member of the committee remains particularly concerned about this problem and expresses that concern regularly. Ultimately, despite these concerns, the committee decided on a format generally in keeping with what we are presenting to you. We recognize that the Court may wish to change the formatting before release to the public.

Our mandate to write these forms in “plain language that is easy to understand by the general public” also contributed to the length of time it has taken us to complete the forms. While all law disciplines have specialized language, we believe that is particularly true in this area of law. A good example is our attempt to write the term “descendants *per stirpes*” in plain language. We debated the wording multiple times as well as where to place our explanation of *per stirpes*. For example, should this be in a separate instruction, or at the end of the form, or included at the point in the Will to which it is pertinent. Similar conversations occurred about the use of many legal and Will-specific terms such as descendant, testator, survivorship, community property, separate property, executor, guardian, personal property, real property, residence, domicile, custodian and the like.

We had discussions about using bolding in the formatting and whether or not we should use the word “italics” to distinguish true parts of the Will itself from instructions embedded in the Will. As I am sure the Court often does with its opinions, we spent time considering the appropriate placement of commas. Additionally, in the usually one month time between meetings, members would reconsider matters thought to be decided and request further discussion with frequently very cogent reasons to make a change.

Several committee members had worked or now work at Legal Aid and provide valuable insight about their clientele. As a result, we have tried to accommodate circumstances that often arise in legal aid cases, such as raising a child who is not their biological or adopted child as their own, or spouses who could not afford to get legally divorced and have lived apart, perhaps with other partners, for many years, or people whose major asset is the home that they share with one or more adult members of their extended family. Our consideration of these factors was based on a desire to provide options for a variety of situations that a person in need of a Will may find themselves.

In that regard, we have incorporated some choices for the user. They have the option to include children not their own as “children” within the definition in the Will. We included choices about how people might wish to leave their property to their spouse, children, neither, or all. We also offered some suggestions about naming Custodians under the Uniform Transfers to Minors Act.

However, we also chose to limit some choices. We allowed them to name only one person to serve as executor at a time, although the law allows otherwise. We declined to include any trust provisions for

certain beneficiaries, believing that situation to be complex and best served by employing an attorney. We also incorporated a self-proved Will affidavit, although that is not required by law.

We believe that it is quite likely these forms will be completed and kept for years before the need for probate arises – hence, my earlier comment about a long shelf life. Many of us have had years of experience with the probating of Wills and have seen innumerable situations in which Wills offered for probate were decades old. With that in mind, we tried to draft these Wills, as any good attorney would, to cover multiple contingencies that might arise after the Wills are signed. This puts the drafting of these forms in a unique position. Other forms, such as divorce forms, are normally completed and used within a short time, and reviewed in a court proceeding with the parties present. Mistakes would be recognized and presumably corrected quickly. In the case of Wills, these documents are likely to be completed, put away for some period of time, and reviewed by a court only after the testator’s death, when it is too late to clarify any discrepancies or correct any mistakes.

We spent considerable effort on how to write instructions for the forms. As is obvious, we opted for a set of general instructions for all of the forms, a set of instructions as a cover page for each form, instructions and explanations embedded in each form, and as a separate page of instructions for the notary. We debated where the instructions should be, being mindful that people generally tend to gloss over reading most instructions and move directly to completion of a form. Some instructions we thought should be repeated, e.g., the need to seek advice from an attorney, the need to prepare a new Will rather than making changes on the previously executed document, and the need to execute a new Will if family circumstances change significantly. We discussed how many instructions in how many different places should be printed in **bold** letters, or *shaded* or *italicized* and whether too much of that special formatting might cause people to ignore the instructions altogether.

Finally, we tested these forms with various groups. All of us took the forms to our work places and asked for feedback. We wanted to know if our forms could meet the needs of people in different circumstances and if our instructions were clear enough. The forms were also tested again in two Legal Aid clinics, and we anticipate at least one more testing situation – all, of course, without identifying them as Supreme Court forms or forms created by this task force. We made refinements to the forms based on the feedback from these beta tests.

Next Steps

Members have begun drafting the small estate affidavit and will then turn to the muniment of title.

Summary

We are pleased to present these forms to the Court as a product into which much time, thought and effort has gone. We recognize that the forms will be reviewed and likely revised by the Court. We also recognize that no form will be perfect and that they will probably be revised from time to time as the public uses them and provides information about their ease of use and general value.

I believe I speak for all of us when I say we would like to discuss any revisions the Court makes. I know I speak for all of us when I say that it has been an honor for us to be asked to be a part of this important

work and this task force, and would like to thank the Court for its support of this project. We look forward to continuing the work of the Task Force and, as always, are available to the Court at any time.

Very truly yours,

A handwritten signature in blue ink that reads "Polly Jackson Spencer". The signature is written in a cursive style with a large initial "P".

Hon. Polly Jackson Spencer
Chair

AN ACT

relating to the promulgation of certain forms for use in probate matters.

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

SECTION 1. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.020 to read as follows:

Sec. 22.020. PROMULGATION OF CERTAIN PROBATE FORMS.

(a) In this section:

(1) "Probate court" has the meaning assigned by Section 22.007, Estates Code.

(2) "Probate matter" has the meaning assigned by Section 22.029, Estates Code.

(b) The supreme court shall, as the court considers appropriate, promulgate:

(1) forms for use by individuals representing themselves in certain probate matters, including forms for use in:

(A) a small estate affidavit proceeding under Chapter 205, Estates Code; and

(B) the probate of a will as a muniment of title under Chapter 257, Estates Code;

(2) a simple will form for:

(A) a married individual with an adult child;

(B) a married individual with a minor child;

(C) a married individual with no children;

1 (D) an unmarried individual with an adult child;

2 (E) an unmarried individual with a minor child;

3 and

4 (F) an unmarried individual with no children; and

5 (3) instructions for the proper use of each form or set
6 of forms.

7 (c) The forms and instructions:

8 (1) must be written in plain language that is easy to
9 understand by the general public;

10 (2) shall be made readily available to the general
11 public in the manner prescribed by the supreme court; and

12 (3) must be translated into the Spanish language as
13 provided by Subsection (d).

14 (d) The Spanish language translation of a form must:

15 (1) state:

16 (A) that the Spanish language translated form is
17 to be used solely for the purpose of assisting in understanding the
18 form and may not be submitted to the probate court; and

19 (B) that the English language version of the form
20 must be submitted to the probate court; or

21 (2) be incorporated into the English language version
22 of the form in a manner that is understandable to both the probate
23 court and members of the general public.

24 (e) Each form and its instructions must clearly and
25 conspicuously state that the form is not a substitute for the advice
26 of an attorney.

27 (f) The clerk of a probate court shall inform members of the

1 general public of the availability of a form promulgated by the
2 supreme court under this section as appropriate and make the form
3 available free of charge.

4 (g) A probate court shall accept a form promulgated by the
5 supreme court under this section unless the form has been completed
6 in a manner that causes a substantive defect that cannot be cured.

7 SECTION 2. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 512 passed the Senate on March 24, 2015, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 512 passed the House on May 22, 2015, by the following vote: Yeas 138, Nays 2, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

IN THE SUPREME COURT OF TEXAS

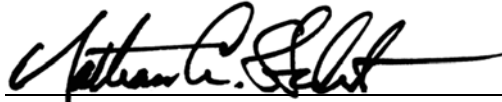
Misc. Docket No. 16-9003

ORDER CREATING PROBATE FORMS TASK FORCE

1. Senate Bill 512, passed in the 2015 legislative session, amends Government Code Section 22.020 to direct the Court to make certain forms for use in probate matters. *See* Acts 2015, 84th Leg., R.S. (S.B. 512) (amending TEX. GOV'T CODE § 22.020).
2. The Court therefore orders the establishment of a Probate Forms Task Force to make recommendations to the Court regarding the forms. The following persons are appointed to serve as members:

Hon. Polly Jackson Spencer	San Antonio	Jerry Jones	Austin
Carlos Aguiñaga	Corpus Christi	Hon. Steve King	Fort Worth
Barbara Anderson	Dallas	Trish McAllister	Austin
Julie Balovich	Alpine	Christy Nisbett	Austin
Craig Hopper	Austin	Arielle Prangner	Houston
Cathy Horvath	Seguin		
3. The Honorable Polly Jackson Spencer is appointed as Chair of the Task Force.
4. The Court's liaison to the Task Force is Justice Eva M. Guzman. The Court's Public Information Officer, Osler McCarthy, will serve as the Court's staff representative to the Task Force.
5. The Task Force should provide a status report to the Court by December 1, 2016.

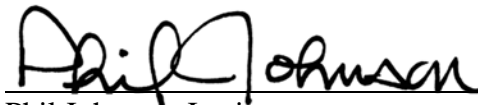
Dated: January 21, 2016.



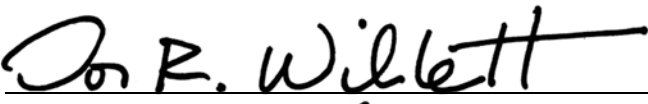
Nathan L. Hecht, Chief Justice



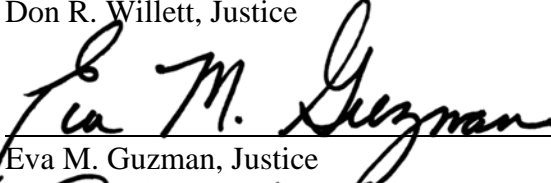
Paul W. Green, Justice



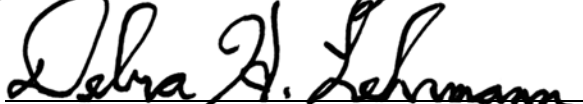
Phil Johnson, Justice



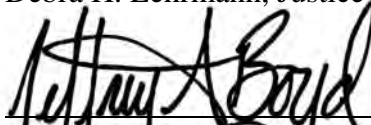
Don R. Willett, Justice



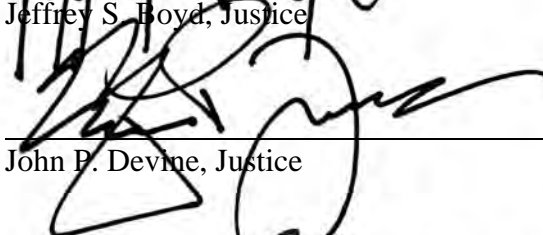
Eva M. Guzman, Justice



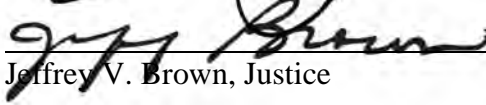
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

Supreme Court of Texas Approved

Will Form Instructions

It is always best to use an attorney. This Will Kit is not a substitute for legal advice. Wills are complicated. If you have a question about any part of the instructions or Will Form in this Will Kit, it is best to talk to a lawyer.

This Will Kit contains instructions for the Will Form, instructions for the Notary, and the Will Form. The Texas Supreme Court adopted four different Will Forms. Pick the one that fits your needs.

If you want to give something to a person who gets government benefits, like Medicaid or food stamps (SNAP), get advice from an attorney before using any Court-Approved Will Forms. It could affect their benefits.

These instructions will discuss:

- important information about your Will,
- filling out your Will,
- signing your Will,
- what to do after you finish your Will,
- where to get help, and
- helpful words to know.

Important Information:

- Read everything in this Will Kit – the instructions, notary instructions, and Will – BEFORE filling out the forms. Keep these instructions handy and refer to them as needed.
- Once you have signed the Will, you **MUST** make a new Will if you want to change ANYTHING. Any changes made to the Will after you sign it are not valid.
- **You may need to make a NEW Will if your situation changes,** for example, divorce, marriage, death of a spouse or a child, etc.
- Your new Will does not change the current beneficiary of your pay on death and survivorship bank accounts, Transfer on Death Deeds, Vehicle Transfer on Death, insurance policies, or retirement accounts.
- You may want to ask the person you are choosing to be your Independent Executor if they are willing to serve as Independent Executor.

Filling out the Will:

- Some of the words in the Will are not used in daily life but are in your Will for legal reasons. If you see a word you do not fully understand, read the “Helpful Words to Know” section of these instructions. If you still have questions, contact an attorney.
- Make sure you read these instructions and the specific instruction for the Will you decide to use before you fill out your Will.
- It is best to fill out the form online. If you do not fill it out online, use the same pen (blue or black ink) to complete the entire form.
- Type or print clearly in all blanks. If you do not need to fill in a blank or space, cross it out. This will prevent anyone, even you, from changing your Will after you have signed and dated it.
- Unless the form or instructions say differently, do not add or mark through any words in this Will. Some sections have no blanks to fill in. They are needed for legal reasons. Do not add or delete anything from these sections.
- You may fill the Will out ahead of time. But do not sign the Will until you and the witnesses are all in the same room with a Notary.

Supreme Court of Texas Approved

Will Form Instructions

- Before filling out the Will, you need to get specific information together: full names (first, middle initial, & last) of people and proper names of any organization you want to put into your will; the make, model, and year of any cars; and the property description of any real property.
- Read over the Will when you have finished to make sure everything is correct and the way you want it.
- If you make a mistake while filling in the Will, rip it up, and start over with a new one.

Signing your Will is a legally significant ceremony. You must follow the steps below:

- Once you have filled out the Will, you will need to get two witnesses and a Notary together with you for the signing ceremony.
- Do not use a beneficiary (someone receiving a gift in your Will) to witness your Will.
- Give the notary instructions to the Notary.
- In the signing ceremony, you, the witnesses, and the Notary will watch each other sign the Will, so no one should leave the room until everyone has signed. Do NOT sign the Will until you are with the Notary and witnesses in the same room. Do not sign more than one Will, even if you make copies. Sign in blue ink if possible.

What do you do after you finish your Will?

- Staple it and DO NOT unstaple it.
- Make as many copies of your Will as you want after stapling the original. DO NOT take out the staples to copy.
- Keep your original signed Will in a safe place.
- You should tell the person you have chosen to be your Independent Executor that you have a Will and where the original Will is located. Whether you tell any of your beneficiaries is up to you.
- When you die, the original Will must be probated to have any effect. There is a 4-year deadline from the date of your death to probate the Will.

Need Help?

- It is always best to hire a lawyer. Call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690 to get a referral to a lawyer or to a free Legal Aid program if you are unable to afford a lawyer.
- If your income is low, you may be able to talk to a lawyer online by live chat at www.TexasLawHelp.org or post a question online for a lawyer at <https://texas.freelegalanswers.org/>.
- For information on the probate process go to:
 - www.TexasLawHelp.org
 - www.tyla.org/tyla/index.cfm/projects/probate-passport/

Supreme Court of Texas Approved Will Form Instructions

Helpful Words to Know

Term	What it means
Beneficiary	Anyone you choose to receive property or other items in your Will.
Community Property	All real and personal property acquired during the marriage, except for separate property, which is defined below.
Descendants	The descendants of a person are their children, their grandchildren, their great-grandchildren, and so on.
Estate	Your estate includes all the things you own at the time of your death. Examples are houses, buildings, land, vehicles, money in bank accounts, cash, jewelry, furniture, clothes, and other items in your home. Important Note: Your new Will does not change the current beneficiary of your pay on death and survivorship bank accounts, Transfer on Death Deeds, Vehicle Transfer on Death, or insurance and retirement accounts.
Execute	Execute means sign.
Guardian of the Person	A Guardian of the Person may be needed if you have a child who is under 18 years of age or an adult child who is incapacitated.
Homestead	A home that you own and use as your main residence. If you are married at the time of your death, your spouse will be allowed to stay in your homestead property until your spouse dies, even if you are giving your share of the home to someone other than your spouse.
Independent Executor	The person appointed by the Court who will be in charge of your estate once you die. The person you name has no authority to act as Independent Executor until appointed by the Court. The Independent Executor makes sure your wishes in the Will are followed to the best of their ability. The Independent Executor CAN be a beneficiary (someone receiving a gift in your Will). The Independent Executor is often a surviving spouse, adult child, sibling, or other trusted person.

