

TEXAS FORMS MANUAL

A GUIDE TO

TEXAS PROBATE

CHAPTER I

PROBATE CHECKLIST, ENGAGEMENT

Getting the information needed to probate a will, to open a guardianship, to document your engagement, and to deliver information to the personal representative of an estate is an important prerequisite to your service as legal counsel. Your engagement is by the person seeking the appointment who will become the estate representative. Your allegiance is to the person who has employed you and not to the estate of the decedent or the ward.

Checklist

- Form I-01 Checklist—Information Needed to Probate a Will
- Form I-02 Checklist—Information Needed for an Intestate Estate
- Form I-03 Checklist—Information Needed for a Guardianship

Engagement Contract

- Form I-04 Will Probate Engagement Contract and Power of Attorney
- Form I-05 Administration Engagement Contract and Power of Attorney
- Form I-06 Heirship Engagement Contract and Power of Attorney
- Form I-07 Guardianship Engagement Contract and Power of Attorney

Power of Attorney to Legal Counsel

- Form I-08 Probate of Will Power of Attorney
- Form I-09 Administration Power of Attorney
- Form I-10 Guardianship Power of Attorney

Information Provided to the Personal Representative Concerning Duties

- Form I-11 Procedures Required for the Administration and Settlement of an Estate Following Death
- Form I-12 Procedures Required for the Administration of a Guardianship Estate

MISCELLANEOUS FORMS

- Form I-13 Notice Concerning Fiduciary Relationship (Form 56)
- Form I-14 Application for Employer Identification Number (Form SS-4)
- Form I-15 Life Insurance Statement (Form 712)

CHAPTER II

INDEPENDENT ADMINISTRATION

This chapter pertains to the probate of a will that provides for the independent administration of the estate with the appointment of an independent executor without a bond. Along with the basic forms needed to complete this process, we are also providing alternative forms for proof of execution where the will is not self-proved, forms for the closure of these estates, and forms needed to appoint a successor should the need arise.

Attorney Document and Time Period Checklist

Independent Estate With Will

- Form II-01 Independent Estate Attorney Checklist

Application for Probate of Will and Letters Testamentary

- Form II-02 Application to Probate Will and Issuance of Letters Testamentary

Proof of Death and Other Facts

- Form II-03 Written Testimony and Other Facts Pursuant to Chapters 256 and 301 of the Texas Estates Code



Abbreviated Proof of Death Form

Form II-04 Proof of Death and Other Facts

Proof of Will Facts

Form II-05 Witness for Proof of Non-Self-Proved Will

Form II-06 Witness for Proof of Holographic Will⁴

Form II-07 Witness Proof for Nonrevocation

Proof of Will by Deposition on Written Questions

Form II-08 Motion to Withdraw Purported Will

Form II-09 Order Granting Motion to Withdraw Purported Will

Form II-10 Receipt for Purported Will

Form II-11 Petition for Deposition Upon Written Questions to Prove Execution of Will

Form II-12 Notice By Posting

Form II-13 Order Granting Motion for Deposition Upon Written Questions

Form II-14 Answers of Witness to Deposition Upon Written Questions

Order Admitting Will to Probate and Authorizing Letters Testamentary

Form II-15 Order Probating Will With Letters Testamentary

Oath of Independent Executor

Form II-16 Oath of Independent Executor

Notice to Named Beneficiaries

Form II-17 Notice to Beneficiary Named in Decedent's Will

Form II-18 Waiver of Notice of Admission of Will

Form II-19 Affidavit of Notice to Beneficiaries Named in Decedent's Will

Form II-20 Attorney's Certificate of Notice to Beneficiaries Named in Decedent's Will

Notice to Creditors

Form II-21 Published Notice to Creditors

Form II-22 Mailed Notice to Secured Creditors

Form II-23 Proof of Notice to Secured Creditors

Form II-24 Mailed Permissive Notice to General Creditors

Form II-25 Proof of Permissive Notice to General Creditors

Application for Extension of Time to File Probate Inventory

Form II-26 Application for Extension of Time to File Inventory, Appraisal, and List of Claims

Form II-27 Order for Extension to File Inventory, Appraisal, and List of Claims

Statutory Probate Inventory and List of Claims

Form II-28 Inventory, Appraisal, and List of Claims

Form II-29 Order for Inventory, Appraisal, and List of Claims

Statutory Probate Inventory Including a Listing of Section 453.009 Values

Form II-30 Statutory Probate Inventory, Appraisal, and List of Claims

Form II-31 Order Approving Inventory, Appraisal, and List of Claims

Application for Sale of Real Property

Form II-32 Application for Sale of Real Property

Form II-33 Order Setting Hearing on Application for Sale of Real Property

Form II-34 Order of Sale of Real Property

Report and Decree of Sale of Real Property

Form II-35 Report of Sale of Real Property

Form II-36 Decree Confirming Sale of Real Property

Form II-37 Deed

Application for Sale of Personal Property

Form II-38 Application for Sale of Personal Property Under Sections 356.101-.102 of the Texas Estates Code

Form II-39 Order of Sale of Personal Property
Under Sections 356.101-.102 of the Texas Estates Code

Report and Decree of Sale of Personal Property

Form II-40 Report of Sale of Personal Property
Form II-41 Decree Confirming Sale of Personal Property

Affidavit Closing Independent Estate

Form II-42 Affidavit Closing Independent Estate Under Chapter 405
Form II-43 Closing Report
Form II-44 Receipt and Release

*** MISCELLANEOUS FORMS ***

Application for the Appointment of Successor

Independent Executor/Administrator With Will Annexed

Form II-45 Application for Appointment of Successor Independent
Executor/Administrator With Will Annexed

Order Appointing Successor

Independent Executor/Administrator With Will Annexed

Form II-46 Order Appointing Successor
Independent Executor/Administrator With Will Annexed

Waiver of Citation and Request for Independent Administration Under Section 404.005

Form II-47 Waiver of Citation and Service Pursuant to Section 404.005

Designation of Resident Agent

Form II-48 Designation of Resident Agent

Designation of Successor Resident Agent

Form II-49 Designation of Successor Resident Agent

Independent Executor's Section 404.001 Accounting

Form II-50 Independent Executor's Accounting Under Section 404.001
of the Texas Estates Code

