

BEXAR COUNTY PROBATE COURT NO. 2

Judge Veronica Vasquez
Bexar County Courthouse, Room 123
100 Dolorosa
San Antonio, Texas 78205



September 1, 2022

PROBATING A COPY OF A WILL CHECKLIST

Procedures: Please e-file all appropriate documents for your case with the Bexar County Probate Clerk's office, including Proposed Orders, Statement of Facts and Proof of Death for review. **Once the checklist is fully completed, the applicant's attorney can set this matter for hearing.** FIAT is required, please use one of the templates attached.

FIAT is required, please use one of the templates located on the PC2 Website.

Please cross through actions that do not apply

If you submit documents after hearing date you must notify the staff attorney once the e-filed documents are accepted by the clerk.

Case Number _____ Estate of _____

Checklist for Probating a Copy of a Will or Codicil

In addition to meeting all criteria to probate an original Will, the following must be included when probating a copy of a Will (see Texas Estates Code 256.156). Further, an original Codicil does not relieve the Applicant from proving up a copy of a Will.

Note: This court uses the following explanation of "disinterested witness" for purposes of determining heirs: A disinterested individual is a person who has no interest in the estate, no interest in the outcome of the proceeding, and is familiar with the decedent's family history. In the event a disinterested witness is simply not available, please state the circumstances.

- Title of document must reflect what you are probating, e.g. Application to Probate Copy of a Will...Prayer must reflect the same.
- Tender the actual copy of the Will offered for probate to the Clerk.
- Application includes a statement why probating a copy of Will and what diligence was done to locate the original Will.
- Application includes statements to overcome presumption the original Will was revoked.
- Posting with correct title.
- Citation issued by the Clerk to all parties interested in the estate (devisees under the Will and heirs-at-law as if died intestate and if residents of state and addresses known). Citation to heirs-at-law by personal service. Texas Estates Code §258.002
 - Service by mail requires at least 20 days before the return day of service. Texas Estates Code 51.052. *Issued by Clerk and returned on _____ (date).*
- Sworn Waivers of Citation with explicit acknowledgement of their right to contest the probate of a copy of a Will and they are waiving such right.
Accepted by Clerk on _____ (date).

- Citation by publication may be done for transient persons, heirs with unknown address, and heirs not residents of this state. Citation should state the name if known.
Return _____ (date).
- If probating a copy of a codicil only, the beneficiaries of the Original Will tendered are served with personal citation or beneficiaries must execute an affidavit waiving citation specifically stating they have received notice that a copy of a codicil is being probated.
- If Will is not self-proved or there is an objection to entering duplicate of Will into evidence, need proof of execution of attested Will by sworn testimony from one subscribing witness in open court, or follow Texas Estates Code 256.153 or 256.154.
- Testimony from credible witness that copy of Will produced is an exact duplicate, who read either the original Will, or a copy of the Will, heard the Will read, or can identify a copy of the Will.
- Need affidavits from two disinterested witnesses on the heirs-at-law filed prior to hearing OR with live testimony and reduced to writing.
- Proof of Death states copy of Will offered for probate with no objection. If not self-proved, add there is proof by subscribing witness to Will or witnesses to the handwriting of a subscribing witness or the testator.
- Proof of Death states why probating copy, what diligence was done to locate original Will, and the testator did not revoke the Will.
- Order reflects language that copy of Will probated and finding that Applicant overcame presumption that Original Will was revoked.
- E-file executed Statement of Facts from witnesses for heirs-at-law prior to hearing
Accepted by Clerk on _____ (date).
- E-file unsigned Affidavit for signature (if not self-proved) prior to hearing.
Accepted by Clerk on _____ (date). Live testimony required.
- E-file unsigned Proof of Death for review prior to setting hearing.
Accepted by Clerk on _____ (date).
- E-file unsigned Oath for review prior to setting hearing.
Accepted by Clerk on _____ (date).
- E-file Proposed Order as separate lead document for review and approval prior to setting hearing. Order must refer to probating a Copy of a Will, testimony taken, etc.
Accepted by Clerk on _____ (date).

Attorney Verification

I, _____ confirm that all required documents for the hearing I am requesting in Cause No. _____ **-PC-** _____ are correct and have been e-filed and accepted by the Bexar County Probate Clerk's office.

Signed: _____ Date: _____