Supreme Court of Texas Approved

Will Form Instructions

Married	<p>You are married in Texas if you and your partner are both living and have a valid marriage license or declaration of informal marriage from Texas, another state, or another country.</p> <p>You are married even if you are separated.</p> <p>You may also be married under common law if, at the time the marriage was created, you and your partner:</p> <ul style="list-style-type: none"> • were not already married, informally or formally, to anyone else, • were at least 18 years of age, • agreed to be married, • lived in Texas as a married couple, and • told or “held yourselves out” to others that you are married.
Notary	<p>A Notary is a person authorized by the state to swear that the people signing the Will are who they say they are. A Notary will sign and put a seal on your Will. There are separate Notary instructions in this packet.</p>
Personal Property	<p>Personal property includes, but is not limited to, cash and bank accounts, clothing, household furnishings, vehicles, and jewelry.</p>
Real Property	<p>Land and improvements, like a house or mobile home designated as real property. It also includes oil, gas, and other mineral rights.</p>
Separate Property	<p>Personal or real property owned before a marriage or received during marriage by gift or inheritance. It also includes damages awarded during marriage from a personal injury lawsuit, except for damages representing loss of earning capacity.</p>
Survives	<p>A person must be living 30 days after your death to take under this Will.</p>
Testator	<p>The person signing this Will is the Testator. If this is your Will, you are the Testator.</p>
Unmarried	<p>If you are single, widowed, or divorced, you are not married.</p> <p>If you do not have a valid marriage license or declaration of informal marriage or do not meet the requirements for a common law marriage, you are not married.</p> <p>If your spouse is no longer living, you are also not married for purposes of making a Will. You should use one of the “Single, Widowed, or Divorced” Will forms.</p>
Witnesses	<p>The two people who watch you sign your Will. They will sign their names to your Will when you are all in the same room with a Notary.</p> <p>Do not use a beneficiary (someone receiving a gift in your Will) to witness your Will.</p>

WILL FORM

For A Single, Widowed, or Divorced Person With Children

This is the right Will Form if:
<ul style="list-style-type: none">• You are single,, widowed, or divorced and• You have one or more children, grandchildren, or people you intend to include in your will as children or grandchildren.
If this is NOT the right Will Form , there are three other Will Forms that may apply to you. Check the other three forms to see if they will work for you.

- *It is always best to use an attorney. This Will Kit is not a substitute for legal advice. Wills are complicated. If you have a question about any part of the instructions or the will in this Will Kit, it is best to talk to an attorney.*
- *Instructions in italics are for your information only. They are not a part of this Will. Read through the separate instructions and notary instructions with this Will Form before you begin filling out the Will.*
- *The person making this Will is called the Testator.*
- *It is best to fill out the form online. If you do not fill it out online, use the same pen to fill out the entire form.*
- *Type or print clearly in all blanks; or if you do not need to fill in a blank or space, cross it out. This will prevent anyone, even you, from changing your Will after you have signed and dated it.*
- *Unless the form or instructions say differently, do not add or mark through any words in this Will. Some sections have no blanks to fill in. They are needed for legal reasons. Do not add or delete anything from these sections.*
- *Someone receiving a gift in your Will should not sign your Will as a witness.*

IMPORTANT: Any changes made to the Will after you sign it are not valid. If you want to change ANYTHING, rip the Will up, and start over with a new one.

WILL

SECTION 1. IDENTIFICATION

Type or print clearly the full names of people in the correct blanks. If possible, list names as they appear on legal documents like a driver's license, state ID, birth certificate, or other official document. Listing these names in 1.2 and 1.3 identifies who will receive your property under Section 2.2 "Everything I Own."

1.1. My name is _____.
First Middle Initial Last Suffix (Jr. Sr., etc.)

I am sometimes also known as _____.
First Middle Initial Last Suffix (Jr. Sr., etc.)

This is my Will. I revoke and cancel any Wills I made before this one.

1.2. I am not married.

1.3. My children are listed in the two charts below. The term "my children" means the people named below as my children (living and deceased) and any children born to or adopted by me after this Will is made.

Even if a person listed below is not my biological or adopted child or grandchild, I intend for them to be included as one of "my children" or grandchildren.

1.3.A. The full names of my **living** children are:

If you do not fill in a space, cross the space out.

<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

1.3.B. If I have any children who have **died**, their names and the names of their children, if any, are:

If you do not fill in a space, cross the space out.

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr., Sr., Etc.)</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

[Approved Date]

Testator: Sign Your Name Here

SECTION 2. GIVING MY PROPERTY

2.1. Everything I Own, Except for Specific Gifts

<p>Choice #1</p> <p><i>All to the surviving children, except for any specific gifts</i></p>	<p>I give everything I own, except for any specific gifts, to my children who survive me.</p> <p>Gifts to my children, except for specific gifts, will be divided into shares as follows:</p> <ol style="list-style-type: none"> 1. One share will be created for each child of mine who survives me, plus 2. One share will be created for each child of mine who has not survived me but who has descendants who survive me. <p>Each surviving child will take one share and the share of each deceased child will be divided among that deceased child's children.</p> <p align="right">_____</p> <p align="right"><i>Testator: If you choose this option, sign here</i></p>
<p>Choice #2</p> <p><i>To people named here</i></p>	<p>I give everything I own, except for any specific gifts, in equal shares to the following person(s) listed below:</p> <p><i>Write the first and last names and middle initial of the person(s).</i></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p align="right">_____</p> <p align="right"><i>Testator: If you choose this option, sign here</i></p>

Testator: Sign Your Name Here

2.2. Specific Gifts

This section is optional. You can choose to fill in all, some, or none of the three sections listed here. The previous section, Section 2.1 "Everything I Own", will apply to any property not listed here in Section 2.2. If you do not fill in a space, cross the space out. The three sections are:

Section 2.2.A Giving My Home	Use this section to give a specific person or persons your interest in your home. It does not include the items inside the home.
Section 2.2.B. Giving My Personal and Household Items	Use this section to give away your interest in <u>all</u> the items inside your home. This includes household goods, furniture, tools, clothes, and other items. You can use both this section and Section 2.2.C. if you want to give someone a particular item but still give the bulk of your personal and household items to another person.
Section 2.2.C. Giving Specific Items or Property	Use this section to give a person a specific item. Examples include vehicles, boats, jewelry, valuables, <u>particular</u> items in your home, real estate other than your home, or other items.

2.2.A. Giving My Home

Complete this section **only if** you want to give your interest in your home to one or more specific persons. If you do not complete this section, your home will go to whom you named in Section 2.1 "Everything I Own."

This section is for your home only, not your personal and household items. You can give your personal and household items in the next section, Section 2.2.B "Giving My Personal and Household Items."

If you do not fill in a space, cross the space out.

I give my interest in my home, subject to mortgages and liens, in equal shares to the following person or persons who survive me. If none of these people survives me, my interest in my home will pass under Section 2.2 "Everything I Own."			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

2.2.B. Giving My Personal and Household Items

Complete this section if you want to give all your interest in your personal and household items to one or more people you name to be divided among them. You may also give a specific item to a specific person by using the next section, 2.2.C. "Giving Specific Items or Property."

Section 2.1 "Everything I Own" will apply to any items you do not give under this section or Section 2.2.C. "Giving Specific Items or Property."

If you do not fill in a space, cross the space out.

"Personal and household items" means all household goods, furniture, furnishings, tools, garden equipment, china, silver, works of art, jewelry, clothing, personal effects, and any other similar items of personal property.

<p>Except for any specific gifts I make in Section 2.3.C "Giving Specific Items or Property," I give all of my interest in my personal and household items in equal shares to the following person or persons who survive me. If none of these people survives me, my interest in these items will pass under Section 2.2 "Everything I Own." My interest in these items shall be divided among them as they agree. If they cannot agree, the Executor will decide.</p>			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Testator: Sign Your Name Here

2.2.C. Giving Specific Items or Property

Complete this section if you want to give someone your interest in a specific item or property. Examples include vehicles or boats, particular items in your home, jewelry, valuables, real estate other than your home, or other items.

If you do not fill in a space, cross the space out.

I give my interest in each item listed below to the person named next to the item if that person survives me.

<p align="center"><u>Item(s) to be given:</u></p> <p align="center"><i>Please describe in detail</i></p>	<p align="center"><u>Full name of person getting item(s):</u></p>
	<p align="center"><i>First Middle Initial Last Suffix (Jr. Sr., etc.)</i></p>
	<p align="center"><i>First Middle Initial Last Suffix</i></p>
	<p align="center"><i>First Middle Initial Last Suffix</i></p>
	<p align="center"><i>First Middle Initial Last Suffix</i></p>
	<p align="center"><i>First Middle Initial Last Suffix</i></p>
	<p align="center"><i>First Middle Initial Last Suffix</i></p>
	<p align="center"><i>First Middle Initial Last Suffix</i></p>

Testator: Sign Your Name Here

SECTION 3. INDEPENDENT EXECUTOR

In this section you choose the person you want to be in charge of your estate after you die. This person must be 18 years old or over and cannot be a convicted felon.

Your choice of Independent Executor must be approved by the Court before he or she can act as Independent Executor. After appointment, the Court generally does not supervise the Independent Executor.

If you use this Will form, you can only have one Independent Executor in charge at a time. It is best to name a second and third choice in case someone you name cannot serve as Independent Executor.

- 3.1.** I name the following persons in the order listed to be appointed as sole Independent Executor of my Will and estate. If a person does not serve or stops serving for any reason, then I name the next listed person.

If you do not fill in a space, cross the space out.

1. Name of First Choice for Independent Executor			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

2. Name of Second Choice for Independent Executor			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

3. Name of Third Choice for Independent Executor			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

- 3.2.** My Independent Executor is not required to post a bond in any jurisdiction.
- 3.3.** Once appointed by the Court, the Independent Executor shall administer and distribute the estate as required by law. The power to administer the estate includes the power to sell real and personal property. The Independent Executor can act without the consent of my beneficiaries.
- 3.4.** No action shall be had in the Probate Court in relation to the settlement of my estate other than the probating and recording of this Will, notice to beneficiaries as required by the Texas Estates Code, and the return of any required inventory, appraisalment, and list of claims owed to my estate.

SECTION 4. CUSTODIAN FOR PERSONS UNDER AGE 21 WHO RECEIVE GIFTS UNDER THIS WILL.

- 4.1.** Any gift to a person under 21 may instead be delivered to a Custodian for that person under the Uniform Transfers to Minor Act of Texas or any other state.
- 4.2.** My Executor may name a Custodian for any beneficiary under age 21.
- 4.3.** My Executor may consider appointing a beneficiary's surviving parent as Custodian but is not required to do so.
- 4.4.** My Executor may name different Custodians for different beneficiaries.
- 4.5.** My Executor may also serve as Custodian.

SECTION 5. GUARDIAN OF THE PERSON OF A MINOR CHILD OR INCAPACITATED ADULT CHILD

Complete this section if you would like to suggest a Guardian for the Person of your child who is under 18 years old or your adult child who is incapacitated. The Court will have to approve your choice.

If you use this Will form, you can only have one Guardian at a time. It is best to name a second and third choice in case someone you name cannot serve as Guardian.

I name the following persons in the order listed to be appointed as Guardian of the Person of any child who needs a Guardian. If a person does not serve or stops serving for any reason, then I name the next listed person.

1. Name of First Choice for Guardian of the Person

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

2. Name of Second Choice for Guardian of the Person

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

3. Name of Third Choice for Guardian of the Person

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

SECTION 6. TEXAS LAW APPLIES AND SURVIVORSHIP

- 6.1. Texas law shall apply to all matters related to this Will.
- 6.2. No person shall be considered to have survived me unless that person is living 30 days after my death.

SECTION 7. EXECUTION, ATTESTATION, AND SELF-PROOF OF WILL

*DO NOT sign UNTIL the Testator, Witnesses, & Notary are all in the same room.
DO NOT LEAVE until everyone has signed.*

Before me, the undersigned authority, on this day personally appeared the following:

**Print
Names
Here**

_____, the Testator.
First Middle Initial Last Suffix (Jr. Sr., etc.) The Testator is the person making this Will

_____, the first witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

_____, the second witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

1. I, as the Testator, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority:
 - a. This instrument is my Will.
 - b. I willingly make and execute this Will as my free act and deed.
 - c. I execute this Will in the presence of the undersigned witnesses, all of whom are present at the same time.
 - d. I request each of the undersigned witnesses to sign this Will in my presence and in the presence of each other.
 - e. I now sign this Will in the presence of the attesting witnesses and the undersigned authority on
 ___/___/___.
 Month/ Day/ Year

Testator: Sign your name here

2. The undersigned witnesses, after being duly sworn, declare to the testator and to the undersigned authority:
 - a. The testator declared to us that this instrument is the testator's Will.
 - b. The testator requested us to act as witnesses to the testator's Will and signature.
 - c. The testator then signed this Will in our presence, all of us being present at the same time.
 - d. The testator is 18 years of age or over (or being under such age, is or has been lawfully married, or is a member of the armed forces of the United States or of an auxiliary of the armed forces of the United States or of the United States Maritime Service).
 - e. We believe the testator to be of sound mind.
 - f. We are each at least 14 years of age.
 - g. We now sign our names as attesting witnesses in the presence of the testator, each other, and the undersigned authority on ___/___/___.
 Month/Day/Year

First witness signs here

Second witness signs here

Subscribed and sworn to before me
by the Testator and the Witnesses,
on ___/___/___.

Notary Public, State of Texas
(Seal)

End of Will

WILL FORM

For A Married Person With Children

This is the right Will Form if:

- You are currently married (formally or common law) **and**
- Your spouse is alive **and**
- You have one or more children, grandchildren, or people you intend to include in your will as children or grandchildren.

If this is NOT the right Will Form, there are three other Will Forms that may apply to you. Check the other three forms to see if they will work for you.

- *It is always best to use an attorney. This Will Kit is not a substitute for legal advice. Wills are complicated. If you have a question about any part of the instructions or the will in this Will Kit, it is best to talk to an attorney.*
- *Instructions in italics are for your information only. They are not a part of this Will. Read through the separate instructions and notary instructions with this Will Form before you begin filling out the Will.*
- *The person making this Will is called the Testator.*
- *It is best to fill out the form online. If you do not fill it out online, use the same pen to fill out the entire form.*
- *Type or print clearly in all blanks; or if you do not need to fill in a blank or space, cross it out. This will prevent anyone, even you, from changing your Will after you have signed and dated it.*
- *Unless the form or instructions say differently, do not add or mark through any words in this Will. Some sections have no blanks to fill in. They are needed for legal reasons. Do not add or delete anything from these sections.*
- *Someone receiving a gift in your Will should not sign your Will as a witness.*

IMPORTANT: Any changes made to the Will after you sign it are not valid. If you want to change ANYTHING, rip the Will up, and start over with a new one.

WILL

SECTION 1. IDENTIFICATION

Type or print clearly the full names of people in the correct blanks. If possible, list names as they appear on legal documents like a driver's license, state ID, birth certificate, or other official document. Listing these names in 1.2 and 1.3 identifies who will receive your property under Section 2.2 "Everything I Own."

1.1. My name is _____.
First Middle Initial Last Suffix (Jr. Sr., etc.)

I am sometimes also known as _____.
First Middle Initial Last Suffix (Jr. Sr., etc.)

This is my Will. I revoke and cancel any Wills I made before this one.

1.2. I am married to _____, who is now living.
First Middle Initial Last Suffix (Jr. Sr., etc.)

This person will be referred to as "my spouse" in this Will.

1.3. My children are listed in the two charts below. The term "my children" means the people named below as my children (living and deceased) and any children born to or adopted by me after this Will is made.

Even if a person listed below is not my biological or adopted child or grandchild, I intend for them to be included as one of "my children" or grandchildren.

1.3.A. The full names of my **living** children are:

If you do not fill in a space, cross the space out.

<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

1.3.B. If I have any children who have **died**, their names and the names of their children, if any, are:

If you do not fill in a space, cross the space out.

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr., Sr., Etc.)</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Full name of my deceased child →	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
Full names of all my grandchildren born to or adopted by this deceased child → <i>If none, write none</i>	<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

SECTION 2. GIVING MY PROPERTY

2.1 In this Will, I intend to give away my separate property and only my half of community property.

Note: You can only give away your separate property and your half of community property.

2.2. Everything I Own, Except for Specific Gifts

You have two choices under this section: Choice #1 – leave your property to your spouse or Choice #2 – leave your property to your children. Filling out either choice does not stop you from giving specific items to certain people you name. You will do this in Section 2.3 “Specific Gifts.”

*Complete and sign **only one** choice. Cross out the other one.*

If I sign both or neither choice and my spouse survives me, then everything I own, except for any specific gifts, passes under Choice #1.