Disclaimer of Property or Interest in Estate

Form II-51 Disclaimer

Waiver of Notice and Citation for Will Over Four Years

Form II-52 Waiver of Notice and Citation for Will Over Four Years

Declaratory Judgment for Judicial Discharge

Form II-53 Original Petition for Declaratory Judgment for
Judicial Discharge of Independent Executor

Form II-54 Receipt of Property

Form II-55 Declaratory Judgment Waiver of Notice and Citation

Declaratory Judgment

Form II-56 Declaratory Judgment Judicial Discharge

Family Allowance

Form II-57 Application for Family Allowance

Form II-58 Family Allowance Order

Appointment of Statutory Probate Judge

Form II-59 Application for Appointment of a Statutory Probate Judge

Form II-60 Order for Assignment of a Statutory Probate Judge

Transfer to a Statutory Probate Court

Form II-61 Motion to Transfer Proceedings to a Statutory Probate Court

Form II-62 Order Transferring Proceedings to a Statutory Probate Court



INDEPENDENT ADMINISTRATION—NO WILL

This chapter pertains to the appointment of an Independent Administrator where the will fails to make such appointment or where there is no will and the estate beneficiaries desire to create an independent estate. Where there is no will, you need to use the procedure for the Determination of Heirship. See Heirship Application and related forms in chapter V. The court will require you to have the Heirship Determination heard either at the same time or before the Application for Independent Administration. This is necessary so that all parties who need to be served or have waivers filed can be determined. Be aware that the Code and most courts will require a signed, filed waiver and consent before the person will be appointed and allowed to act independently. For successor appointment forms, see chapter II.

Attorney Document and Time Period Checklist**Independent Administration—Chapter 401**

Form III-01 Attorney Checklist

Application for Independent Administration

Form III-02 Application to Probate Will and for Letters of Independent Administration

Waiver of Citation and Request for Independent Administration

Form III-03 Waiver of Citation and Service

Proof of Death and Other Facts

Form III-04 Written Testimony and Other Facts Under Chapters 256 and 301 of the Texas Estates Code

Abbreviated Proof of Death Form

Form III-05 Proof of Death and Other Facts

Proof of Will Facts

Form III-06 Witness for Proof of Non-Self-Proved Will

Form III-07 Witness for Proof of Holographic Will

Form III-08 Witness Proof for Nonrevocation

Deposition Proof of Will and Heirship Facts

Form III-09 Application to Withdraw Will for Deposition on Written Questions

Form III-10 Order Granting Application to Withdraw Will for Deposition

Form III-11 Application for Deposition on Written Questions

Form III-12 Order Granting Leave to Take Deposition Upon Written Questions

Form III-13 Receipt for Purported Will

Order Appointing Independent Administrator

Form III-14 Order Authorizing Issuance of Letters of Independent Administration

Oath of Independent Administrator

Form III-15 Oath of Independent Administrator

Bond of Independent Administrator

Form III-16 Bond of Independent Administrator

Notice to Creditors

Form III-17 Published Notice to Creditors

Form III-18 Mailed Notice to Secured Creditors

Form III-19 Proof of Notice to Secured Creditors

Form III-20 Mailed Permissive Notice to General Creditors

Form III-21 Proof of Permissive Notice to General Creditors

Extension of Time to File Probate Inventory

Form III-22 Application for Extension of Time to File Inventory, Appraisal, and List of Claims

Form III-23 Order for Extension of Time to File Inventory, Appraisal, and List of Claims

Probate Inventory and List of Claims

Form III-24 Inventory, Appraisal, and List of Claims

Form III-25 Order for Inventory, Appraisal, and List of Claims

Application for Sale of Real Property

- Form III-26 Application for Sale of Real Property
- Form III-27 Order Setting Hearing on Application for Sale of Real Property
- Form III-28 Order of Sale of Real Property

Report and Decree of Sale of Real Property

- Form III-29 Report of Sale of Real Property
- Form III-30 Decree Confirming Sale of Real Property
- Form III-31 Deed

Closing Independent Administration

- Form III-32 Affidavit Closing Independent Administration
- Form III-33 Receipt and Release

****MISCELLANEOUS FORMS****

Designation of Resident Agent

- Form III-34 Designation of Resident Agent

Designation of Successor Resident Agent

- Form III-35 Designation of Successor Resident Agent

Disclaimer of Property or Interest in Estate

- Form III-36 Disclaimer

Waiver of Notice and Citation for Will Over Four Years

- Form III-37 Waiver of Notice and Citation for Will Over Four Years

Family Allowance

- Form III-38 Application for Family Allowance
- Form III-39 Family Allowance Order

Appointment of Statutory Probate Judge

- Form III-40 Application for Appointment of a Statutory Probate Judge
- Form III-41 Order for Assignment of a Statutory Probate Judge

Transfer to a Statutory Probate Court

- Form III-42 Motion to Transfer Proceedings to a Statutory Probate Court
- Form III-43 Order Transferring Proceedings to a Statutory Probate Court

CHAPTER IV

DEPENDENT ADMINISTRATION WITH WILL ANNEXED

Attorney Document and Time Period Checklist

Dependent Administration With Will

- Form IV-01 Dependent Estate With Will Attorney Checklist

Application for Probate of Will and Issuance of Letters of Administration

- Form IV-02 Application to Probate Will and for Letters of Administration With Will Annexed

Proof of Death and Other Facts

- Form IV-03 Written Testimony and Other Facts Under Chapters 256 and 301 of the Texas Estates Code
- Form IV-04 Proof of Death and Other Facts

Abbreviated Proof of Death Form

- Form IV-05 Proof of Death and Other Facts

Proof of Will Facts

- Form IV-06 Witness for Proof of Non-Self-Proved Will
- Form IV-07 Witness for Proof of Holographic Will
- Form IV-08 Witness Proof for Nonrevocation



Order Admitting Will to Probate and Authorizing Issuance of Letters of Administration

Form IV-09 Order Admitting Will (and Codicil) to Probate and Authorizing Issuance of Letters With Will Annexed

Oath of Administrator With Will Annexed

Form IV-10 Oath of Administrator With Will Annexed

Bond of Administrator With Will Annexed

Form IV-11 Bond of Administrator With Will Annexed

Notice to Named Beneficiaries

Form IV-12 Notice to Beneficiary Named in Decedent's Will

Form IV-13 Waiver of Notice of Admission of Will

Form IV-14 Affidavit of Notice to Beneficiaries Named in Decedent's Will

Form IV-15 Attorney's Certificate of Notice to Beneficiaries Named in Decedent's Will

Notice to Creditors

Form IV-16 Published Notice to Creditors

Form IV-17 Mailed Notice to Secured Creditors

Form IV-18 Proof of Notice to Secured Creditors

Form IV-19 Mailed Permissive Notice to General Creditors

Form IV-20 Proof of Permissive Notice to General Creditors

Extension of Time to File Probate Inventory

Form IV-21 Application for Extension of Time to File Inventory, Appraisal, and List of Claims

Form IV-22 Order for Extension of Time to File Inventory, Appraisal, and List of Claims

Inventory and List of Claims

Form IV-23 Inventory, Appraisal, and List of Claims

Form IV-24 Order for Inventory, Appraisal, and List of Claims

Inventory Including a Listing of Section 453.009 Values

Form IV-25 Inventory, Appraisal, and List of Claims

Form IV-26 Order Approving Inventory, Appraisal, and List of Claims

Safekeeping and Bond Reduction Procedure (Chapter 305)

Form IV-27 Application for Safekeeping of Assets and Reduction of Administrator's Bond

Form IV-28 Order Authorizing Safekeeping of Assets and Reduction of Administrator's Bond

Form IV-29 Safekeeping Agreement

Court Authorization for Expenditures of Funds (Expenses)

Form IV-30 Application and Order for Payment of Attorney's Fees and Expenses

Form IV-31 Application and Order for Expense Account for Service

Form IV-32 Application and Order for Payment of Service

Form IV-33 Application and Order for Reimbursement of Service

Form IV-34 Application and Order for Ratification of Service

Annual Accounting

Form IV-35 Annual Accounting

Form IV-36 Annual Accounting Order

Application for Sale of Real Property

Form IV-37 Application for Sale of Real Property

Form IV-38 Order Setting Hearing on Application for Sale of Real Property

Form IV-39 Order of Sale of Real Property

Report and Decree of Sale of Real Property

Form IV-40 Report of Sale of Real Property

Form IV-41 Decree Confirming Sale of Real Property

Form IV-42 Deed



Application for Sale of Personal Property

- Form IV-43 Application for Sale of Personal Property
Under Sections 356.101-.102 of the Texas Estates Code
- Form IV-44 Order of Sale of Personal Property
Under Sections 356.101-.102 of the Texas Estates Code

Report and Decree of Sale of Personal Property

- Form IV-45 Report of Sale of Personal Property
- Form IV-46 Decree Confirming Sale of Personal Property

Final Accounting

- Form IV-47 Final Accounting of Administrator With Will Annexed With
Closure and Discharge
- Form IV-48 Verification of Funds on Deposit
- Form IV-49 Order Approving Final Accounting With Closure and Discharge
- Form IV-50 Receipt
- Form IV-51 Waiver of Notice and Citation for Final Accounting
- Form IV-52 Final Accounting of Administrator With Will Annexed
Without Discharge
- Form IV-53 Verification of Funds on Deposit
- Form IV-54 Order Approving Final Accounting Without Discharge

Discharge of Administrator With Will Annexed

- Form IV-55 Application to Close Estate and Discharge Administrator
With Will Annexed
- Form IV-56 Receipt
- Form IV-57 Order Closing Estate and Discharging Personal Representative

*** MISCELLANEOUS FORMS ***

Designation of Resident Agent

- Form IV-58 Designation of Resident Agent

Designation of Successor Resident Agent

- Form IV-59 Designation of Successor Resident Agent

Extension of Time for Closure of Estate

- Form IV-60 Application and Order to Extend Closure of Estate

Disclaimer of Property or Interest in Estate

- Form IV-61 Disclaimer

Waiver of Notice and Citation for Will Over Four Years

- Form IV-62 Waiver of Notice and Citation for Will Over Four Years

Family Allowance

- Form IV-63 Application for Family Allowance
- Form IV-64 Family Allowance Order

Application to Employ Attorney, Execute Fee Agreement, and File Suit

- Form IV-65 Application for Authority to Employ Attorney,
Execute Fee Agreement, and File Suit
- Form IV-66 Order Granting Authority to Employ Attorney, Execute
Fee Agreement, and File Suit

Payment of Attorney's Fees and Expenses

- Form IV-67 Application for Payment of Attorney's Fees and Expenses
- Form IV-68 Order Authorizing Payment of Attorney's Fees and Expenses

Appointment of Statutory Probate Judge

- Form IV-69 Application for Appointment of a Statutory Probate Judge
- Form IV-70 Order for Assignment of a Statutory Probate Judge

Transfer to a Statutory Probate Court

- Form IV-71 Motion to Transfer Proceeding to a Statutory Probate Court
- Form IV-72 Order Transferring Proceedings to a Statutory Probate Court



HEIRSHIP AND DEPENDENT ADMINISTRATION

When a person dies without a will (intestate), Texas law provides for a proof of heirship in the probate court and, if an administration of the estate is required, for a dependent administration of the Decedent's estate. This chapter will also examine the affidavit of heirship as an alternative to a court-supervised proceeding in addition to a determination of heirship.