<p>Choice #1 All to the surviving spouse, except for any specific gifts</p>	<p>I give everything I own to my spouse, if my spouse survives me, except for any specific gifts.</p> <p>If my spouse does not survive me, I give everything I own, except for any specific gifts, to the following person(s) listed below who survive me (for example, “my children” or list specific people by their full name.)</p> <hr/> <hr/> <hr/> <p align="right"><i>Testator: If you choose this option, sign here</i></p>
<p>Choice #2 Nothing to surviving spouse, except for any specific gifts</p>	<p>EVEN IF my spouse survives me, I give everything I own, except for any specific gifts, in equal shares to the following person(s) listed below: <i>Write the first& last name and middle initial of the person(s).</i></p> <hr/> <hr/> <hr/> <p align="right"><i>Testator: If you choose this option, sign here</i></p>
<p>Choice #3 Nothing to surviving spouse, except for any specific gifts</p>	<p>EVEN IF my spouse survives me, I give everything I own to my children, except for any specific gifts to my spouse or another person.</p> <p>Gifts to my children, except for specific gifts, will be divided into shares as follows:</p> <ol style="list-style-type: none"> 1. One share will be created for each child of mine who survives me, plus 2. One share will be created for each child of mine who has not survived me but who has descendants who survive me. <p>Each surviving child will take one share and the share of each deceased child will be divided among that deceased child’s children.</p> <hr/> <p align="right"><i>Testator: If you choose this option, sign here</i></p>

2.3. Specific Gifts

This section is optional. You can choose to fill in all, some, or none of the three sections listed here. The previous section, Section 2.2 "Everything I Own", will apply to any property not listed here in Section 2.3. If you do not fill in a space, cross the space out. The three sections are:

Section 2.3.A Giving My Home	Use this section to give a specific person or persons your interest in your home. It does not include the items inside the home.
Section 2.3.B. Giving My Personal and Household Items	Use this section to give away your interest in <u>all</u> the items inside your home. This includes household goods, furniture, tools, clothes, and other items. You can use both this section and Section 2.3.C. if you want to give someone a particular item but still give the bulk of your personal and household items to another person.
Section 2.3.C. Giving Specific Items or Property	Complete this section if you want to give someone your interest in a specific item or property. Examples include vehicles, boats, jewelry, valuables, <u>particular</u> items in your home, real estate other than your home, or other items.

2.3.A. Giving My Home

Complete this section **only if** you want to give your interest in your home to one or more specific persons. If you do not complete this section, your home will go to whom you named in Section 2.2 "Everything I Own."

This section is for your home only, not your personal and household items. You can give your personal and household items in the next section, Section 2.3.B "Giving My Personal and Household Items."

If you do not fill in a space, cross the space out.

I give my interest in my home, subject to mortgages and liens, in equal shares to the following person or persons who survive me. If none of these people survives me, my interest in my home will pass under Section 2.2 "Everything I Own."			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

2.3.B. Giving My Personal and Household Items

Complete this section if you want to give all your interest in your personal and household items to one or more people you name to be divided among them. You may also give a specific item to a specific person by using the next section, 2.3.C. "Giving Specific Items or Property."

Section 2.2 "Everything I Own" will apply to any items you do not give under this section or Section 2.3.C. "Giving Specific Items or Property."

If you do not fill in a space, cross the space out.

"Personal and household items" means all household goods, furniture, furnishings, tools, garden equipment, china, silver, works of art, jewelry, clothing, personal effects, and any other similar items of personal property.

<p>Except for any specific gifts I make in Section 2.3.C "Giving Specific Items or Property," I give all of my interest in my personal and household items in equal shares to the following person or persons who survive me. If none of these people survives me, my interest in these items will pass under Section 2.2 "Everything I Own." My interest in these items shall be divided among them as they agree. If they cannot agree, the Executor will decide.</p>			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Testator: Sign Your Name Here

2.3.C. Giving Specific Items or Property

Complete this section if you want to give someone your interest in a specific item or property. Examples include vehicles or boats, particular items in your home, jewelry, valuables, real estate other than your home, or other items.

If you do not fill in a space, cross the space out.

I give my interest in each item listed below to the person named next to the item if that person survives me.

<p><u>Item(s) to be given:</u> <i>Please describe in detail</i></p>	<p><u>Full name of person getting item(s):</u></p>
	<p><i>First Middle Initial Last Suffix (Jr. Sr., etc.)</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>

Testator: Sign Your Name Here

SECTION 3. INDEPENDENT EXECUTOR

In this section you choose the person you want to be in charge of your estate after you die. This person must be 18 years old or over and cannot be a convicted felon.

Your choice of Independent Executor must be approved by the Court before he or she can act as Independent Executor. After appointment, the Court generally does not supervise the Independent Executor.

If you use this Will form, you can only have one Independent Executor in charge at a time. It is best to name a second and third choice in case someone you name cannot serve as Independent Executor.

- 3.1.** I name the following persons in the order listed to be appointed as sole Independent Executor of my Will and estate. If a person does not serve or stops serving for any reason, then I name the next listed person.

If you do not fill in a space, cross the space out.

1. Name of First Choice for Independent Executor			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
2. Name of Second Choice for Independent Executor			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
3. Name of Third Choice			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

- 3.2.** My Independent Executor is not required to post a bond in any jurisdiction.
- 3.3.** Once appointed by the Court, the Independent Executor shall administer and distribute the estate as required by law. The power to administer the estate includes the power to sell real and personal property. The Independent Executor can act without the consent of my beneficiaries.
- 3.4.** No action shall be had in the Probate Court in relation to the settlement of my estate other than the probating and recording of this Will, notice to beneficiaries as required by the Texas Estates Code, and the return of any required inventory, appraisement, and list of claims owed to my estate.

SECTION 4. CUSTODIAN FOR PERSONS UNDER AGE 21 WHO RECEIVE GIFTS UNDER THIS WILL.

- 4.1.** Any gift to a person under 21 may instead be delivered to a Custodian for that person under the Uniform Transfers to Minor Act of Texas or any other state.
- 4.2.** My Executor may name a Custodian for any beneficiary under age 21.
- 4.3.** My Executor may consider appointing a beneficiary's surviving parent as Custodian but is not required to do so.
- 4.4.** My Executor may name different Custodians for different beneficiaries.
- 4.5.** My Executor may also serve as Custodian.

SECTION 5. GUARDIAN OF THE PERSON OF A MINOR CHILD OR INCAPACITATED ADULT CHILD

Complete this section if you would like to suggest a Guardian for the Person of your child who is under 18 years old or your adult child who is incapacitated. The Court will have to approve your choice.

If you use this Will form, you can only have one Guardian at a time. It is best to name a second and third choice in case someone you name cannot serve as Guardian.

I name the following persons in the order listed to be appointed as Guardian of the Person of any child who needs a Guardian. If a person does not serve or stops serving for any reason, then I name the next listed person.

If you do not fill in a space, cross the space out.

1. Name of First Choice for Guardian of the Person

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

2. Name of Second Choice for Guardian of the Person

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

3. Name of Third Choice for Guardian of the Person

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

SECTION 6. TEXAS LAW APPLIES AND SURVIVORSHIP

- 6.1.** Texas law shall apply to all matters related to this Will.
- 6.2.** No person shall be considered to have survived me unless that person is living 30 days after my death.
- 6.3.** My spouse and I have no contract or agreement regarding this Will. I may change this Will at any time without notice to my spouse.

SECTION 7. EXECUTION, ATTESTATION, AND SELF-PROOF OF WILL

DO NOT sign UNTIL the Testator, Witnesses, & Notary are all in the same room.
DO NOT LEAVE until everyone has signed.

Before me, the undersigned authority, on this day personally appeared the following:

**Print
Names
Here**

_____, the Testator.
First Middle Initial Last Suffix (Jr. Sr., etc.) The Testator is the person making this Will

_____, the first witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

_____, the second witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

1. I, as the Testator, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority:
- This instrument is my Will.
 - I willingly make and execute this Will as my free act and deed.
 - I execute this Will in the presence of the undersigned witnesses, all of whom are present at the same time.
 - I request each of the undersigned witnesses to sign this Will in my presence and in the presence of each other.
 - I now sign this Will in the presence of the attesting witnesses and the undersigned authority on
____/____/____.
Month/ Day/ Year

Testator: Sign your name here

2. The undersigned witnesses, after being duly sworn, declare to the testator and to the undersigned authority:
- The testator declared to us that this instrument is the testator's Will.
 - The testator requested us to act as witnesses to the testator's Will and signature.
 - The testator then signed this Will in our presence, all of us being present at the same time.
 - The testator is 18 years of age or over (or being under such age, is or has been lawfully married, or is a member of the armed forces of the United States or of an auxiliary of the armed forces of the United States or of the United States Maritime Service).
 - We believe the testator to be of sound mind.
 - We are each at least 14 years of age.
 - We now sign our names as attesting witnesses in the presence of the testator, each other, and the undersigned authority on ____/____/____.
Month/Day/Year

First witness signs here

Second witness signs here

Subscribed and sworn to before me
by the Testator and the Witnesses,
on ____/____/____.

Notary Public, State of Texas
(Seal)

End of Will

WILL FORM

For A Single, Widowed, or Divorced Person with No Children

This is the right Will Form if:
<ul style="list-style-type: none">• You are single, widowed, or divorced and• You have NO children, grandchildren, or people you intend to include in your will as children or grandchildren.
If this is NOT the right Will Form , there are three other Will Forms that may apply to you. Check the other three forms to see if they will work for you.

- *It is always best to use an attorney. This Will Kit is not a substitute for legal advice. Wills are complicated. If you have a question about any part of the instructions or the Will in this Will Kit, it is best to talk to an attorney.*
- *Instructions in italics are for your information only. They are not a part of this Will. Read through the separate instructions and notary instructions with this Will Form before you begin filling out the Will.*
- *The person making this Will is called the Testator.*
- *It is best to fill out the form online. If you do not fill it out online, use the same pen to fill out the entire form.*
- *Type or print clearly in all blanks; or if you do not need to fill in a blank or space, cross it out. This will prevent anyone, even you, from changing your Will after you have signed and dated it.*
- *Unless the form or instructions say differently, do not add or mark through any words in this Will. Some sections have no blanks to fill in. They are needed for legal reasons. Do not add or delete anything from these sections.*
- *Someone receiving a gift in your Will should not sign your Will as a witness.*

IMPORTANT: Any changes made to the Will after you sign it are not valid. If you want to change ANYTHING, rip the Will up, and start over with a new one.

WILL

SECTION 1. IDENTIFICATION

Type or print clearly the full names of people in the correct blanks. If possible, list names as they appear on legal documents like a driver's license, state ID, birth certificate, or other official document. Listing these names in 1.2 and 1.3 identifies whom will receive your property under Section 2.2 "Everything I Own."

1.1. My name is _____.

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

I am sometimes also known as _____.

First

Middle Initial

Last

Suffix (Jr. Sr., etc.)

This is my Will. I revoke and cancel any Wills I made before this one.

1.2. I am not married.

1.3. I have no children.

SECTION 2. GIVING MY PROPERTY

2.1. Everything I Own, Except for Specific Gifts

You **MUST** fill in this box to ensure any remaining property is given to someone.

If you do not fill in a space, cross the space out.

Except for any specific gifts I make in Section 2.2 "Specific Gifts," I give everything I own in equal shares to the person(s) whom survive me and/or the organization(s) that exists at the time of my death as indicated below.

Please write the full name of the person(s) (First, Middle Initial, Last, Suffix)

or organization(s) (full name and location).

2.2. Specific Gifts

This section is optional. You can choose to fill in all, some, or none of the three sections listed here. The previous section, Section 2.1 “Everything I Own”, will apply to any property not listed here in Section 2.2. If you do not fill in a space, cross the space out. The three sections are:

Section 2.2.A Giving My Home	Use this section to give a specific person or persons your interest in your home. It does not include the items inside the home.
Section 2.2.B. Giving My Personal and Household Items	Use this section to give away your interest in <u>all</u> the items inside your home. This includes household goods, furniture, tools, clothes, and other items. You can use both this section and Section 2.2.C. if you want to give someone a particular item but still give the bulk of your personal and household items to another person.
Section 2.2.C. Giving Specific Items or Property	Use this section to give a person a specific item. Examples include vehicles, boats, jewelry, valuables, <u>particular</u> items in your home, real estate other than your home, or other items.

2.2.A. Giving My Home

Complete this section only if you want to give your interest in your home to one or more specific persons. If you do not complete this section, your home will go to whom you named in Section 2.1 “Everything I Own.”

This section is for your home only, not your personal and household items. You can give your personal and household items in the next section, Section 2.2.B “Giving My Personal and Household Items.”

If you do not fill in a space, cross the space out.

I give my interest in my home, subject to mortgages and liens, in equal shares to the following person or persons whom survive me. If none of these people survives me, my interest in my home will pass under Section 2.1 “Everything I Own.”			
First	Middle Initial	Last	Suffix (Jr. Sr., etc.)
First	Middle Initial	Last	Suffix
First	Middle Initial	Last	Suffix
First	Middle Initial	Last	Suffix
First	Middle Initial	Last	Suffix
First	Middle Initial	Last	Suffix
First	Middle Initial	Last	Suffix

2.2.B. Giving My Personal and Household Items

Testator: Sign Your Name Here

Complete this section if you want to give all your interest in your personal and household items to one or more people you name to be divided among them.

You may also give a specific item to a specific person by using the next section, 2.2.C. "Giving Specific Items or Property."

Section 2.1 "Everything I Own" will apply to any items you do not give under this section or Section 2.2.C. "Giving Specific Items or Property." If you do not fill in a space, cross the space out.

"Personal and household items" means all household goods, furniture, furnishings, tools, garden equipment, china, silver, works of art, jewelry, clothing, personal effects, and any other similar items of personal property.

If you do not fill in a space, cross the space out.

Except for any specific gifts I make in Section 2.2.C "Giving Specific Items or Property," I give all of my interest in my personal and household items in equal shares to the following person or persons whom survive me. If none of these people survives me, my interest in these items will pass under Section 2.1 "Everything I Own." My interest in these items shall be divided among them as they agree. If they cannot agree, the Executor will decide.			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

2.3.C. Giving Specific Items or Property

Testator: Sign Your Name Here

Complete this section if you want to give someone your interest in a specific item or property. Examples include vehicles, boats, jewelry, valuables, particular items in your home, real estate other than your home, or other items.

If you do not fill in a space, cross the space out.

I give my interest in each item listed below to the person named next to the item if that person survives me.

<u>Item(s) to be given:</u> <i>Please describe in detail</i>	<u>Full name of person getting item(s):</u>
	<i>First Middle Initial Last Suffix (Jr. Sr., etc.)</i>
	<i>First Middle Initial Last Suffix</i>
	<i>First Middle Initial Last Suffix</i>
	<i>First Middle Initial Last Suffix</i>
	<i>First Middle Initial Last Suffix</i>
	<i>First Middle Initial Last Suffix</i>
	<i>First Middle Initial Last Suffix</i>

SECTION 3. INDEPENDENT EXECUTOR

Testator: Sign Your Name Here

In this section you choose the person you want to be in charge of your estate after you die. This person must be 18 years old or over and cannot be a convicted felon.

Your choice of Independent Executor must be approved by the Court before he or she can act as Independent Executor. After appointment, the Court generally does not supervise the Independent Executor.

If you use this Will form, you can only have one Independent Executor in charge at a time. It is best to name a second and third choice in case someone you name cannot serve as Independent Executor.

- 3.1.** I name the following persons in the order listed to be appointed as sole Independent Executor of my Will and estate. If a person does not serve or stops serving for any reason, then I name the next listed person.

If you do not fill in a space, cross the space out.

1. Name of First Choice for Independent Executor			
_____	_____	_____	_____
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

2. Name of Second Choice for Independent Executor			
_____	_____	_____	_____
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

3. Name of Third Choice for Independent Executor			
_____	_____	_____	_____
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

- 3.2.** My Independent Executor is not required to post a bond in any jurisdiction.
- 3.3.** Once appointed by the Court, the Independent Executor shall administer and distribute the estate as required by law. The power to administer the estate includes the power to sell real and personal property. The Independent Executor can act without the consent of my beneficiaries.
- 3.4.** No action shall be had in the Probate Court in relation to the settlement of my estate other than the probating and recording of this Will, notice to beneficiaries as required by the Texas Estates Code, and the return of any required inventory, appraisalment, and list of claims owed to my estate.