Attorney Document and Time Period Checklist**Dependent Administration**

Form V-01 Dependent Estate Attorney Checklist

Heirship Under Texas Law**Application for Dependent Administration**

Form V-02 Combined Application for Administration and Heirship

Form V-03 Application for Administration

Proof of Death and Other Facts

Form V-04 Written Testimony and Other Facts Under Chapters 256 and 301 of the Texas Estates Code

Abbreviated Proof of Death Form

Form V-05 Proof of Death and Other Facts

Order Granting Letters of Administration

Form V-06 Order Granting Letters of Administration

Oath of Administrator

Form V-07 Oath of Administrator

Bond of Administrator

Form V-08 Bond of Administrator

Notice to Creditors

Form V-09 Published Notice to Creditors

Form V-10 Mailed Notice to Secured Creditors

Form V-11 Proof of Notice to Secured Creditors

Form V-12 Mailed Permissive Notice to General Creditors

Form V-13 Proof of Permissive Notice to General Creditors

Extension to File Probate Inventory

Form V-14 Application and Order for Extension of Time to File Inventory, Appraisal, and List of Claims

Probate Inventory and List of Claims

Form V-15 Inventory, Appraisal, and List of Claims

Form V-16 Order for Inventory, Appraisal, and List of Claims

Probate Inventory Including a Listing of Section 453.009 Values

Form V-17 Probate Inventory, Appraisal, and List of Claims

Form V-18 Order Approving Inventory, Appraisal, and List of Claims

Safekeeping and Bond Reduction Procedure (Chapter 305)

Form V-19 Application and Order for Safekeeping of Assets and Reduction of Administrator's Bond

Court-Authorized Expenditures (Expenses)

Form V-20 Application and Order for Payment of Attorney's Fees and Expenses

Form V-21 Application and Order for Expense Account for Service

Form V-22 Application and Order for Payment of Service

Form V-23 Application and Order for Reimbursement of Service

Form V-24 Application and Order for Ratification of Service

Annual Accounting

Form V-25 Annual Accounting

Form V-26 Annual Accounting Order

Application for Sale of Real Property

- Form V-27 Application for Sale of Real Property
- Form V-28 Order Setting Hearing on Application for Sale of Real Property
- Form V-29 Order of Sale of Real Property

Report and Decree of Sale of Real Property

- Form V-30 Report of Sale of Real Property
- Form V-31 Decree Confirming Sale of Real Property
- Form V-32 Deed

Application for Sale of Personal Property

- Form V-33 Application for Sale of Personal Property
Under Sections 356.101-.102 of the Texas Estates Code
- Form V-34 Order of Sale of Personal Property
Under Sections 356.101-.102 of the Texas Estates Code

Report and Decree of Sale of Personal Property

- Form V-35 Report and Decree of Sale of Personal Property

Final Accounting

- Form V-36 Final Accounting of Administrator With Closure and Discharge
- Form V-37 Order Approving Final Accounting With Closure and Discharge
- Form V-38 Receipt
- Form V-39 Waiver of Notice and Citation for Final Accounting
- Form V-40 Final Accounting of Administrator Without Discharge
- Form V-41 Order Approving Final Accounting of Administrator Without Discharge

Discharge of Administrator

- Form V-42 Application and Order to Close Estate and Discharge Administrator

Application to Determine Heirship

- Form V-43 Application to Determine Heirship

Appointment of Attorney Ad Litem in a Proceeding to Determine Heirship

- Form V-44 Motion and Order to Appoint Attorney Ad Litem

Proof of Heirship

- Form V-45 Proof of Heirship

Abbreviated Proof of Facts Form

- Form V-46 Proof of Facts

Deposition Proof of Heirship Facts

- Form V-47 Application and Order for Deposition on Written Questions

Judgment Declaring Heirship

- Form V-48 Judgment Declaring Heirship
- Form V-49 Heirship Application Waiver of Notice and Citation

*** MISCELLANEOUS FORMS ***

Designation of Resident Agent

- Form V-50 Designation of Resident Agent

Designation of Successor Resident Agent

- Form V-51 Designation of Successor Resident Agent

Extension of Time for Closure of Estate

- Form V-52 Application and Order to Extend Closure of Estate

Orders Granting Appointee Fees

- Form V-53 Order Authorizing Appointee Fees of Attorney Ad Litem
- Form V-54 Order Authorizing Appointee Fees of Guardian Ad Litem
- Form V-55 Order Authorizing Appointee Fees of Estate Representative

Application for Abandonment of Property

- Form V-56 Administrator's Application for Abandonment of Property
- Form V-57 Order of Abandonment of Real/Personal Property

Family Allowance

- Form V-58 Application for Family Allowance
- Form V-59 Family Allowance Order



**Heirship Citation, Attorney Letter Publication, Abstract,
and Publisher's Return Affidavit**

- Form V-60 Heirship Citation
- Form V-61 Attorney Letter to Publisher for Heirship Citation
- Form V-62 Abstract for Heirship Publication Notice
- Form V-63 Publisher's Return Affidavit

Application to Employ Attorney, Execute Fee Agreement, and Institute Suit

- Form V-64 Application for Authority to Employ Attorney,
Execute Fee Agreement, and Institute Suit
- Form V-65 Order Granting Authority to Employ Attorney, Execute
Fee Agreement, and Institute Suit

Payment of Attorney's Fees and Expenses

- Form V-66 Application for Payment of Attorney's Fees and Expenses
- Form V-67 Order Authorizing Payment of Attorney's Fees and Expenses

Appointment of Statutory Probate Judge

- Form V-68 Application for Appointment of a Statutory Probate Judge
- Form V-69 Order for Assignment of a Statutory Probate Judge

Transfer to a Statutory Probate Court

- Form V-70 Motion to Transfer Proceedings to a Statutory Probate Court
- Form V-71 Order Transferring Proceedings to a Statutory Probate Court

CHAPTER VI

TEMPORARY ADMINISTRATION OF DECEDENT'S ESTATE

A temporary administration of an estate is considered an *ex parte* emergency procedure to prevent injury to the decedent's estate before a Permanent Administration or probate of a will can be filed and obtained. It may also be opened when there is a contest filed to the appointment of an executor or administrator. Temporary administrations which are filed as an emergency will not last longer than 180 days. It is only a temporary administration that has been granted during a contested proceeding that can extend for a longer period. The time limit for this appointment will expire at the end of the contest. The special rules that apply to temporary administrations and temporary administrators are found in Chapter 452 of the Texas Estates Code. However, you should be aware that all of the Estates Code provisions regarding a permanent administration will also apply to a temporary administration.

Emergency Application for Temporary Administration

- Form VI-01 Emergency Application for Temporary Administration

Application for the Appointment of a Temporary Administrator Pending Contest

- Form VI-02 Application for Temporary Administration Pending Contest

Order Appointing Emergency Temporary Administrator

- Form VI-03 Order Appointing Emergency Temporary Administrator
- Form VI-04 Order Appointing Temporary Administrator Pending Contest

Oath of Temporary Administrator

- Form VI-05 Oath of Temporary Administrator
- Form VI-06 Oath of Temporary Administrator Pending Contest

Bond of Temporary Administrator

- Form VI-07 Bond of Temporary Administrator
- Form VI-08 Bond of Temporary Administrator Pending Contest

Notice to Creditors

- Form VI-09 Published Notice to Creditors
- Form VI-10 Mailed Notice to Secured Creditors
- Form VI-11 Proof of Notice to Secured Creditors

Preliminary Probate Inventory and List of Claims

- Form VI-12 Preliminary Inventory, Appraisal, and List of Claims
- Form VI-13 Order Approving Preliminary Inventory, Appraisal, and List of Claims



Application and Order for Granting Extension of Time to File Inventory

Form VI-14 Application and Order for Extension of Time to File Inventory

Probate Inventory, List of Claims, and a Listing of Section 453.009 Values

Form VI-15 Inventory, Appraisal, and List of Claims

Form VI-16 Order for Inventory, Appraisal, and List of Claims

Safekeeping and Bond Reduction Procedure (Chapter 305)

Form VI-17 Application and Order for Safekeeping of Assets and
Reduction of Temporary Administrator's Bond

Applications and Orders for Expenses

Form VI-18 Application and Order for Payment of Attorney's Fees and Expenses

Form VI-19 Application and Order for Expense Payment for Service

Annual Accounting

Form VI-20 Annual Accounting

Form VI-21 Annual Accounting Order

Application for Sale of Real Property

Form VI-22 Application for Sale of Real Property

Form VI-23 Order of Sale of Real Property

Report and Decree of Sale of Real Property

Form VI-24 Report of Sale of Real Property

Form VI-25 Decree Confirming Sale of Real Property

Application for Sale of Personal Property

Form VI-26 Application for Sale of Personal Property

Form VI-27 Order of Sale of Personal Property

Report and Decree of Sale of Personal Property

Form VI-28 Report of Sale of Personal Property

Form VI-29 Decree Confirming Sale of Personal Property

Final Accounting Pending Settlement of an Estate

Form VI-30 Final Accounting of Temporary Administrator With
Application for Discharge

Form VI-31 Order Approving Final Accounting of Temporary
Administrator and Discharge

Form VI-32 Waiver of Notice and Citation for Final Accounting

Form VI-33 Receipt for Assets

CHAPTER VII

PROBATE AS A MUNIMENT OF TITLE

Attorney Document and Time Period Checklist Muniment

Form VII-01 Muniment Estate Attorney Checklist

Application for Probate of Will as a Muniment of Title

Form VII-02 Application to Probate Will as a Muniment of Title

Proof of Death and Other Facts

Form VII-03 Written Question and Answer Testimony as to
Proof of Death and Other Facts

Abbreviated Proof of Death Form

Form VII-04 Proof of Death and Other Facts

Will Not Self-Proved, Proof by Witness in Open Court

Form VII-05 Proof of Will in Open Court

Will Not Self-Proved, Proof by Witness to Signature

Form VII-06 Alternative Proof of Will in Open Court

Proof of Will by Deposition on Written Questions

Form VII-07 Petition and Order for Deposition Upon
Written Questions to Prove Execution of Will



- Form VII-08 Receipt for Purported Will
- Written Testimony as to No Debts Due**
- Form VII-09 Proof of No Debts Due, Court
- Form VII-10 Proof of No Debts Due, Notary
- Order Admitting Will to Probate as a Muniment of Title**
- Form VII-11 Order Admitting Will to Probate as a Muniment of Title
- Probate Inventory and List of Claims**
- Form VII-12 Inventory, Appraisalment, and List of Claims
- Form VII-13 Order for Inventory, Appraisalment, and List of Claims
- Affidavit of Compliance Muniment of Title**
- Form VII-14 Affidavit for Compliance With a Muniment of Title

** MISCELLANEOUS FORMS **

- Waiver of Notice and Citation Muniment of Title**
- Form VII-15 Waiver of Notice and Citation Muniment of Title
- Declaratory Judgment to Determine Heirship or to Identify Beneficiaries**
- Form VII-16 Original Petition to Determine Heirship or to Identify Beneficiaries
- Proof of Heirship or Beneficiary Identity**
- Form VII-17 Proof of Heirship or Beneficiary Identification
- Order Determining Heirship or Identifying Beneficiaries**
- Form VII-18 Order Determining Heirship or Identifying Beneficiaries
- Form VII-19 Declaratory Judgment Waiver of Notice and Citation of Beneficiary
- Form VII-20 Declaratory Judgment Waiver of Notice and Citation of Heir

CHAPTER VIII

SIMPLE PROBATE PROCEEDINGS

This chapter covers some of the simple and less cumbersome probate proceedings, forms, and issues available. The areas covered are emergency burial, access to personal property, small estates, access to safe deposit boxes, affidavits of heirship, disclaimers, and assignments.