Testator: Sign Your Name Here

**SECTION 4. CUSTODIAN FOR PERSONS UNDER AGE 21
WHOM RECEIVE GIFTS UNDER THIS WILL.**

- 4.1.** Any gift to a person under 21 may instead be delivered to a Custodian for that person under the Uniform Transfers to Minor Act of Texas or any other state.
- 4.2.** My Executor may name a Custodian for any beneficiary under age 21.
- 4.3.** My Executor may consider appointing a beneficiary's surviving parent as Custodian but is not required to do so.
- 4.4.** My Executor may name different Custodians for different beneficiaries.
- 4.5.** My Executor may also serve as Custodian.

SECTION 5. TEXAS LAW APPLIES AND SURVIVORSHIP

- 5.1.** Texas law shall apply to all matters related to this Will.
- 5.2.** No person shall be considered to have survived me unless that person is living 30 days after my death.

Testator: Sign Your Name Here

SECTION 6. EXECUTION, ATTESTATION, AND SELF-PROOF OF WILL

*DO NOT sign UNTIL the Testator, Witnesses, & Notary are all in the same room.
DO NOT LEAVE until everyone has signed.*

Before me, the undersigned authority, on this day personally appeared the following:

*Print
Names
Here*

_____, the Testator.
First Middle Initial Last Suffix (Jr. Sr., etc.) The Testator is the person making this Will

_____, the first witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

_____, the second witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

1. I, as the Testator, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority:
 - a. This instrument is my Will.
 - b. I willingly make and execute this Will as my free act and deed.
 - c. I execute this Will in the presence of the undersigned witnesses, all of whom are present at the same time.
 - d. I request each of the undersigned witnesses to sign this Will in my presence and in the presence of each other.
 - e. I now sign this Will in the presence of the attesting witnesses and the undersigned authority on
 ___/___/___.
 Month/ Day/ Year

Testator: Sign your name here

2. The undersigned witnesses, after being duly sworn, declare to the testator and to the undersigned authority:
 - a. The testator declared to us that this instrument is the testator's Will.
 - b. The testator requested us to act as witnesses to the testator's Will and signature.
 - c. The testator then signed this Will in our presence, all of us being present at the same time.
 - d. The testator is 18 years of age or over (or being under such age, is or has been lawfully married, or is a member of the armed forces of the United States or of an auxiliary of the armed forces of the United States or of the United States Maritime Service).
 - e. We believe the testator to be of sound mind.
 - f. We are each at least 14 years of age.
 - g. We now sign our names as attesting witnesses in the presence of the testator, each other, and the undersigned authority on ___/___/___.
 Month/Day/Year

First witness signs here

Second witness signs here

Subscribed and sworn to before me
by the Testator and the Witnesses,
on ___/___/___.

Notary Public, State of Texas
(Seal)

End of Will

WILL FORM

For A Married Person with No Children

This is the right Will Form if:

- You are currently married (formally or common law) **and**
- Your spouse is alive **and**
- You have NO children, grandchildren, or people you intend to include in your will as children or grandchildren.

If this is NOT the right Will Form, there are three other Will Forms that may apply to you. Check the other three forms to see if they will work for you.

- *It is always best to use an attorney. This Will Kit is not a substitute for legal advice. Wills are complicated. If you have a question about any part of the instructions or the will in this Will Kit, it is best to talk to an attorney.*
- *Instructions in italics are for your information only. They are not a part of this Will. Read through the separate instructions and notary instructions with this Will Form before you begin filling out the Will.*
- *The person making this Will is called the Testator.*
- *It is best to fill out the form online. If you do not fill it out online, use the same pen to fill out the entire form.*
- *Type or print clearly in all blanks; or if you do not need to fill in a blank or space, cross it out. This will prevent anyone, even you, from changing your Will after you have signed and dated it.*
- *Unless the form or instructions say differently, do not add or mark through any words in this Will. Some sections have no blanks to fill in. They are needed for legal reasons. Do not add or delete anything from these sections.*
- *Someone receiving a gift in your Will should not sign your Will as a witness.*

IMPORTANT: Any changes made to the Will after you sign it are not valid. If you want to change ANYTHING, rip the Will up, and start over with a new one.

WILL

SECTION 1. IDENTIFICATION

Type or print clearly the full names of people in the correct blanks. If possible, list names as they appear on legal documents like a driver's license, state ID, birth certificate, or other official document. Listing your spouse in 1.2 identifies who will receive your property under Section 2.2 "Everything I Own."

1.1. My name is _____.

First Middle Initial Last Suffix (Jr. Sr., etc.)

I am sometimes also known as _____.

First Middle Initial Last Suffix (Jr. Sr., etc.)

This is my Will. I revoke and cancel any Wills I made before this one.

1.2. I am married to _____, who is now living.

First Middle Initial Last Suffix (Jr. Sr., etc.)

This person will be referred to as "my spouse" in this Will.

1.3. I have no children.

SECTION 2. GIVING MY PROPERTY

2.1 In this Will, I intend to give away my separate property and only my half of community property.

Note: You can only give away your separate property and your half of community property.

2.2. **Everything I Own, Except for Specific Gifts**

You have two choices under this section: Choice #1 – leave your property to your spouse or Choice #2 – leave your property to person(s) and/or organization(s) other than your spouse. Filling out either choice does not stop you from giving specific items to certain people you name. You will do this in Section 2.3 "Specific Gifts."

Complete and sign **only one** choice. Cross out the other one.

If I sign both or neither choice and my spouse survives me, then everything I own, except for any specific gifts, passes under Choice #1.

Choice #1 <i>All to the surviving spouse, except for any specific gifts</i>	I give everything I own to my spouse, if my spouse survives me, except for any specific gifts. If my spouse does not survive me, I give everything I own to the following persons who survive me and/or organizations, except for any specific gifts. _____ <i>Testator: If you choose this option, sign here</i>
Choice #2 <i>Nothing to surviving spouse, except for any specific gifts</i>	EVEN IF my spouse survives me, I give everything I own, except for any specific gifts, in equal shares to the following person(s) and/or organization(s) listed below: <i>Write the first & last names and middle initial of the person(s) and/or full name & location of organization(s).</i> _____ _____ _____ <i>Testator: If you choose this option, sign here</i>

2.3. Specific Gifts

This section is optional. You can choose to fill in all, some, or none of the three sections listed here. The previous section, Section 2.2 "Everything I Own", will apply to any property not listed here in Section 2.3. If you do not fill in a space, cross the space out. The three sections are:

<p>Section 2.3.A Giving My Home</p>	<p>Use this section to give a specific person or persons your interest in your home. It does not include the items inside the home.</p>
<p>Section 2.3.B. Giving My Personal and Household Items</p>	<p>Use this section to give away your interest in <u>all</u> the items inside your home. This includes household goods, furniture, tools, clothes, and other items. You can use both this section and Section 2.3.C. if you want to give someone a particular item but still give the bulk of your personal and household items to another person.</p>
<p>Section 2.3.C. Giving Specific Items or Property</p>	<p>Use this section to give a person a specific item. Examples include vehicles, boats, jewelry, valuables, <u>particular</u> items in your home, real estate other than your home, or other items.</p>

2.3.A. Giving My Home

Complete this section only if you want to give your interest in your home to one or more specific persons. If you do not complete this section, your home will go to whom you named in Section 2.2 "Everything I Own."

This section is for your home only, not your personal and household items. You can give your personal and household items in the next section, Section 2.3.B "Giving My Personal and Household Items."

If you do not fill in a space, cross the space out.

<p>I give my interest in my home, subject to mortgages and liens, in equal shares to the following person or persons who survive me. If none of these people survives me, my interest in my home will pass under Section 2.2 "Everything I Own."</p>			
<p>First</p>	<p>Middle Initial</p>	<p>Last</p>	<p>Suffix (Jr. Sr., etc.)</p>
<p>First</p>	<p>Middle Initial</p>	<p>Last</p>	<p>Suffix</p>
<p>First</p>	<p>Middle Initial</p>	<p>Last</p>	<p>Suffix</p>
<p>First</p>	<p>Middle Initial</p>	<p>Last</p>	<p>Suffix</p>
<p>First</p>	<p>Middle Initial</p>	<p>Last</p>	<p>Suffix</p>
<p>First</p>	<p>Middle Initial</p>	<p>Last</p>	<p>Suffix</p>

Testator: Sign Your Name Here

2.3.B. Giving My Personal and Household Items

Complete this section if you want to give all your interest in your personal and household items to one or more people you name to be divided among them.

You may also give a specific item to a specific person by using the next section, 2.3.C. "Giving Specific Items or Property."

Section 2.2 "Everything I Own" will apply to any items you do not give under this section or Section 2.3.C. "Giving Specific Items or Property." If you do not fill in a space, cross the space out.

"Personal and household items" means all household goods, furniture, furnishings, tools, garden equipment, china, silver, works of art, jewelry, clothing, personal effects, and any other similar items of personal property.

<p>Except for any specific gifts I make in Section 2.3.C "Giving Specific Items or Property," I give all of my interest in my personal and household items in equal shares to the following person or persons who survive me. If none of these people survives me, my interest in these items will pass under Section 2.2 "Everything I Own." My interest in these items shall be divided among them as they agree. If they cannot agree, the Executor will decide.</p>			
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>
<i>First</i>	<i>Middle Initial</i>	<i>Last</i>	<i>Suffix</i>

Testator: Sign Your Name Here

2.3.C. Giving Specific Items or Property

Complete this section if you want to give someone your interest in a specific item or property. Examples include vehicles, boats, jewelry, valuables, particular items in your home, real estate other than your home, or other items.

If you do not fill in a space, cross the space out.

I give my interest in each item listed below to the person named next to the item if that person survives me.

<p><u>Item(s) to be given:</u> <i>Please describe in detail</i></p>	<p><u>Full name of person getting item(s):</u></p>
	<p><i>First Middle Initial Last Suffix (Jr. Sr., etc.)</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>
	<p><i>First Middle Initial Last Suffix</i></p>

Testator: Sign Your Name Here

SECTION 3. INDEPENDENT EXECUTOR

In this section you choose the person you want to be in charge of your estate after you die. This person must be 18 years old or over and cannot be a convicted felon.

Your choice of Independent Executor must be approved by the Court before he or she can act as Independent Executor. After appointment, the Court generally does not supervise the Independent Executor.

If you use this Will form, you can only have one Independent Executor in charge at a time. It is best to name a second and third choice in case someone you name cannot serve as Independent Executor.

If you do not fill in a space, cross the space out.

- 3.1.** I name the following persons in the order listed to be appointed as sole Independent Executor of my Will and estate. If a person does not serve or stops serving for any reason, then I name the next listed person.

1. Name of First Choice for Independent Executor			
_____	_____	_____	_____
<i>First</i>	<i>Middle</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

2. Name of Second Choice for Independent Executor			
_____	_____	_____	_____
<i>First</i>	<i>Middle</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

3. Name of Third Choice for Independent Executor			
_____	_____	_____	_____
<i>First</i>	<i>Middle</i>	<i>Last</i>	<i>Suffix (Jr. Sr., etc.)</i>

- 3.2.** My Independent Executor is not required to post a bond in any jurisdiction.
- 3.3.** Once appointed by the Court, the Independent Executor shall administer and distribute the estate as required by law. The power to administer the estate includes the power to sell real and personal property. The Independent Executor can act without the consent of my beneficiaries.
- 3.4.** No action shall be had in the Probate Court in relation to the settlement of my estate other than the probating and recording of this Will, notice to beneficiaries as required by the Texas Estates Code, and the return of any required inventory, appraisalment, and list of claims owed to my estate.

Testator: Sign Your Name Here

**SECTION 4. CUSTODIAN FOR PERSONS UNDER AGE 21
WHO RECEIVE GIFTS UNDER THIS WILL.**

- 4.1. Any gift to a person under 21 may instead be delivered to a Custodian for that person under the Uniform Transfers to Minor Act of Texas or any other state.
- 4.2. My Executor may name a Custodian for any beneficiary under age 21.
- 4.3. My Executor may consider appointing a beneficiary's surviving as Custodian but is not required to do so.
- 4.4. My Executor may name different Custodians for different beneficiaries.
- 4.5. My Executor may also serve as Custodian.

SECTION 5. TEXAS LAW APPLIES AND SURVIVORSHIP

- 5.1. Texas law shall apply to all matters related to this Will.
- 5.2. No person shall be considered to have survived me unless that person is living 30 days after my death.
- 5.3. My spouse and I have no contract or agreement regarding this Will. I may change this Will at any time without notice to my spouse.

SECTION 6. EXECUTION, ATTESTATION, AND SELF-PROOF OF WILL

*DO NOT sign UNTIL the Testator, Witnesses, & Notary are all in the same room.
DO NOT LEAVE until everyone has signed.*

Before me, the undersigned authority, on this day personally appeared the following:

**Print
Names
Here**

_____, the Testator.
First Middle Initial Last Suffix (Jr. Sr., etc.) The Testator is the person making this Will

_____, the first witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

_____, the second witness.
First Middle Initial Last Suffix (Jr. Sr., etc.)

1. I, as the Testator, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority:
 - a. This instrument is my Will.
 - b. I willingly make and execute this Will as my free act and deed.
 - c. I execute this Will in the presence of the undersigned witnesses, all of whom are present at the same time.
 - d. I request each of the undersigned witnesses to sign this Will in my presence and in the presence of each other.
 - e. I now sign this Will in the presence of the attesting witnesses and the undersigned authority on
 ___/___/___.
 Month/ Day/ Year

Testator: Sign your name here

2. The undersigned witnesses, after being duly sworn, declare to the testator and to the undersigned authority:
 - a. The testator declared to us that this instrument is the testator's Will.
 - b. The testator requested us to act as witnesses to the testator's Will and signature.
 - c. The testator then signed this Will in our presence, all of us being present at the same time.
 - d. The testator is 18 years of age or over (or being under such age, is or has been lawfully married, or is a member of the armed forces of the United States or of an auxiliary of the armed forces of the United States or of the United States Maritime Service).
 - e. We believe the testator to be of sound mind.
 - f. We are each at least 14 years of age.
 - g. We now sign our names as attesting witnesses in the presence of the testator, each other, and the undersigned authority on ___/___/___.
 Month/Day/Year

First witness signs here

Second witness signs here

Subscribed and sworn to before me
by the Testator and the Witnesses,
on ___/___/___.

Notary Public, State of Texas
(Seal)

End of Will

Tab F

Walker, Marti

From: Richard G. Munzinger <Rmun@scotthulse.com>
Sent: Monday, June 17, 2019 3:44 PM
To: Walker, Marti
Cc: 'dpeeples36@yahoo.com'; 'Schenkkan, Pete'; Jeffrey S. Boyd (Jeff.Boyd@txcourts.gov); ecarlson@stcl.edu; 'wainwrightd@gtlaw.com'; Elaine Carlson (elainecarlson@comcast.net) (elainecarlson@comcast.net); nina.cortell@haynesboone.com; rhardin@rustyhardin.com; 'cenocho@enochkever.com'; 'Martha.Newton@txcourts.gov'
Subject: Report of Rule 167 Subcommittee
Attachments: Correspondence to Ms. Newton.pdf; TRCP 167.pdf

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Rule 167.2(e)(2) imposes a 60-day waiting period after the appearance of the offeror or offeree, whichever is later, before an offer of settlement can be made under the rule. Subsection 167(b)(4) requires that the terms of a settlement offer include "attorney fees ... that would be recoverable up to the time of the offer." In 2017, former Justices Wainwright and Enoch raised the issue of whether the 60 day waiting period was too long in cases involving later joined parties and as a practical matter possibly preventing use of the rule. (Their correspondence with Ms. Newton, Rules Attorney, raising the issue is attached as is the text of Rule 167.)

Apparently some practitioners report that the 60-day waiting period is often unnecessary and increases the amount required to settle a claim under the Rule. For example, assume that at the time the plaintiff sues a defendant, only \$250 in attorney's fees have been incurred. No further fees are then incurred, as the plaintiff waits to see whether the defendant will appear and not default. When the plaintiff either learns the defendant will appear or actually answers the lawsuit, the plaintiff's lawyer then has 60 days during which he can incur additional fees that must be considered. So, despite the defendant recognizing that the case should be settled, and knowing it could be settled while accounting for \$250 in fees, the defendant cannot make the offer to settle for at least 60 days. And the plaintiff's lawyer is free to start billing to the file, investigating, drafting discovery, etc. So as a result, the defendant can't offer to settle covering only \$250 in fees, but must now account for fees incurred during that 60-day period — perhaps as much as several thousands of dollars that may have been totally unnecessary to the settlement process, but the defendant had no hope to avoid with an early settlement offer.