Application for Funeral and Burial Expenses

- Form VIII-01 Application for Funeral and Burial Expenses
- Form VIII-02 Order for Funeral and Burial Expenses

Application for Protection of Personal Property

- Form VIII-03 Application for Protection of Personal Property
- Form VIII-04 Order for Protection of Personal Property
- Form VIII-05 Inventory for Emergency Protection of Personal Property Proceedings

Application to Limit the Cremation and/or Burial of a Decedent

- Form VIII-06 Application to Control Burial or Cremation
- Form VIII-07 Temporary Order
- Form VIII-08 Permanent Orders for Burial, Cremation, and Interment

Small Estate Proceedings

- Form VIII-09 Affidavit of Distributee of a Small Estate
- Form VIII-10 Heirship Affidavit by Disinterested Witnesses
- Form VIII-11 Inventory and Valuation for Small Estate Proceedings
- Form VIII-12 Order of Approval for Affidavit of Small Estate Distributee

Application to Examine Safe Deposit Box

- Form VIII-13 Application to Access Safe Deposit Box Contents
- Form VIII-14 Order to Open Safe Deposit Box and to Examine Papers



Affidavits of Heirship

- Form VIII-15 Affidavit of Heirship Disinterested Witness
- Form VIII-16 Affidavit of Heirship Family Witness
- Form VIII-17 Statutory Heirship Affidavit

Memorandum of Disclaimer

- Form VIII-18 Court-Filed Disclaimer
- Form VIII-19 Filed Disclaimer

Memorandum of Assignment

- Form VIII-20 Court-Filed Assignment
- Form VIII-21 Clerk-Filed Assignment

CHAPTER IX

TEXAS GUARDIANSHIP

Attorney Checklist—Guardianship

- Form IX-01 Guardianship (Adult or Minor) Attorney Checklist

Application for the Appointment of a Permanent Guardian

- Form IX-02 Application for Appointment of Permanent Guardian of the Person and Estate

Order Appointing Attorney Ad Litem, Guardian Ad Litem, etc.

- Form IX-03 Order Appointing Attorney Ad Litem

Physician's Letter

- Form IX-04 Sample Form Physician's Letter

Order Appointing a Guardian of the Person and Estate

- Form IX-05 Order Appointing Guardian of the Person and Estate

Oath of Guardian

- Form IX-06 Oath of Guardian

Bond of Guardian of the Person

- Form IX-07 Bond of Guardian of the Person

Bond of Guardian of the Estate

- Form IX-08 Bond of Guardian of the Estate

Published Notice to Creditors

- Form IX-09 Published Notice to Creditors

Notice to Secured and General Creditors

- Form IX-10 Mailed Notice to Secured and General Creditors

Inventory and List of Claims

- Form IX-11 Inventory, Appraisal, and List of Claims
- Form IX-12 Order Approving Inventory, Appraisal, and List of Claims

Chapter 1105 Safekeeping and Bond Reduction Procedure

- Form IX-13 Application and Order for Safekeeping of Assets and Reduction of Guardian of the Estate's Bond

Application and Order for Safekeeping and Investment of Funds

- Form IX-14 Application and Order for Investment of Assets, Safekeeping of Assets, and Reduction of Guardian's Bond

Court Authorization for Expenditure of Funds (Expenses)

- Form IX-15 Application for Payment of Attorney's Fees and Expenses
- Form IX-16 Order Without Priority Approving Fees
- Form IX-17 Order With Priority Approving Fees
- Form IX-18 Application for Expense Account of Service
- Form IX-19 Application and Order for Payment of Service
- Form IX-20 Application and Order for Reimbursement of Service
- Form IX-21 Application and Order for Ratification of Service

- Form IX-22 Application and Order for Monthly Expense Allowance for a Minor Ward
- Form IX-23 Application and Order for Monthly Expense Allowance for an Adult Ward

Annual Report of the Condition of the Ward

- Form IX-24 Annual Report on Location, Condition, and Well-Being of Ward
- Form IX-25 Sample Form Physician's Modification Letter
- Form IX-26 Order Acknowledging Review of Annual Report on Location, Condition, and Well-Being of Ward

Annual Accounting

- Form IX-27 Annual Accounting
- Form IX-28 Annual Accounting Order

Application for the Sale of Real Property

- Form IX-29 Application for Sale of Real Property

Order Permitting Sale of Real Property

- Form IX-30 Order of Sale of Real Property

Report of Sale of Real Property

- Form IX-31 Report of Sale of Real Property

Decree Confirming Report of Sale of Real Property

- Form IX-32 Decree Confirming Sale of Real Property

Application for Sale of Personal Property Under Sections 1158.101-.105

- Form IX-33 Application for Sale of Personal Property

Order for Sale of Personal Property Under Sections 1158.101-.105

- Form IX-34 Order of Sale of Personal Property

Report of Sale of Personal Property

- Form IX-35 Report of Sale of Personal Property

Decree Confirming Sale of Personal Property

- Form IX-36 Decree Confirming Sale of Personal Property

Final Accounting Pending Settlement of an Estate

- Form IX-37 Final Accounting of Guardian Without Application for Closure and Discharge
- Form IX-38 Ward's Waiver of Citation and Service for a Final Accounting
- Form IX-39 Beneficiary's Waiver of Citation and Service for a Final Accounting
- Form IX-40 Order Approving Final Accounting of Guardian of the Estate Without Closure and Discharge
- Form IX-41 Final Accounting of Guardian With Closure and Discharge
- Form IX-42 Ward's Waiver of Citation and Receipt of Assets
- Form IX-43 Personal Representative or Beneficiary's Waiver of Citation and Service for a Final Accounting
- Form IX-44 Order Approving Final Accounting With Discharge and Closure of Guardianship

Application and Order for Discharge as Guardian

- Form IX-45 Application and Order to Close Estate and Discharge Guardian

*** MISCELLANEOUS FORMS ***

Application for the Modification of Permanent Guardian of the Adult Person and Estate

- Form IX-46 Application for Modification of Guardianship

Physician's Modification Letter

- Form IX-47 Sample Form Physician's Modification Letter

Order for Modification of Guardianship of the Person and/or Estate

- Form IX-48 Order Modifying Guardianship

Application for Restoration of Ward and Termination of Guardianship

- Form IX-49 Application for Restoration and Termination of Guardianship



Physician's Restoration Letter

Form IX-50 Sample Form Physician's Restoration Letter

Order for Restoration and Termination of Guardianship

Form IX-51 Order Restoring the Ward and Terminating the Guardianship

Application for the Appointment of Successor Guardian

Form IX-52 Application for Appointment of Successor Guardian

Order Appointing Successor Guardian

Form IX-53 Order Appointing Successor Guardian of the Person and Estate

Application for the Sale of Property Without a Guardianship of a Minor Under Chapter 1351