The Court asks the Advisory Committee's advice whether the 60-day waiting period should be eliminated or shortened.

Reviewing the transcripts from April and June 2003, it appears the Advisory Committee was concerned to allow both plaintiffs and defendants sufficient time to evaluate the case to determine whether to invoke the Rule. In the 2003 meetings there was extensive discussion and general concern that parties should not be forced to make a decision under the Rule without sufficient time to obtain information, including discovery, allowing a considered judgment. The Rule as phrased applies the time limit to later joined parties as well as the original parties, giving all parties the 60 days to consider and make a decision as to invoking the Rule.


The Subcommittee believes that the original discussions in 2003 of the time periods were extensive and properly respectful of the needs of counsel to have information to make an informed judgment and believes that there is no reason to change those time periods insofar as applicable to the original parties to a case. The Subcommittee members have had no experience regarding later joined parties and have no recommendation, believing that the entire SCAC's experience should be considered on that issue.

By copies of this email to Justices Enoch and Wainwright the Subcommittee invites their comments.

Richard G. Munzinger

Attorney

Direct: 915.546.8231 Main: 915.533.2493 Fax: 915.546.8333

rmun@ScottHulse.com | [vCard](#) |  | ScottHulse.com

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One San Jacinto Plaza

201 E. Main Dr., Ste. 1100, El Paso, TX 79901

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Tab G

Peeples, David

To: mun@scotthulse.com; Justice Boyd (jeff.boyd@txcourts.gov); ecarlson@stcl.edu; Elaine Carlson (elainecarlson@comcast.net); Cortell, Nina (Nina.Cortell@haynesboone.com); rhardin@rustyhardin.com; cristina.rodriguez@hoganlovells.com
Subject: RE: Offer of Judgment Rule
Attachments: 2017-7-14 C. Babcock letter to 166-166a Subcommittee re July 5, 2017 Referral Letter.pdf; SCAC-July 5, 2017 Referral Letter and Attachment.pdf

Dear Subcommittee,

We have been asked to take on the following assignment:

Texas Rule of Civil Procedure 167. Rule 167.2(e)(2) imposes a 60-day waiting period after the appearance of the offeror or offeree, whichever is later, before an offer of settlement can be made under the rule. Subsection (b)(4) requires that the terms of a settlement offer include "attorney fees . . . that would be recoverable up to the time of the offer." Practitioners report that the 60-day waiting period is often unnecessary and increases the amount required to settle a claim under the rule. The Court asks the Committee's advice whether the 60-day waiting period should be eliminated or shortened.

This task arose from the correspondence below between Former Justices Enoch and Wainwright and the Court's rules attorney, Martha Newton. I ask each of you to reread Rule 167 and to think about the issue that has been raised. I would like to have a conference call to discuss this on one of the following days: Monday-Tuesday-Wednesday, Oct. 23-25, or Friday, Nov. 3. I am open to any hour between 8:00 a.m. and 5:30 p.m. Please reply and let me know what is best for you. I envision a 30- or 45-minute discussion.

Thanks,
David

From: Craig Enoch [mailto:cenoch@enochkever.com]
Sent: Wednesday, July 05, 2017 12:29 PM
To: Martha Newton <Martha.Newton@txcourts.gov>; wainwrightd@gtlaw.com
Subject: RE: Offer of Judgment Rule

Yes, that's correct. It's fees that could be run up after the defendant answers, because the defendant cannot even make an offer to settle until after 60 days expires from when it answered.

- Craig



5918 W. Courtyard Drive, Suite 500 | Austin, TX 78730
512.615.1202 (dir.) | 512.615.1198 (fax) | cenoch@enochkever.com

From: Martha Newton [<mailto:Martha.Newton@txcourts.gov>]
Sent: Monday, June 26, 2017 10:09 AM
To: Craig Enoch; wainwrightd@gtlaw.com
Subject: RE: Offer of Judgment Rule

Thanks for this response. So to confirm: the complaint is that fees incurred in the first 60 days increase the amount that must be offered to settle a lawsuit under the rule (as opposed to the amount of litigation costs at stake when an offer is rejected)?

If that's accurate, we'll ask SCAC to take another look. We're working on a letter now that refers other issues, and we'll add this one.

From: Craig Enoch [<mailto:cenoch@enochkever.com>]
Sent: Tuesday, June 20, 2017 4:26 PM
To: Martha Newton <Martha.Newton@txcourts.gov>; wainwrightd@gtlaw.com
Subject: RE: Offer of Judgment Rule

Martha – Thanks for the question. It is true under the current rule that AFTER the offer is rejected any further-incurred fees cannot be considered. But the problem Dale and I've been asked to present is that under the existing rule, a newly-added party cannot even make a settlement offer until after 60 days, and additional attorney's fees can be incurred during that 60 day period, which must then be considered.

For example, let's say that at the time the plaintiff sues a defendant, only \$250 in attorney's fees have been incurred. No further fees are then incurred, as the plaintiff waits to see whether the defendant will appear and not default. When the plaintiff either learns the defendant will appear or actually answers the lawsuit, the plaintiff's lawyer then has 60 days during which he can incur additional fees that must be considered. So, despite the defendant recognizing that the case should be settled, and knowing it could be settled while accounting for \$250 in fees, the defendant cannot make the offer to settle for at least 60 days. And the plaintiff's lawyer is free to start billing to the file, investigating, drafting discovery, etc. So as a result, the defendant can't offer to settle covering only \$250 in fees, but must now account for fees incurred during that 60-day period – perhaps as much as several thousands of dollars that may have been totally unnecessary to the settlement process, but the defendant had no hope to avoid with an early settlement offer.

I hope this gives more clarity to my concern about the rule as written. And I'm happy to visit further.

Dale – please feel free to weigh in.

Martha - Thanks again for looking at this.

- Craig



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From: Martha Newton [<mailto:Martha.Newton@txcourts.gov>]
Sent: Thursday, June 15, 2017 5:13 PM
To: Craig Enoch; wainwrightd@gtlaw.com
Subject: Offer of Judgment Rule

Justices Enoch and Wainwright:

I seek some clarification on the problem with Rule 167 that your clients have raised. At our lunch meeting, I understood the complaint to be that opposing counsel are running up attorneys' fees within the 60-day waiting period prescribed by Rule 167.2(e)(2) in order to maximize any potential recovery of litigation costs later on. But under Rule 167.4(a), litigation costs awarded under the rule are measured "from the time the offer was rejected to the time of judgment." That measuring period is prescribed by HB 4 and CPRC § 42.004(c).

Is the complaint that lawyers are running up fees after an offer has been rejected? Or is it something else related to the 60-day waiting period?

Martha G. Newton
Rules Attorney
Supreme Court of Texas
512.463.1353 (direct)
martha.newton@txcourts.gov

Peeples, David

From: Martha Newton <Martha.Newton@txcourts.gov>
Sent: Monday, July 24, 2017 10:46 AM
To: Peeples, David
Subject: FW: Offer of Judgment Rule

Here you go. They initially raised the issue during an in-person meeting with me and the Chief. This email exchange is a follow up to that meeting.

From: Craig Enoch [<mailto:cenoch@enochkever.com>]
Sent: Wednesday, July 05, 2017 12:29 PM
To: Martha Newton <Martha.Newton@txcourts.gov>; wainwrightd@gtlaw.com
Subject: RE: Offer of Judgment Rule

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For example, let's say that at the time the plaintiff sues a defendant, only \$250 in attorney's fees have been incurred. No further fees are then incurred, as the plaintiff waits to see whether the

defendant will appear and not default. When the plaintiff either learns the defendant will appear or actually answers the lawsuit, the plaintiff's lawyer then has 60 days during which he can incur additional fees that must be considered. So, despite the defendant recognizing that the case should be settled, and knowing it could be settled while accounting for \$250 in fees, the defendant cannot make the offer to settle for at least 60 days. And the plaintiff's lawyer is free to start billing to the file, investigating, drafting discovery, etc. So as a result, the defendant can't offer to settle covering only \$250 in fees, but must now account for fees incurred during that 60-day period – perhaps as much as several thousands of dollars that may have been totally unnecessary to the settlement process, but the defendant had no hope to avoid with an early settlement offer.

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Martha - Thanks again for looking at this.

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Sent: Thursday, June 15, 2017 5:13 PM
To: Craig Enoch; wainwrightd@gtlaw.com
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Is the complaint that lawyers are running up fees after an offer has been rejected? Or is it something else related to the 60-day waiting period?

Martha G. Newton
Rules Attorney
Supreme Court of Texas
512.463.1353 (direct)
martha.newton@txcourts.gov

Tab H

RULE 167. OFFER OF SETTLEMENT; AWARD OF LITIGATION COSTS

167.1. Generally.

Certain litigation costs may be awarded against a party who rejects an offer made substantially in accordance with this rule to settle a claim for monetary damages - including a counterclaim, crossclaim, or third-party claim - except in:

- (a) a class action;

- (b) a shareholder's derivative action;
- (c) an action by or against the State, a unit of state government, or a political subdivision of the State;
- (d) an action brought under the Family Code;
- (e) an action to collect workers' compensation benefits under title 5, subtitle A of the Labor Code; or
- (f) an action filed in a justice of the peace court or small claims court.

167.2. Settlement Offer

- (a) *Defendant's declaration a prerequisite; deadline.* A settlement offer under this rule may not be made until a defendant -- a party against whom a claim for monetary damages is made -- files a declaration invoking this rule. When a defendant files such a declaration, an offer or offers may be made under this rule to settle only those claims by and against that defendant. The declaration must be filed no later than 45 days before the case is set for conventional trial on the merits.
- (b) *Requirements of an offer.* A settlement offer must:
 - (1) be in writing;
 - (2) state that it is made under Rule 167 and Chapter 42 of the Texas Civil Practice and Remedies Code;
 - (3) identify the party or parties making the offer and the party or parties to whom the offer is made;
 - (4) state the terms by which all monetary claims - including any attorney fees, interest, and costs that would be recoverable up to the time of the offer - between the offeror or offerors on the one hand and the offeree or offerees on the other may be settled;
 - (5) state a deadline - no sooner than 14 days after the offer is served - by which the offer must be accepted;
 - (6) be served on all parties to whom the offer is made.
- (c) *Conditions of offer.* An offer may be made subject to reasonable conditions, including the execution of appropriate releases, indemnities, and other documents. An offeree may object to a condition by written notice served on the offeror before the deadline stated in the offer. A condition to which no such objection is made is presumed to have been reasonable. Rejection of an offer made subject to a condition determined by the trial court to have been unreasonable cannot be the basis for an award of litigation costs under this rule.

- (d) *Non-monetary and excepted claims not included.* An offer must not include non-monetary claims and other claims to which this rule does not apply.
- (e) *Time limitations.* An offer may not be made:
 - (1) before a defendant's declaration is filed;
 - (2) within 60 days after the appearance in the case of the offeror or offeree, whichever is later;
 - (3) within 14 days before the date the case is set for a conventional trial on the merits, except that an offer may be made within that period if it is in response to, and within seven days of, a prior offer.
- (f) *Successive offers.* A party may make an offer after having made or rejected a prior offer. A rejection of an offer is subject to imposition of litigation costs under this rule only if the offer is more favorable to the offeree than any prior offer.

167.3. Withdrawal, Acceptance, and Rejection of Offer

- (a) *Withdrawal of offer.* An offer can be withdrawn before it is accepted. Withdrawal is effective when written notice of the withdrawal is served on the offeree. Once an unaccepted offer has been withdrawn, it cannot be accepted or be the basis for awarding litigation costs under this rule.
- (b) *Acceptance of offer.* An offer that has not been withdrawn can be accepted only by written notice served on the offeror by the deadline stated in the offer. When an offer is accepted, the offeror or offeree may file the offer and acceptance and may move the court to enforce the settlement.
- (c) *Rejection of offer.* An offer that is not withdrawn or accepted is rejected. An offer may also be rejected by written notice served on the offeror by the deadline stated in the offer.
- (d) *Objection to offer made before an offeror's joinder or designation of responsible third party.* An offer made before an offeror joins another party or designates a responsible third party may not be the basis for awarding litigation costs under this rule against an offeree who files an objection to the offer within 15 days after service of the offeror's pleading or designation.

167.4. Awarding Litigation Costs

- (a) *Generally.* If a settlement offer made under this rule is rejected, and the judgment to be awarded on the monetary claims covered by the offer is significantly less favorable to the offeree than was the offer, the court must award the offeror litigation costs against the offeree from the time the offer was rejected to the time of judgment.

- (b) *“Significantly less favorable” defined.* A judgment award on monetary claims is significantly less favorable than an offer to settle those claims if:
- (1) the offeree is a claimant and the judgment would be less than 80 percent of the offer; or
 - (2) the offeree is a defendant and the judgment would be more than 120 percent of the offer.
- (c) *Litigation costs.* Litigation costs are the expenditures actually made and the obligations actually incurred - directly in relation to the claims covered by a settlement offer under this rule - for the following:
- (1) court costs;
 - (2) reasonable deposition costs, in cases filed on or after September 1, 2011;
 - (3) reasonable fees for not more than two testifying expert witnesses; and
 - (4) reasonable attorney fees.
- (d) *Limits on litigation costs.* The litigation costs that may be awarded under this rule must not exceed the following amount:
- (1) In cases filed before September 1, 2011, litigation costs that may be awarded under this rule must not exceed the following amount:
 - (A) the sum of the noneconomic damages, the exemplary or additional damages, and one-half of the economic damages to be awarded to the claimant in the judgment; minus
 - (B) the amount of any statutory or contractual liens in connection with the occurrences or incidents giving rise to the claim.
 - (2) In cases files on or after September 1, 2011, the litigation costs that may be awarded to any party under this rule must not exceed the total amount that the claimant recovers or would recover before adding an award of litigation costs under this rule in favor of the claimant or subtracting as an offset an award of litigation costs under this rule in favor of the defendant.
- (e) *No double recovery permitted.* A party who is entitled to recover attorney fees and costs under another law may not recover those same attorney fees and costs as litigation costs under this rule.
- (f) *Limitation on attorney fees and costs recovered by a party against whom litigation costs*

are awarded. A party against whom litigation costs are awarded may not recover attorney fees and costs under another law incurred after the date the party rejected the settlement offer made the basis of the award.

- (g) *Litigation costs to be awarded to defendant as a setoff.* Litigation costs awarded to a defendant must be made a setoff to the claimant's judgment against the defendant.

167.5. Procedures

- (a) *Modification of time limits.* On motion, and for good cause shown, the court may -- by written order made before commencement of trial on the merits -- modify the time limits for filing a declaration under Rule 167.2(a) or for making an offer.
- (b) *Discovery permitted.* On motion, and for good cause shown, a party against whom litigation costs are to be awarded may conduct discovery to ascertain the reasonableness of the costs requested. If the court determines the costs to be reasonable, it must order the party requesting discovery to pay all attorney fees and expenses incurred by other parties in responding to such discovery.
- (c) *Hearing required.* The court must, upon request, conduct a hearing on a request for an award of litigation costs, at which the affected parties may present evidence.

167.6. Evidence Not Admissible

Evidence relating to an offer made under this rule is not admissible except for purposes of enforcing a settlement agreement or obtaining litigation costs. The provisions of this rule may not be made known to the jury by any means.

167.7. Other Settlement Offers Not Affected

This rule does not apply to any offer made in a mediation or arbitration proceeding. A settlement offer not made in compliance with this rule, or a settlement offer not made under this rule, or made in an action to which this rule does not apply, cannot be the basis for awarding litigation costs under this rule as to any party. This rule does not limit or affect a party's right to make a settlement offer that does not comply with this rule, or in an action to which this rule does not apply.

[RULE 167a. Repealed effective January 1, 1999]

Tab I

Pro Se Name Change Instructions, Petitions and Orders

There are a lot of pro se name change petitions:

Travis County: 757 out of 757 in 2017, 702 out of 702 in 2018.

Bexar County: roughly 600 per year.

Harris County Law Library: 11,678 unique adult and 6,689 unique child name change petition, order and instruction kit downloads in 2018

TexasLawHelp: 16,461 and 7,235 downloads in 2018 (documents, not kits)

Goals: In his Jan. 7 letter Chip asked the Rule 215 subcommittee to “report your views on the name change issue” and attached drafts provided to the Court by Trish McAllister, Executive Director of the Access to Justice Commission.

The subcommittee sought to provide the full SCAC with drafts intended to help pro se petitioners provide district courts with petitions, documents, testimony and proposed orders that satisfy applicable statutes and rules (see separate memo)

Process:

Trish, ATJ Civil Justice Attorney Kristen Levins and Pete Schenkkan met Jan. 25 met to discuss the drafts.

The subcommittee reviewed, commented, and asked questions by email. Trish and Kristen made changes and gave explanations March 25.

Notified April 29 that this issue was on the May 3 agenda, Pete reached out to the family law section leadership.

Chris Nickelson immediately provided useful comments. Trish and Kristen revised the drafts. Chip agreed to postpone SCAC discussion to permit wider family law bar comments.

Chris Nickelson and Chris Wrampelmeier provided additional comments June 14, discussed by phone June 17 with the subcommittee, Trish and Kristen.

Trish and Kristen made further changes in response.

Tab J

Relevant Statutes and Rules
Adult and Child Name Change

Texas Civil Practices and Remedies Code Section 30.014

Texas Family Code Chapter 45

Texas Government Code Section 411.088(a)

Texas Rules of Civil Procedure 21c

TEXAS CIVIL PRACTICES AND REMEDIES CODE

Sec. 30.014. PLEADINGS MUST CONTAIN PARTIAL IDENTIFICATION INFORMATION. (a) In a civil action filed in a district court, county court, or statutory county court, each party or the party's attorney shall include in its initial pleading:

- (1) the last three numbers of the party's driver's license number, if the party has been issued a driver's license; and
- (2) the last three numbers of the party's social security number, if the party has been issued a social security number.

(b) A court may, on its own motion or the motion of a party, order that an initial pleading be amended to contain the information listed under Subsection (a) if the court determines that the pleading does not contain that information. A court may find a party in contempt if the party does not amend the pleading as ordered by the court under this subsection.

TEXAS FAMILY CODE

Sec. 45.001. WHO MAY FILE; VENUE. A parent, managing conservator, or guardian of a child may file a petition requesting a change of name of the child in the county where the child resides.

Sec. 45.002. REQUIREMENTS OF PETITION. (a) A petition to change the name of a child must be verified and include:

- (1) the present name and place of residence of the child;
- (2) the reason a change of name is requested;
- (3) the full name requested for the child;
- (4) whether the child is subject to the continuing exclusive jurisdiction of a court under Chapter 155; and
- (5) whether the child is subject to the registration requirements of Chapter 62, Code of Criminal Procedure.

(b) If the child is 10 years of age or older, the child's written consent to the change of name must be attached to the petition.

Sec. 45.003. CITATION. (a) The following persons are entitled to citation in a suit under this subchapter:

- (1) a parent of the child whose parental rights have not been terminated;
- (2) any managing conservator of the child; and

- (3) any guardian of the child.
- (b) Citation must be issued and served in the same manner as under Chapter [102](#).

Sec. 45.0031. WAIVER OF CITATION. (a) A party to a suit under this subchapter may waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) The party executing the waiver may not sign the waiver using a digitized signature.

(c) The waiver must contain the mailing address of the party executing the waiver.

(d) Notwithstanding Section [132.001](#), Civil Practice and Remedies Code, the waiver must be sworn before a notary public who is not an attorney in the suit. This subsection does not apply if the party executing the waiver is incarcerated.

(e) The Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

(f) For purposes of this section, "digitized signature" has the meaning assigned by Section [101.0096](#).

Sec. 45.004. ORDER. (a) The court may order the name of a child changed if:

(1) the change is in the best interest of the child; and

(2) for a child subject to the registration requirements of Chapter [62](#), Code of Criminal Procedure:

(A) the change is in the interest of the public; and

(B) the person petitioning on behalf of the child provides the court with proof that the child has notified the appropriate local law enforcement authority of the proposed name change.

(b) If the child is subject to the continuing jurisdiction of a court under Chapter 155, the court shall send a copy of the order to the central record file as provided in Chapter 108.

(c) In this section, "local law enforcement authority" has the meaning assigned by Article [62.001](#), Code of Criminal Procedure.

Sec. 45.005. LIABILITIES AND RIGHTS UNAFFECTED. A change of name does not:

(1) release a child from any liability incurred in the child's previous name; or

(2) defeat any right the child had in the child's previous name.

Sec. 45.101. WHO MAY FILE; VENUE. An adult may file a petition requesting a change of name in the county of the adult's place of residence.

Sec. 45.102. REQUIREMENTS OF PETITION. (a) A petition to change the name of an adult must be verified and include:

(1) the present name and place of residence of the petitioner;

(2) the full name requested for the petitioner;

(3) the reason the change in name is requested;

(4) whether the petitioner has been the subject of a final felony conviction;

(5) whether the petitioner is subject to the registration requirements of Chapter 62, Code of Criminal Procedure; and

(6) a legible and complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

(b) The petition must include each of the following or a reasonable explanation why the required information is not included:

(1) the petitioner's:

(A) full name;

(B) sex;

(C) race;

(D) date of birth;

(E) driver's license number for any driver's license issued in the 10 years preceding the date of the petition;

(F) social security number; and

(G) assigned FBI number, state identification number, if known, or any other reference number in a criminal history record system that identifies the petitioner;

(2) any offense above the grade of Class C misdemeanor for which the petitioner has been charged; and

(3) the case number and the court if a warrant was issued or a charging instrument was filed or presented for an offense listed in Subsection (b)(2).

Sec. 45.103. ORDER. (a) The court shall order a change of name under this subchapter for a person other than a person with a final felony conviction or a person subject to the registration requirements of Chapter 62, Code of Criminal Procedure, if the change is in the interest or to the benefit of the petitioner and in the interest of the public.

(b) A court may order a change of name under this subchapter for a person with a final felony conviction if, in addition to the requirements of Subsection (a), the person has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or completed a period of community supervision or juvenile probation ordered by a court and not less than two years have passed from the date of the receipt of discharge or completion of community supervision or juvenile probation; or

(2) been pardoned.

(c) A court may order a change of name under this subchapter for a person subject to the registration requirements of Chapter 62, Code of Criminal Procedure, if, in addition to the requirements of Subsection (a), the person provides the court with proof that the person has notified the appropriate local law enforcement authority of the proposed name change. In this subsection, "local law enforcement authority" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

Sec. 45.104. LIABILITIES AND RIGHTS UNAFFECTED. A change of name under this subchapter does not release a person from liability incurred in that person's previous name or defeat any right the person had in the person's previous name.

Sec. 45.105. CHANGE OF NAME IN DIVORCE SUIT. (a) On the final disposition of a suit for divorce, for annulment, or to declare a marriage void, the court shall enter a decree changing the name of a party specially praying for the change to a prior used name unless the court states in the decree a reason for denying the change of name. The court may not deny a change of name solely to keep last names of family members the same.

(b) A person whose name is changed under this section may apply for a change of name certificate from the clerk of the court as provided by Section [45.106](#).

Sec. 45.106. CHANGE OF NAME CERTIFICATE. (a) A person whose name is changed under Section [6.706](#) or [45.105](#) may apply to the clerk of the court ordering the name change for a change of name certificate.

(b) A certificate under this section is a one-page document that includes:

- (1) the name of the person before the change of name was ordered;
- (2) the name to which the person's name was changed by the court;
- (3) the date on which the name change was made;
- (4) the person's social security number and driver's license number, if any;
- (5) the name of the court in which the name change was ordered; and
- (6) the signature of the clerk of the court that issued the certificate.

(c) An applicant for a certificate under this section shall pay a \$10 fee to the clerk of the court for issuance of the certificate.

(d) A certificate under this section constitutes proof of the change of name of the person named in the certificate.

Sec. 45.107. WAIVER OF CITATION. (a) A party to a suit under this subchapter may waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) The party executing the waiver may not sign the waiver using a digitized signature.

(c) The waiver must contain the mailing address of the party executing the waiver.

(d) Notwithstanding Section [132.001](#), Civil Practice and Remedies Code, the waiver must be sworn before a notary public who is not an attorney in the suit. This subsection does not apply if the party executing the waiver is incarcerated.

(e) The Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

(f) For purposes of this section, "digitized signature" has the meaning assigned by Section [101.0096](#).

TEXAS GOVERNMENT CODE

Sec. 411.088. FEES. (a) Except as otherwise provided by Subsection (a-1), the department [Department of Public Service] may charge a person a fee for processing inquiries for criminal history record information. The department may charge:

(1) a fee of \$10 for each inquiry for criminal history record information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which event the fee is \$1;

(2) a fee of \$15 for each inquiry for criminal history record information on a person that is processed on the basis of a fingerprint comparison search; and

(3) except as provided by Subsection (b), actual costs for processing all other information inquiries.

(a-1) The department may not charge a fee under Subsection (a) for providing criminal history record information to:

(1) a criminal justice agency;

(2) the office of capital and forensic writs; or

(3) a public defender's office.

(b) The department may not charge for processing an electronic inquiry for information described as public information under Article 62.005, Code of Criminal Procedure, made through the use of the Internet.

(c) The fee a municipality pays under Subsection (a)(1) for an inquiry submitted electronically or by magnetic media may be used to allow the department to make the information available through electronic means under Section 411.129.

TEXAS RULES OF CIVIL PROCEDURE

RULE 21c. PRIVACY PROTECTION FOR FILED DOCUMENTS.

(a) Sensitive Data Defined. Sensitive data consists of: (1) a driver's license number, passport number, social security number, tax identification number, or similar government-issued personal identification number; (2) a bank account number, credit card number, or other financial account number; and (3) a birth date, a home address, and the name of any person who was a minor when the underlying suit was filed.

(b) Filing of Documents Containing Sensitive Data Prohibited. Unless the inclusion of sensitive data is specifically required by a statute, court rule, or administrative regulation, an electronic or paper document, except for wills and documents filed under seal, containing sensitive data may not be filed with a court unless the sensitive data is redacted.

(c) Redaction of Sensitive Data; Retention Requirement. Sensitive data must be redacted by using the letter "X" in place of each omitted digit or character or by removing the sensitive data in a manner indicating that the data has been redacted. The filing party must retain an unredacted version of the filed document during the pendency of the case and any related appellate proceedings filed within six months of the date the judgment is signed.

(d) Notice to Clerk. If a document must contain sensitive data, the filing party must notify the clerk by: (1) designating the document as containing sensitive data when the document is electronically filed; or (2) if the document is not electronically filed, by including, on the upper left-hand side of the first page, the phrase: "NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA."

(e) Non-Conforming Documents. The clerk may not refuse to file a document that contains sensitive data in violation of this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit a redacted, substitute document.

(f) Restriction on Remote Access. Documents that contain sensitive data in violation of this rule must not be posted on the Internet.

Comment to 2013 Change: Rule 21c is added to provide privacy protection for documents filed in civil cases.

Tab K

Texas Adult Name Change Forms

INSTRUCTIONS

This Adult Name Change Forms Set Contains instructions and three forms: a Statement of Inability to Afford Payment of Court Costs, a Petition to Change the Name of an Adult, and a Final Order to Change the Name of an Adult. The chart below describes each form and when to use it.

Do Not Use This Adult Name Change Form Set if:

- You want to change someone else's name instead of your own.
- You are younger than 18 years old.
- You have a felony conviction(s) unless
 - you have been pardoned for that conviction
 - you have received a certificate of discharge for that conviction by the Texas Department of Criminal Justice more than two years before the date of the name change order you are requesting; and
 - you completed a court-ordered period of community supervision or juvenile probation for that conviction more than two years before the date of the name change order you are requesting.
- You are required to register as a sex offender and have not yet turned in a Sex Offender Update form to your local law enforcement authority.
- You have gotten divorced and you already changed your name in the divorce decree. You may use a certified copy of the divorce decree instead of the name change order as proof of name change.
- You are getting divorced or plan to get divorced soon, and you want to change your name to a name you previously had. Do that in your divorce decree. *If you want to change your name to a name you did not previously have, you should use this name change form.*
- You are a victim of domestic violence, and you are concerned about disclosing your current address. A name change petition is a public document, and your abuser could find out where you live. Seek advice from a lawyer to do this safely.

Use This Adult Name Change Form Set if:

- You want to change your own name, not someone else's name.
- You are at least 18 years old.
- You have no felony convictions.
- You have a felony conviction(s) and you attach proof that:
 - you have been pardoned for that conviction; OR
 - You received a certificate of discharge for that conviction by the Texas Department of Criminal Justice at least two years before the date of the name change order you are requesting; OR
 - You completed a court-ordered period of community supervision (that is, adult probation) or juvenile probation for that conviction at least two years before the date of the name change order you are requesting.
- You are not a sex offender, OR you are required to register as a sex offender and:
 - You submit a Sex Offender Update Form to your local law enforcement authority (chief of police, sheriff, or a centralized registration authority) notifying them that you are asking the Court to change your name, and
 - You attach proof that you have done so to your Petition.
- You got divorced but your name wasn't changed in the divorce decree.

Contents of Adult Name Change Forms Set:

Name of Form	What It Is and How to Use It
Statement of Inability to Afford Payment of Court Costs	If you are poor, or on government benefits because you are poor, or you cannot pay court fees, you may fill out this form to ask the Court if you can file for a name change without paying the court and filing fees. The Court may ask you to present evidence of your income and expenses at a hearing. The Court may or may not decide to let you file without paying. It is sometimes called a “Pauper’s Oath” or an “Affidavit of Inability to Pay Costs.”
Petition to Change the Name of an Adult	You must swear that the information in this form is true by completing a sworn declaration. It informs (tells) the court that you want to change your name, why you want to change your name, and what you want the Court to change your name to. It also notifies the Court of any criminal history.
Final Order to Change the Name of an Adult	This form changes your name once the Court signs it. Fill it out and bring it with you to court.

Need Help?

- It is always best to hire a lawyer. To get a referral to a lawyer or, if you are poor, to a free Legal Aid program, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.
- If you are a victim of domestic violence, or if at any time you feel unsafe, you can get confidential help from the National Domestic Violence Hotline at 1-800-799-7233 or legal help from the Texas Advocacy Project Family Violence Hotline by calling 1-800-374-4673.
- If you are poor, you may be able to talk to an attorney online by live chat at www.TexasLawHelp.org.

How to Use this Set:**Step 1: Read These General Instructions**

- Do not change the forms to change the name of a child or another adult. This Set is NOT to be used for those situations.
- Use blue ink to complete the forms. Pencil and other color ink will not scan clearly.
- Fill out all the spaces on the forms unless instructed otherwise. The judge and court personnel will not fill them out for you. The judge may require you to correct errors that you may make or may deny the name change if the information is inaccurate or incomplete.
- Make a copy of each form you complete and keep it for your records.
- You must file the petition in the county where you live. Find out whether name changes are filed in the district court or county court in your county by calling the district court clerk’s office and asking.

Step 2: Collect the Following Items to File with Your Petition

- **Fingerprints:** Get a legible and complete set of your fingerprints made on either a Texas Department of Public Safety or a Federal Bureau of Investigation fingerprint card. Write “**Exhibit A**” at the top.
 - There is a fee for this service. Typically, it’s \$10-\$20 but can be more if you also get a criminal background check.
 - You can make an appointment with the Texas Department of Public Safety by calling 1-888-467-2080 to schedule an appointment at a “Print and Go” FAST location, or by visiting www.identogo.com and selecting Option B – Fingerprint Cards. The Texas Department of Public Safety may require you to include a copy of the name change petition when you ask to get your fingerprints taken. If so, file the name change petition and then submit a copy to them.
 - Your local police department may also be able to take your fingerprints.

- If you have a felony conviction(s): Get proof that:
 - you have been pardoned for that conviction;
 - it has been at least two years since you received a certificate of discharge for that conviction by the Texas Department of Criminal Justice; OR
 - it has been at least two years since you completed a court-ordered period of community supervision (that is, adult probation) or juvenile probation for that conviction.
Write “**Exhibit B**” at the top.
- If you are required to register as a sex offender: Get a copy of the *Sex Offender Update Form* that you submitted to your local law enforcement authority notifying them that you are asking to have your name changed. Write “**Exhibit C**” at the top.

Step 3: Fill out the Petition to Change the Name of an Adult and, if you are poor, the Statement of Inability to Afford Payment of Court Costs

- Fill out the Petition to Change the Name of an Adult. You are the Petitioner. You must swear the information in your Petition to Change the Name of an Adult is true by completing a **sworn declaration**.
- Your full Social Security number and driver’s license number are required by Texas Family Code Section 45.102 and Texas Rule of Civil Procedure 21c.
- You will need to list the Class A or B misdemeanors or felonies you have been **charged** with. You will also need to list Class A or B misdemeanors or felonies you have been **convicted** of.
- If you are poor, are receiving public assistance, or do not think you have enough money to pay the court costs for your name change, fill out the Statement of Inability to Afford Payment of Court Costs.
- Make one copy of the Petition to Change the Name of an Adult and, if you are using it, the Statement of Inability to Afford Payment of Court Costs.