Form IX-54 Chapter 1351 Application for Sale of Property of Minor

Order Permitting Sale of Property Under Chapter 1351

Form IX-55 Order of Sale Under Chapter 1351 of the Texas Estates Code

Application for the Sale of Property of an Adult Without a Guardianship of the Estate Under Chapter 1351

Form IX-56 Chapter 1351 Application for Sale of Property of an Adult

Order Permitting Sale of Property Under Chapter 1351

Form IX-57 Order of Sale Under Chapter 1351 of the Texas Estates Code

Guardian's Application for Abandonment of Property

Form IX-58 Guardian's Application for Abandonment of Property

Guardian's Order for Abandonment of Property

Form IX-59 Guardian's Order for Abandonment of Property

Application to Employ Attorney, Execute Fee Agreement, and File Suit

Form IX-60 Application for Authority to Employ Attorney, Execute Fee Agreement, and Institute Suit

Form IX-61 Order Granting Authority to Employ Attorney, Execute Fee Agreement, and Institute Suit

Form IX-62 Waiver of Notice and Citation Guardianship Application

Payment of Attorney's Fees and Expenses

Form IX-63 Application for Payment of Attorney's Fees and Expenses

Form IX-64 Order Approving Attorney's Fees

Designation of Resident Agent

Form IX-65 Designation of Resident Agent

Appointment of Statutory Probate Judge

Form IX-66 Application for Appointment of a Statutory Probate Judge

Form IX-67 Order for Assignment of a Statutory Probate Judge

Transfer to a Statutory Probate Court

Form IX-68 Motion to Transfer Proceedings to a Statutory Probate Court

Form IX-69 Order Transferring Proceedings to a Statutory Probate Court

Motion, Notice, and Order to Refer Guardianship Proceeding to Mediation

Form IX-70 Motion to Refer Proceeding to Mediation

Form IX-71 Notice of Referral to Mediation

Form IX-72 Order of Referral to Mediation

Motion, Notice, and Order to Seal Court Records

Form IX-73 Motion to Seal Records

Form IX-74 Notice of Motion to Seal Records

Form IX-75 Verification

Form IX-76 Order to Seal Records



TEMPORARY GUARDIANSHIP

A temporary guardianship may be of the person or estate or both and is considered an *ex parte* emergency procedure to prevent injury to the proposed ward or ward's estate before a permanent guardianship can be filed and obtained. *See* Chapter 1251 of the Texas Estates Code. It may also be opened where there is a contest filed to the appointment of a guardian and the need for someone to act is required. Temporary guardianships will not last longer than sixty days. *See* Tex. Est. Code § 1251.151. These guardianships expire by operation of law and cannot be renewed or extended. In addition, there must be a confirmation hearing on emergency temporary guardianship within ten days of the date of filing. *See* Tex. Est. Code § 1251.006. It is only a temporary guardianship that has been granted during a contested proceeding that can operate for a longer period. The time limit for this appointment will expire at the end of the contest. The special rules that apply to temporary guardianships are found in Chapter 1251 of the Texas Estates Code. However, you should be aware that all of the Code provisions regarding a permanent guardianship will also apply to a temporary guardianship.

Attorney Document and Time Period Checklist—Guardianship

Form X-01 Temporary Guardianship (Adult or Minor) Attorney Checklist

Application for the Appointment of Temporary Guardian

Form X-02 Emergency Application for Temporary Guardianship

Application for the Appointment of a Temporary Guardianship Pending Contest

Form X-03 Application for Temporary Guardianship Pending Contest

Order Appointing an Emergency Temporary Guardian

Form X-04 Emergency Order Appointing Temporary Guardian

Order Confirming the Appointment of an Emergency Temporary Guardian

Form X-05 Order Confirming Appointment of Emergency Temporary Guardian

Order Appointing a Temporary Guardian Pending Contest

Form X-06 Order Appointing Temporary Guardian Pending Contest

Oath of Temporary Guardian

Form X-07 Oath of Emergency Temporary Guardian

Form X-08 Oath of Temporary Guardian Pending Contest

Bond of Temporary Guardian

Form X-09 Bond of Temporary Guardian

Form X-10 Bond of Temporary Guardian Pending Contest

Published Notice to Creditors

Form X-11 Published Notice to Creditors

Notice to Secured and General Creditors

Form X-12 Mailed Notice to Secured and General Creditors

Form X-13 Proof of Notice to Secured and General Creditors

Probate Inventory and List of Claims

Form X-14 Inventory, Appraisal, and List of Claims

Form X-15 Order Approving Inventory, Appraisal, and List of Claims

Chapter 1105 Safekeeping and Bond Reduction Procedure

Form X-16 Application and Order for Safekeeping of Assets and Reduction of Bond

Annual Accounting

Form X-17 Annual Accounting

Form X-18 Annual Accounting Order

Final Accounting for Temporary Guardian

Form X-19 Final Accounting of Emergency Temporary Guardian

Form X-20 Order Approving Final Accounting of
Emergency Temporary Guardian

Form X-21 Waiver of Notice and Citation for Final Accounting

Form X-22 Receipt for Assets

Form X-23 Final Accounting of Temporary Guardian Pending Contest

Form X-24 Order Approving Final Accounting of Temporary Guardian Pending Contest

Form X-25 Waiver of Notice and Citation for Final Accounting

CHAPTER XI

GUARDIANSHIP ALTERNATIVES

This chapter provides documents that can help to delay the creation of a formal court-supervised guardianship with its issues and complications. We are all familiar with the preguardianship planning methods that are available by using trusts. Trust alternatives are available when the person has recognized the need to plan and makes the effort to plan before it becomes too late. Other situations exist where no one recognizes the need to plan and no planning is done. Today more families are seeking advice and exploring alternatives for persons who may need some help in the future. This chapter gives you basic forms that can be used toward avoiding or delaying a guardianship. As the number of senior citizens continues to grow, the need for guardianships and their alternatives will become more important. What may not be avoided, in some situations, is the need for creation of a guardian of the person. You will find that state institutions, nursing homes, and other care facilities are now requiring the creation of a guardianship for the person of their adult incapacitated residents. The forms and information provided in this chapter should prove beneficial.