Step 4: File (turn in) your Petition to Change the Name of an Adult, and if applicable, your Statement of Inability to Afford Payment of Court Costs

- Take the following documents to the courthouse and file them (turn them in) with the District or County Court Clerk in the county where you live:
 - The original and the copy of your Petition to Change the Name of an Adult;
 - If applicable, your Statement of Inability to Afford Payment of Court Costs. NOTE: If you are using a Statement of Inability to Afford Payment of Court Costs, you must file the Petition to Change the Name of an Adult and the Statement of Inability to Afford Payment of Court Costs at the same time.
 - If you have a felony conviction(s), attach proof that
 - you have been pardoned for that conviction;
 - it has been at least two years since you received a certificate of discharge for that conviction by the Texas Department of Criminal Justice; OR
 - it has been at least two years since you completed a court-ordered period of community supervision (that is, adult probation) or juvenile probation for that conviction.
 - If you are required to register as a sex offender, attach a copy of the *Sex Offender Update Form* that you submitted to your local law enforcement authority notifying them that you are asking to have your name changed to your Petition to Change the Name of an Adult.
- Ask the clerk:
 - If there are local rules that you need to know for your name change case.
 - For a Civil Case Information Sheet. Fill it out and file it with your Petition.

- To “file-stamp” your copy. The clerk will stamp your papers with the date and time you turned them in. The clerk will keep the original and give you back your file-stamped copy.
- If you are not filing a Statement of Inability to Afford Payment of Court Costs, you will need to pay a filing fee. The fee may be between \$150- \$300, depending on where you live.

Step 5. Complete Final Forms and Prepare for Court.

- Some courts may require a criminal background check. Check the Court’s policy to see if it’s needed. If so, you will need to mail your fingerprint card to the Texas Department of Public Safety to get a criminal background check done. They will send the results directly to the court. There is a fee for this service. See the Texas Department of Public Safety website for specific instructions on submitting fingerprint cards for a legal name change.
- Fill out the Final Order to Change the Name of an Adult form.
 - *Note:* Some courts require you to file the Final Order prior to scheduling the final hearing.
- Prepare for Court.
 - You will need to give testimony when talking to the judge. Some judges will ask you questions, others want you to “prove up” your case by reading a “script” of testimony. You can find sample “prove up” testimony for an adult name change online at www.TexasLawHelp.org.
 - Learn tips on what to do when you go to court and when the judge calls your case online at www.TexasLawHelp.org and www.TexasCourtHelp.org.
 - Bring proof of identification the judge may want. Some examples include: passport, state issued identification card, driver’s license, etc.
 - Some judges will require you to testify that you are not attempting to change your name in order to evade creditors or criminal prosecution.

Step 6. Go to Court to Present Your Adult Name Change Case to the Judge

- Ask the clerk how to get an uncontested hearing and bring the following to court with you on that day:
 1. A file-stamped copy of your Petition to Change the Name of an Adult and all the exhibits you filed with your Petition;
 2. If you’ve been convicted of a felony, your proof as discussed above; and
 3. If you are required to register as a sex offender, a copy of the *Sex Offender Update Form* that you submitted to your local law enforcement authority.
- When you go to the court, stop by the clerk’s office:
 - Ask if you need the court file, a docket sheet (list of what has been filed), or anything else from their office to bring with you to court.

Step 7. Finalize Your Name Change

- Once the judge has signed your Final Order to Change the Name of an Adult, you may need to take it to the clerk’s office and file it (turn it in). Your name change will not be recorded until you do so.
- Get a certified copy of the Final Order to Change the Name of an Adult from the clerk while you are there. There is a fee to get a certified copy, but you will need one to get official documents changed to your new name, such as Social Security card, driver’s license, and voter registration certificate.
- Check with the clerk to see if you need to do anything else to finalize your name change. Each county is different.

Step 8. Change Official Documents to Show Your New Name

- To change the name on your social security card, you must have a certified copy of the Final Name Change Order and an Application for Social Security Card. For more details go to <https://faq.ssa.gov/en-US/Topic/article/KA-01981>. You must change your social security card before you can change your driver's license.
- To change the name on your driver's license, you must take a certified copy of the Final Name Change Order to a Texas Department of Public Safety office. See <http://www.txdps.state.tx.us/driverlicense/changes.htm#Name> for more details. There is a fee to have your driver's license changed.
- To change your name on your voter registration certificate, notify your County Voter Registrar in writing. For more information, visit <http://www.sos.state.tx.us/elections/pamphlets/largepamp.shtml>.

Step 9. Change Your Birth Certificate to Show Your New Name (*Not Required*)

- After the judge approves your name change, you may want to change your birth certificate to reflect your new name. It is not required.
- If you wish to change your birth certificate, you will need to get an Application for Amended Birth Certificate based on a Court Ordered Name Change form from the Bureau of Vital Statistics. You can find it online at the Bureau of Vital Statistics website at <http://www.dshs.state.tx.us/VS/>. There is a fee to have your birth certificate changed.

Tab L

WARNING: It is always best to hire a lawyer. To get a referral to a lawyer or, if you are poor, to a free Legal Aid program, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.
If you are poor, you may be able to talk to an attorney online by live chat at www.TexasLawHelp.org.

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.

(Print your answers in blue ink.)

Cause Number: _____
(The Clerk's office will fill out the cause number when you file the form.)

Petitioner: _____

In the: _____ (check one) District Court County Court of _____ County, Texas
(The Clerk's office will fill out the court number when you file the form.) (County)

Petition to Change the Name of an Adult

(Use this form only if you are changing your own name)

I. Petitioner

1. My current legal name is:

First Middle Last

2. I ask the Court to change my legal name to:

First Middle Last

3. The reason I want to change my name is:

II. Discovery

The discovery level in this case is Level 2.

III. Personal Information

1. Home Address: _____
Address

City County State ZIP Code

2. My complete driver's license number is: _____. My driver's license was issued in _____.
State

Or I do not have a driver's license number.

List any other driver's licenses you have had in the 10 years before you file:

Issuing State	License Number
_____	_____
_____	_____
_____	_____

3. My complete social security number is: _____.

Or I do not have a social security number.

4. My date of birth is: _____ / _____ / _____
Month Day Year

5. My sex listed on my birth certificate: Male Female

6. My race is: _____.

IV. Criminal History

1. Have you ever been **charged** with a Class A or B misdemeanor or a felony? Yes No

If yes, write your FBI and State Identification Number (SID) numbers or other reference number in a criminal history record system that identifies you, if known:

FBI # _____ SID # _____ Other # _____

*List **all** Class A or B misdemeanors and felonies with which you have been charged, whether or not you were convicted. If you need more space, attach an additional page.*

Offense (CHARGED)	Case Number	County/State/Country	Court number	Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> <u>County Court</u> <input type="checkbox"/> District Court
_____	_____	_____	_____	<input type="checkbox"/> <u>County Court</u> <input type="checkbox"/> District Court
_____	_____	_____	_____	<input type="checkbox"/> <u>County Court</u> <input type="checkbox"/> District Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> <u>County Court</u>

2. Have you ever been **convicted** of a felony? Yes No

*If yes, the court **may** order your name changed **if, for each** felony conviction,*

- you have been pardoned OR
- you have received a certificate of discharge by the Texas Department of Criminal Justice more than two years before the date of the name change order you are requesting, OR
- you completed a court-ordered period of community supervision or juvenile probation more than two years before the date of the name change order you are requesting.

Attach proof. See below.

*List **all** of your felony convictions here. If you need more space, attach an additional page.*

Offense (CONVICTED)	Case Number	County/State/Country	Court number	Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> <u>County Court</u> <input type="checkbox"/> District Court
_____	_____	_____	_____	<input type="checkbox"/> <u>County Court</u> <input type="checkbox"/> District Court
_____	_____	_____	_____	<input type="checkbox"/> <u>County Court</u> <input type="checkbox"/> District Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> <u>County Court</u>

3. Are you required to register as a sex offender? Yes No
If yes, you are required to submit to your local law enforcement authority a copy of the Sex Offender Update Form to notify them that you are trying to change your name. You also must attach a copy of the Sex Offender Update Form you submitted to local law enforcement authority to this Petition.

V. Prayer

1. I believe this name change is in my interest or benefit and in the interest of the public.
2. I ask the Court to make an Order to change my name, and any other Orders I may be entitled to.

I swear under oath under penalty of perjury that the facts stated in this Petition are true and correct. I understand I could be prosecuted for lying on this form.

VI. Declaration:

I declare under penalty of perjury that everything in this petition is true and correct.

My name is _____ . My birthdate is: ___/___/___ .

My address is _____
Street City State ZIP Country

_____ signed on ___/___/___ in County _____ , _____
Signature Month/Day/Year County Name State

You must attach these documents to your Petition:

- A legible and complete set of your fingerprints on a Texas Department of Public Safety or Federal Bureau of Investigation fingerprint card. Write **“Exhibit A”** at the top.
- If you were convicted of a felony and have been pardoned, or if it has been at least 2 years since you were discharged or completed probation, attach proof of these facts. Write **“Exhibit B”** at the top.
- If you are required to register as a sex offender, a copy of the *Sex Offender Update Form* you submitted to your local law enforcement authority notifying them you are asking the Court to change your name. Write **“Exhibit C”** at the top.

Tab M

WARNING: Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, or if at any time you feel unsafe, you can get confidential help from the National Domestic Violence Hotline at 1-800-799-7233 or legal help from the Texas Advocacy Project Family Violence Legal Line at 1-800-374-4673.

Print court information exactly as it appears on your Petition to Change the Name of an Adult and use blue ink.

Cause Number: _____
(The Clerk's office will fill out the cause number when you file the form.)

Petitioner: _____

In the: _____ (check one) District Court County Court of _____ County, Texas
(The Clerk's office will fill out the court number when you file the form.) (County)

Final Order to Change the Name of an Adult

A hearing took place today.

Commented [KL1]: TM said something about this. Can't quite remember what...

I. Appearances

The Petitioner was present without an attorney.

II. Jurisdiction

The Court finds that it has jurisdiction over this case and the Petitioner.

III. Record

The court fills out this box.

- A court reporter did not record today's hearing because the parties and judge agreed not to make a record.
- A court reporter recorded today's hearing

IV. Findings

The Court finds that Petitioner's personal information is as follows:

1. Petitioner's current legal name is:

First Middle Last

2. Petitioner's home address is:

Address City County State ZIP

3. Petitioner's complete driver's license number is: _____ Petitioner's driver's license was issued in _____
State

Or Petitioner does not have a driver's license number.

All driver's license numbers issued to Petitioner during the past 10 years:

Issuing State	License Number
_____	_____
_____	_____
_____	_____

4. Petitioner's complete social security number is: _____.

Or Petitioner does not have a social security number.

5. Petitioner's date of birth is: ____/____/____
Month Day Year

7. Petitioner's gender at birth was: (check one)
 Female Male

8. Petitioner's race is: _____.

9. Petitioner (check all that apply):
 does **not** have FBI number or SID number.
 Petitioner's FBI (Federal Bureau of Investigations) number is: _____
 Petitioner's SID (State Identification) number is: _____

10. Petitioner (check one):
 has **not** been **charged** with a Class A or B misdemeanor or a felony.
 has been **charged** with a Class A or B misdemeanor or a felony. Listed below is the case number and court for each of these crimes (attach more pages if necessary):

Offense (CHARGED)	Case Number	County/State/Country	Court number	Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> County Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> County Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> County Court
_____	_____	_____	_____	<input type="checkbox"/> District Court <input type="checkbox"/> County Court

11. Petitioner (check one):
 has not been convicted of a felony.
 has been convicted of a felony and has been pardoned.
 has been **convicted** of a felony and at least two years have passed since Petitioner has received a certificate of discharge by the Texas Department of Criminal Justice or completed a court-ordered period of community supervision or juvenile probation.

12. Petitioner (check one):
 is **not** a sex offender.
 is required to register as a sex offender, has submitted a Sex Offender Update Form to local law enforcement authority of this proposed name change, and provided proof to the court of the submission.

13. Petitioner's *Petition to Change the Name of an Adult* included a legible and complete copy of Petitioner's fingerprints.

14. Petitioner's change of name is in Petitioner's interest or benefit and is in the interest of the public.

V. Orders

The Court orders the Petitioner's name changed to:

First

Middle

Last

VI. Other Orders

The Court has the right to make other orders, if needed, to clarify or enforce this order. Any orders requested that do not appear above are denied.

Judge's Signature

Date of Judgment

DRAFT

Tab N

Texas Forms for An Agreed Name Change of a Child

INSTRUCTIONS

This Child Name Change Forms Set Contains instructions and four forms: a Statement of Inability to Afford Payment of Court Costs, an Agreed Petition to Change the Name of a Child, a Child’s Consent to Name Change, and a Final Order to Change the Name of a Child. The chart below describes each form and when to use it.

Do Not Use This Child Name Change Form Set if:

- You want to change your name or the name of a person who is 18 years old or older.
- You are not the biological, legal, or adoptive parent, managing conservator, or legal guardian of the child. You cannot change the child’s name if your only legal relationship to the child is as a stepparent.
- The child is at least 10 years old and does not agree to the name change.
- The child is required to register as a sex offender and a Sex Offender Update Form has not yet been turned in to your local law enforcement authority notifying them of the name change request.
- Any other person with a legal relationship to the child (parent, managing conservator, etc.) does not agree to the petition and refuses to sign.
- You are a victim of domestic violence, and you are concerned about disclosing your current address. A name change petition is a public document, and your abuser could find out where you live. Seek advice from a lawyer to do this safely.

Use This Child Name Change Form Set when:

- All people with a legal relationship to the child (parent, managing conservator, etc.) agree to the name change.
- You want to change the name of a child under the age of 18.
- You are the biological, legal, or adoptive parent, managing conservator, or legal guardian of the child. You cannot change the child’s name if your only legal relationship to the child is as a stepparent.
- The child is 10 years old or older, and the child agrees to the name change in writing.
- The child is not a sex offender, OR the child is required to register as a sex offender and:
 - o You submit a *Sex Offender Update Form* to your local law enforcement authority (chief of police, sheriff, or a centralized registration authority) notifying them that you are asking the Court to change the child’s name, and
 - o You attach proof that you have done so to your Petition.

Contents of Child Name Change Forms Set:

Name of Form	What It Is and How to Use It
Statement of Inability to Afford Payment of Court Costs	If you are poor, or on government benefits because you are poor, or you cannot pay court fees, you may fill out this form to ask the Court if you can file for a name change without paying the court and filing fees. The Court may ask you to present evidence of your income and expenses at a hearing. The Court may or may not decide to let you file without paying. It is sometimes called a “Pauper’s Oath” or an “Affidavit of Inability to Pay Costs.”
Petition to Change the Name of a Child	You must swear that the information in this form is true by completing a sworn declaration. It informs (tells) the court that you want to change your name, why you want to change your name, and what you want the Court to change your name to. It also notifies the Court of any criminal history.

Edited by the Texas Access to Justice Commission 6/18/2019

Edits suggested by Supreme Court Advisory Committee subcommittee reporting on Name Change Forms and the Family Law Section

Child's Consent to Change Name	You must complete this form. The child must sign it if the child is 10 years old or older and agrees to the name change. Attach it to the Petition.
Final Order to Change the Name of a Child	This form finalizes the child's name change once the Court signs it. Fill it out and bring it to the final hearing on the child's name change.

Need Help?

- It is always best to hire a lawyer. To get a referral to a lawyer or, if you are poor, to a free Legal Aid program, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.
- If you are a victim of domestic violence, or if at any time you feel unsafe, you can get confidential help from the National Domestic Violence Hotline at 1-800-799-7233 or legal help from the Texas Advocacy Project Family Violence Hotline by calling 1-800-374-4673.
- If you are poor, you may be able to talk to an attorney online by live chat at www.TexasLawHelp.org.