Statutory Directives and Powers of Attorney

- Form XI-01 Directive to Physicians and Family or Surrogates
- Form XI-02 Medical Power of Attorney
- Form XI-03 Statutory Durable Power of Attorney
- Form XI-04 Statutory Durable Power of Attorney for Principal
(With Trust and Health Care Powers and Designation of Guardian)

Statutory Designation of Guardians

- Form XI-05 Declaration of Guardian in the Event of Later Incapacity
or Need of a Guardian for Principal
- Form XI-06 Parental Declaration of Appointment of Guardian for Children for Affiant
- Form XI-07 Declaration for Mental Health Treatment

COURT-CREATED TRUST

Chapter 1301 Management Trusts Applications

- Form XI-08 Application for Creation of Adult Chapter 1301 Management Trust
- Form XI-09 Application for Creation of Minor's Chapter 1301 Management Trust
- Form XI-10 Application for Creation of a Supplemental Needs
Chapter 1301 Management Trust

Chapter 1301 Management Trusts

- Form XI-11 Chapter 1301 Trust Document for Adult
- Form XI-12 Chapter 1301 Trust Document for Minor
- Form XI-13 Chapter 1301 Trust Document for Supplemental Needs

Chapter 1301 Management Trusts Orders

- Form XI-14 Order Creating Adult's Chapter 1301 Management Trust
- Form XI-15 Order Creating Minor's Chapter 1301 Management Trust
- Form XI-16 Order Creating Supplemental Needs Management Trust

Depositing Funds Without A Guardianship

- Form XI-17 Application for Deposit of Funds Pursuant to
Chapter 1355 of the Texas Estates Code

Withdrawal From Registry of Court at Majority

- Form XI-18 Application for Withdrawal of Funds From the Court Registry—Minor

Withdrawal From Registry of Court Representative

- Form XI-19 Application for Withdrawal of Funds From the Court Registry

MEDICAID INCOME ELIGIBILITY TRUST

Miller Trust

- Form XI-20 Trust Declaration for Medicaid Eligibility

GUARDIANSHIP AVOIDANCE DISCUSSIONS

Alternative Methods for Avoiding an Estate Guardianship

- Creation of Chapter 113 Convenience Accounts
- The Representative Payee
- Paternal Authority—Minor
- Transfer to Minors—TUTMA
- Court-Created Trust—Texas Property Code Chapter 142
- Receiverships for Minors and Incapacitated Adults—Texas Estates Code Chapter 1354

Alternatives for Avoiding a Guardianship of the Person

- Surrogate Decision Makers—Adults
- Mental Health and Mental Retardation
- Removal of Disabilities—Minor
- Medical and Immunization Consents—Minors

CHAPTER XII

THE ATTORNEY AND GUARDIAN AD LITEM

This chapter provides documents for use by both the Attorney and Guardian Ad Litem. We understand that their roles in the probate process are significantly different. The Attorney Ad Litem will act as the attorney for the Proposed Ward, Ward, or for heirs of a decedent. *See* Tex. Est. Code § 53.104; Tex. Est. Code § 1002.002; and Chapter 1054. The Guardian Ad Litem on the other hand acts as a best interest representative for both the Court and the Ward. *See* Tex. R. Civ. P. 173; Tex. Est. Code § 1002.013; Tex. Est. Code §§ 1054.051-.055; Tex. Est. Code §§ 1102.001-.005. The forms in this chapter are designed to cover many of the basic needs of both Ad Litem in a guardianship and heirship proceeding.

Attorney Ad Litem Answers

- Form XII-01 Answer of Attorney Ad Litem
- Form XII-02 Defensive Answer of Attorney Ad Litem
- Form XII-03 Heirship Answer of Attorney Ad Litem
- Form XII-04 Request for Closed Hearings
- Form XII-05 Motion to Withdraw Pursuant to *Anders v. California*

Attorney Ad Litem Application for Compensation and Expenses

- Form XII-06 Attorney Ad Litem Compensation and Expenses

Attorney Ad Litem Order Approving Compensation

- Form XII-07 Order Authorizing Attorney Ad Litem Compensation

General Order Approving Appointee Compensation

- Form XII-08 Order Authorizing Appointee Compensation

Application Requesting a Guardian Ad Litem Appointment

- Form XII-09 Motion for Appointment of Guardian Ad Litem

Order Appointing a Guardian Ad Litem

- Form XII-10 Order Appointing Guardian Ad Litem

COURT-CREATED MANAGEMENT TRUSTS

Chapter 1301 Management Trusts Applications

- Form XII-11 Joint Application for Creation of Adult Chapter 1301 Management Trust
- Form XII-12 Joint Application for Creation of Minor's Chapter 1301 Management Trust
- Form XII-13 Joint Application for Creation of a Supplemental Needs Chapter 1301 Management Trust

Chapter 1301 Management Trusts Orders

- Form XII-14 Order Creating Adult's Chapter 1301 Management Trust
- Form XII-15 Order Creating Minor's Chapter 1301 Management Trust
- Form XII-16 Order Creating Supplemental Needs Chapter 1301 Management Trust

Guardian Ad Litem Notice of Appearance

- Form XII-17 Answer and Entry of Appearance

Guardian Ad Litem Restoration Answer

- Form XII-18 Restoration Answer of Guardian Ad Litem



Guardian Ad Litem Report

Form XII-19 Report of Guardian Ad Litem

Information Letter Section 1102.003

Form XII-20 Sample Form Information Letter

Chapter 1102 Guardian Ad Litem Appointment Order

Form XII-21 Order Appointing Guardian Ad Litem

Guardian Ad Litem's Application for the Appointment of a Permanent Guardian

Form XII-22 Application for Appointment of Permanent Guardian of the Person and Estate

Guardian Ad Litem Waivers

Form XII-23 General Waiver of Notice and Citation

Form XII-24 Waiver of Notice, Citation, and Guardianship Appointment

Guardian Ad Litem Waiver Letter

Form XII-25 Guardian Ad Litem Waiver Notice Letter

Guardian Ad Litem's Order Appointing Guardian of the Person and/or Estate

Form XII-26 Order Appointing Guardian of the Person and Estate