How to Use this Set:

Step 1: Read These General Instructions

- Do not change the forms to change the name of an adult. This Set is NOT to be used for an adult name change.
- Use blue ink to complete the forms. Pencil and other color ink will not scan clearly.
- Fill out all the spaces on the forms unless instructed otherwise. The judge and court personnel will not fill them out for you. The judge may require you to correct errors that you may make, or may deny the name change if the information is inaccurate or incomplete.
- Make enough copies of each form you complete for each person with a legal relationship to the child, including yourself. Keep one copy. The other copies are for the other parent(s), or anyone else with a legal relationship to the child. If no other person has a legal relationship to the child, e.g. the other parent is deceased, make only one copy for your records.
- Find out whether name changes are filed in the district court or county court in your county by calling the district court clerk's office and asking.

Step 2: If the Child is Required to Register as a Sex Offender:

- Get a copy of the *Sex Offender Update Form* that you submitted to your local law enforcement authority notifying them that you are asking to have the child's name changed. Write "**Exhibit A**" at the top. You will need to file it with the Petition to Change the Name of a Child.

Step 3: Fill out the Petition to Change the Name of a Child and, if you are low-income, the Statement of Inability to Afford Payment of Court Costs

- Fill out the Petition to Change the Name of a Child. You are the Petitioner. You and all Co-Petitioners must swear that the information in your Petition to Change the Name of a Child is true by completing a sworn declaration. The last three digits of your Social Security number and driver's license number are required by Texas Civil Practices and Remedies Code Section 30.014(a) and Texas Rule of Civil Procedure 21c. Write an "x" in all other spaces (for example: xxx-xx-x000 for your Social Security number.)
- If the child is 10 years old or older, complete the Child's Consent to Change Name and have the child sign it. It needs to be attached to, and filed with, the Petition.
- If you are low-income, are receiving public assistance, or do not think you have enough money to pay the court costs to change the child's name, fill out the Statement of Inability to Afford Payment of Court Costs.

- Make copies of the Petition to Change the Name of a Child, the Child's Consent to Change Name, and, if you are using it, the Statement of Inability to Afford Payment of Court Costs.

Step 4: File (turn in) the Petition to Change the Name of a Child, and if applicable, the Statement of Inability to Afford Payment of Court Costs

Take the following documents to the courthouse and file them (turn them in) with the District or County Court Clerk in the county where the child resides:

- The original and the copy of the Petition to Change the Name of a Child.
- The Child's Consent to Change Name, if the child is 10 years old or older, signed by the child and attached to and filed with the Petition.
- If the child is required to register as a sex offender, attach a copy of the *Sex Offender Update Form* that you submitted to your local law enforcement authority notifying them that you are asking to have the child's name changed to the Petition to Change the Name of a Child.
- If applicable, a Statement of Inability to Afford Payment of Court Costs. NOTE: If you are using a Statement of Inability to Afford Payment of Court Costs, you must file the Petition to Change the Name of a Child and the Statement of Inability to Afford Payment of Court Costs at the same time.
- Ask the clerk:
 - If there are local rules that you need to know to change a child's name.
 - For a Civil Case Information Sheet. Fill it out and file it with your Petition.
 - To "file-stamp" your copy. The clerk will stamp your papers with the date and time you turned them in. The clerk will keep the original and give you back your file-stamped copy.
- If you are not filing a Statement of Inability to Afford Payment of Court Costs, you will need to pay a filing fee. The fee may be between \$150- \$300, depending on where you live.

Step 5. Complete Final Forms and Prepare for Court.

- Check with the Court to see if the child who is ten years of age or older should be brought to court.
- Fill out the Final Order to Change the Name of a Child form.
 - Note: Some courts require you to file the Final Order prior to scheduling the final hearing.
- Prepare for Court.
 - You will need to give testimony about why the name change is in the best interest of the child when talking to the judge. Some judges will ask you questions, others want you to "prove up" your case by reading a "script" of testimony. You can find sample "prove up" testimony for changing a child's name online at www.TexasLawHelp.org.
 - Learn tips on what to do when you go to court and when the judge calls your case online at www.TexasLawHelp.org and www.TexasCourtHelp.org.

Step 6. Go to the Court to Present the Child's Name Change Case to the Judge

- Ask the clerk how to get an uncontested hearing and bring the following to court with you on that day:
 - A file-stamped copy of your Petition to Change the Name of a Child signed by all persons with a legal relationship to the child;
 - Your completed Order to Change the Name of a Child;
 - If the child is required to register as a sex offender, a copy of the *Sex Offender Update Form* that you submitted to your local law enforcement authority about the child's name change.

- When you go to the court for the uncontested docket, stop by the clerk's office:
 - Ask if you need the court file, a docket sheet (list of what has been filed), or anything else from their office to bring with you to the uncontested docket.
- Ask the Court if the child should be there.

Step 7. Finalize the Child's Name Change

- Once the judge has signed the Final Order to Change the Name of a Child, you may need to take it to the clerk's office. The name change will not be recorded until you do so.
- Get a certified copy of the Final Order to Change the Name of a Child from the clerk while you are there. There is a fee to get a certified copy, but you will need one to get official documents changed to the child's new name.
- Check with the clerk to see if you need to do anything else to finalize the name change. Each county is different.

Step 8. Change Official Documents to Show the Child's New Name

- To change the name on the child's social security card, you must have a certified copy of the Final Order. For more details go to http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/315/~change-a-name-on-a-social-security-card. You must change the child's social security card before you can change the child's driver's license.
- To change the name on the child's driver's license, you must take a certified copy of the Final Order to a Texas Department of Public Safety office. See <http://www.txdps.state.tx.us/driverlicense/changes.htm#Name> for more details. There is a fee to have the child's driver's license changed.
- After the judge approves the child's name change, you may want to change the child's birth certificate to reflect the child's new name. It is not required.
 - **CAUTION:** Many public schools will only accept a birth certificate, not a certified copy of a name change order, to change the name of the child in the school's records.
 - If you wish to change the child's birth certificate, you will need to get an Application for Amended Birth Certificate based on a Court Ordered Name Change form from the Bureau of Vital Statistics. You can find it online at the Bureau of Vital Statistics website at <http://www.dshs.state.tx.us/VS/>. There is a fee to have the birth certificate changed.

Tab 0

WARNING: It is always best to hire a lawyer. To get a referral to a lawyer or, if you are poor, to a free Legal Aid program, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.

If you are poor, you may be able to talk to an attorney online by live chat at www.TexasLawHelp.org.

(Fill out every blank on this form. Print your answers in blue ink.)

Cause Number: _____
(The Clerk's office will fill out the cause number when you file the form.)

In the Matter of Change of Name of a Child: _____
(Print child's current first, middle, and last legal name.)

In the: _____ (check one) District Court County Court of _____ County, Texas
(The Clerk's office will fill out the court number when you file the form.) (County)

Agreed Petition to Change the Name of a Child

I. **Discovery:** The discovery level in this case is Level 2.

II. Parties

1. **Petitioner** (Person filing this petition)

a. My name is:

First Middle Last

b. I am the child's: (Check all boxes that apply)

parent (biological, legal,
or adoptive; *not the*
stepparent).

managing conservator
as ordered by a court.

legal guardian as
ordered by a court.

c. The last three digits of my social security number is: _____.

or I do not have a social security number.

d. The last three digits of my driver's license number is: _____. It was issued in _____.

or I do not have a driver's license number.

2. **Other Parties** (Check and complete either a or b)

a. **No Other Party Exists:** No other adult has a legal relationship with this child because:
(check all that apply)

The other parent is dead. (Attach a copy of the death certificate.)

Parental rights were terminated. (Attach a certified copy of the court order of termination.)

No other person has been named by a court as a managing conservator or a legal guardian of the child.

- b. **Co-Petitioner 1:** The following person has a legal relationship to this child and has signed this Petition to show s/he agrees to the child's name change. *(Co-Petitioner must sign a declaration to show s/he agrees with this name change.)*

First Middle Last

Co-Petitioner is the child's: *(Check all boxes that apply)*

parent (biological, legal, or adoptive; *not the stepparent*).

managing conservator as ordered by a court.

legal guardian as ordered by a court.

The last three digits of co-Petitioner's social security number is: _____.

Or Co-Petitioner does not have a social security number.

The last three digits of co-Petitioner's driver's license number is: _____. It was issued in _____.

Or Co-Petitioner does not have a driver's license number.

State

- c. **Co-Petitioner 2:** The following person has a legal relationship to this child and has signed this Petition to show s/he agrees to the child's name change. *(Co-Petitioner must sign a declaration to show s/he agrees with this name change.)*

First Middle Last

Co-Petitioner is the child's: *(Check all boxes that apply)*

parent (biological, legal, or adoptive; *not a stepparent*).

managing conservator as ordered by a court.

legal guardian as ordered by a court.

The last three digits of my co-Petitioner's social security number is: _____.

Or Co-Petitioner does not have a social security number.

The last three digits of co-Petitioner's driver's license number is: _____. It was issued in _____.

Or Co-Petitioner does not have a driver's license number.

State

Add any other Co-Petitioners as needed.

III. Jurisdiction. The Court has jurisdiction over this case, the parties, and the child.

IV. Information about the Child

The *Child's Consent to Name Change form* must be **signed** by the child, if the child is 10 or older.

1. The child's current legal name is:

First

Middle

Last

2. The child's home address is:

Address

City

County

State

ZIP Code

3. The child's date of birth is: _____ / _____ / _____

Month

Day

Year

4. The child's place of birth was:

City

County

State

Country

5. The sex listed on child's birth certificate: Male Female

6. This child: is is not required to register as a sex offender.

If the child is required to register as a sex offender, you must fill out and submit a *Sex Offender Update Form* to local law enforcement authority stating that you are asking the Court to change the child's name. Attach a copy of that form to this Petition and write **Exhibit A** at the top.

V. Court Order Involving Child *(Check one)*

- No court order currently exists that involves, or is about, this child.
- A court has made orders involving this child, in the following case(s) (include divorce decree, orders obtained through the Office of the Attorney General or Child Protective Services, or orders from juvenile justice proceedings):

Case number

County & State

Type of case (child support, custody, adoption, divorce, CPS, etc.)

Case number

County & State

Type of case (child support, custody, adoption, divorce, CPS, etc.)

Case number

County & State

Type of case (child support, custody, adoption, divorce, CPS, etc.)

VI. Name Change Request

1. I/We ask the Court to change this child's current legal name to:

_____ First _____ Middle _____ Last

2. The reason I/we want to change this child's current legal name is:

I/We believe the requested name change is in the child's best interest.

VII. Prayer

The change of name is in the best interest of the child. If the child is required to register as a sex offender, the change of name is also in the best interest of the public and notice was provided to the local law enforcement authority.

I/We ask the Court to make an Order to change the child's current legal name and any other Orders the child may be entitled to. I/We swear under oath that the facts stated in this *Petition* are true and correct.

VI. Petitioner's Declaration:

I declare under penalty of perjury that everything in this petition is true and correct.

My name is _____ . My birthdate is: ___/___/___ .

My address is _____
Street City State ZIP Country

_____ signed on ___/___/___ in County _____ .
Signature Month/Day/Year County Name State

VII. Co-Petitioner's Declaration:

I declare under penalty of perjury that everything in this petition is true and correct.

My name is _____ . My birthdate is: ___/___/___ .

My address is _____
Street City State ZIP Country

_____ signed on ___/___/___ in County _____ .
Signature Month/Day/Year County Name State

VIII.Co-Petitioner’s Declaration:

I declare under penalty of perjury that everything in this petition is true and correct.

My name is _____ . My birthdate is: ____/____/____ .

My address is _____
Street City State ZIP Country

_____ signed on ____/____/____ in County _____ , _____ .
Signature Month/Day/Year County Name State

Add additional declarations for Co-Petitioners as needed.

Tab P

WARNING: Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, or if at any time you feel unsafe, you can get confidential help from the National Domestic Violence Hotline at 1-800-799-7233 or legal help from the Texas Advocacy Project Family Violence Legal Line at 1-800-374-4673.

(Fill out every blank on this form. Print your answers in blue ink.)

Cause Number: _____
(The Clerk's office will fill out the cause number when you file the form.)

In the Matter of Change of Name of a
Child: _____
(Print child's current first, middle, and last legal name.)

In the: _____ (check one) District Court County Court of _____ County, Texas
(The Clerk's office will fill out the court number when you file the form.) *(County)*

This form is required only if the child is 10 years or older.

Child's Consent to Change Name

1. My current legal name is:


_____ *First* *Middle* *Last*

2. My age is _____. My date of birth is: _____/_____/_____

Month *Day* *Year*

3. I want my name changed to:

_____ *First* *Middle* *Last*

 _____
Child signs here

Date the child signed

Tab Q

WARNING: Without the advice and help of an attorney, you may be putting yourself, your personal property, and your money at risk. To get a referral to an attorney, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690. If you are a victim of domestic violence, or if at any time you feel unsafe, you can get confidential help from the National Domestic Violence Hotline at 1-800-799-7233 or legal help from the Texas Advocacy Project Family Violence Legal Line at 1-800-374-4673.

Print court information exactly as it appears on your Petition to Change the Name of an Adult and use blue ink.

Cause Number: _____
(The Clerk's office will fill out the cause number when you file the form.)

In the Matter of Change of Name of a Child: _____
(Print child's current first, middle, and last legal name.)

In the: _____ (check one) District Court County Court of _____ County, Texas
(The Clerk's office will fill out the court number when you file the form.) (County)

Agreed Order to Change the Name of a Child

A hearing took place on _____.

I. Appearances

The following parties appeared:

Petitioner

The Petitioner's name is: _____
First Middle Last

The Petitioner **was present**, representing himself/herself.

Co-Petitioner(s)

None: There is no Co-Petitioner because the child does not have another managing conservator or guardian of the child, the child's other parent is dead, or parental rights have been terminated by court order.

Co-Petitioner 1:

The Co-Petitioner's name is: _____
First Middle Last

(Check one box)

- The Co-Petitioner **was present**, representing himself/herself, and has agreed to the terms of this Order.
- The Co-Petitioner **was not present** but has signed below, agreeing to the terms of this Order.
- The Co-Petitioner **was not present** but has signed the Petition, agreeing to the change of name for the child, as listed in the verified Petition.

Co-Petitioner 2: (if any)

The Co-Petitioner's name is: _____
First Middle Last

(Check one box)

- The Co-Petitioner **was present**, representing himself/herself, and has agreed to the terms of this Order.
- The Co-Petitioner **was not present** but has signed below, agreeing to the terms of this Order.
- The Co-Petitioner **was not present** but has signed the Petition, agreeing to the change of name for the child, as listed in the verified Petition.

Child (Child should come to court only if required by the judge)

The Child's current legal name is: _____
First Middle Last

The Child was present not present.

If the child is 10 years or older, the child has signed the Child's Consent to Change Name as required by law.

II. Jurisdiction

The Court heard evidence and finds that it has jurisdiction over this case and the parties, that notice requirements have been met, and that the Petition meets all legal requirements.

The court fills out this box.

III. Record

- A court reporter did not record today's hearing because the parties and judge agreed not to make a record.
- A court reporter recorded today's hearing

IV. Findings

The Court makes the following findings about the child.

1. The child's date of birth is: _____ / _____ / _____
Month Day Year

2. The sex listed on child's birth certificate: Male Female

3. This child:

- is **not** required to register as a sex offender.
- is required to register as a sex offender, and the Petitioner notified the appropriate local law enforcement authority of the proposed name change and provided proof of that notification to the Court. The request to change the name of this child is in the interest of the public.

4. Court Order Involving Child

- No court order currently exists that involves, or is about, this child.
- A court has made orders involving this child, in the following case(s) (include divorce decree, orders obtained through the Office of the Attorney General or Child Protective Services, or orders from juvenile justice proceedings):

Case number County & State Type of case (child support, custody, adoption, divorce, CPS, etc.)

Case number County & State Type of case (child support, custody, adoption, divorce, CPS, etc.)

Case number County & State Type of case (child support, custody, adoption, divorce, CPS, etc.)

5. The request to change the name of this child is in the best interest of the child.

V. Orders

The Court orders the child's name be changed to :

First

Middle

Last

VI. Other Orders

The Court has the right to make other orders, if needed, to clarify or enforce this order. Any orders requested that do not appear above are denied.

Judge's signature

Date of Judgment

By signing below, the Petitioner agrees to the form and substance of this Order.

Petitioner's Name (print)

Petitioner's Signature

Date

By signing below, the Co-Petitioner agrees to the form and substance of this Order.

Co-Petitioner's Name (print)

Co-Petitioner's Signature

Date

By signing below, the Co-Petitioner agrees to the form and substance of this Order.

Co-Petitioner's Name (print)

Co-Petitioner's Signature

Date

