

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE B. PROCEDURAL MATTERS

CHAPTER 53. OTHER COURT DUTIES AND PROCEDURES

SUBCHAPTER A. ENFORCEMENT OF ORDERS

Sec. 53.001. ENFORCEMENT OF JUDGE'S ORDERS. A judge may enforce the judge's lawful orders against an executor or administrator by attachment and confinement. Unless this title expressly provides otherwise, the term of confinement for any one offense under this section may not exceed three days.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

SUBCHAPTER B. COSTS AND SECURITY

Sec. 53.051. APPLICABILITY OF CERTAIN LAWS. A law regulating costs in ordinary civil cases applies to a probate matter when not expressly provided for in this title.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 53.052. SECURITY FOR CERTAIN COSTS. (a) The clerk may require a person who files an application, complaint, or opposition relating to an estate, other than the personal representative of the estate, to provide security for the probable costs of the proceeding before filing the application, complaint, or opposition.

(b) At any time before the trial of an application, complaint, or opposition described by Subsection (a), anyone interested in the estate or an officer of the court may, by written motion, obtain from the court an order requiring the person who filed the application, complaint, or opposition to provide security for the probable costs of the proceeding. The rules governing civil suits in the county court with respect to giving security for the probable costs of a proceeding control in cases described by

Subsection (a) and this subsection.

(c) An executor or administrator appointed by a court of this state may not be required to provide security for costs in an action brought by the executor or administrator in the executor's or administrator's fiduciary capacity.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 53.053. EXEMPTION FROM PROBATE FEES FOR ESTATES OF CERTAIN MILITARY SERVICEMEMBERS. (a) In this section, "combat zone" means an area that the president of the United States by executive order designates for purposes of 26 U.S.C. Section 112 as an area in which armed forces of the United States are or have engaged in combat.

(b) Notwithstanding any other law, the clerk of a county court may not charge, or collect from, the estate of a decedent any of the following fees if the decedent died while in active service as a member of the armed forces of the United States in a combat zone:

(1) a fee for or associated with the filing of the decedent's will for probate; and

(2) a fee for any service rendered by the probate court regarding the administration of the decedent's estate.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 53.054. EXEMPTION FROM PROBATE FEES FOR ESTATES OF CERTAIN LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, AND OTHERS.

(a) In this section:

(1) "Eligible decedent" means an individual listed in Section 615.003, Government Code.

(2) "Line of duty" and "personal injury" have the meanings assigned by Section 615.021(e), Government Code.

(b) Notwithstanding any other law, the clerk of a court may not charge, or collect from, the estate of an eligible decedent any of the following fees if the decedent died as a result of a personal injury sustained in the line of duty in the individual's position as

described by Section 615.003, Government Code:

(1) a fee for or associated with the filing of the decedent's will for probate; and

(2) a fee for any service rendered by the court regarding the administration of the decedent's estate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 614 (S.B. 543), Sec. 2.01, eff. January 1, 2014.

#### SUBCHAPTER C. PROCEDURES FOR PROBATE MATTERS

Sec. 53.101. CALLING OF DOCKETS. The judge in whose court probate proceedings are pending, at times determined by the judge, shall:

(1) call the estates of decedents in the estates' regular order on both the probate and claim dockets; and

(2) issue orders as necessary.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 53.102. SETTING OF CERTAIN HEARINGS BY CLERK. (a) If a judge is unable to designate the time and place for hearing a probate matter pending in the judge's court because the judge is absent from the county seat or is on vacation, disqualified, ill, or deceased, the county clerk of the county in which the matter is pending may:

(1) designate the time and place for hearing;

(2) enter the setting on the judge's docket; and

(3) certify on the docket the reason that the judge is not acting to set the hearing.

(b) If, after the perfection of the service of notices and citations required by law concerning the time and place of hearing, a qualified judge is not present for a hearing set under Subsection (a), the hearing is automatically continued from day to day until a qualified judge is present to hear and determine the matter.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 53.103. RENDERING OF DECISIONS, ORDERS, DECREES, AND JUDGMENTS. The county court shall render all decisions, orders, decrees, and judgments in probate matters in open court, except as otherwise specially provided.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 53.104. APPOINTMENT OF ATTORNEYS AD LITEM.

(a) Except as provided by Section 202.009(b), the judge of a probate court may appoint an attorney ad litem in any probate proceeding to represent the interests of any person, including:

- (1) a person who has a legal disability under state or federal law;
- (2) a nonresident;
- (3) an unborn or unascertained person;
- (4) an unknown heir;
- (5) a missing heir; or
- (6) an unknown or missing person for whom cash is deposited into the court's registry under Section 362.011.

(b) An attorney ad litem appointed under this section is entitled to reasonable compensation for services provided in the amount set by the court. The court shall:

(1) tax the compensation as costs in the probate proceeding and order the compensation to be paid out of the estate or by any party at any time during the proceeding; or

(2) for an attorney ad litem appointed under Subsection (a)(6), order that the compensation be paid from the cash on deposit in the court's registry as provided by Section 362.011.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 5, eff. January 1, 2014.

Sec. 53.106. EXECUTIONS IN PROBATE MATTERS. (a) An execution in a probate matter must be:

(1) directed "to any sheriff or any constable within the State of Texas";

(2) attested and signed by the clerk officially under court seal; and

(3) made returnable in 60 days.

(b) A proceeding under an execution described by Subsection (a) is governed, to the extent applicable, by the laws regulating a proceeding under an execution issued by a district court.

(c) Notwithstanding Subsection (a), an execution directed to the sheriff or a constable of a specific county in this state may not be held defective if properly executed within that county by the sheriff or constable to whom the execution is directed.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 53.107. INAPPLICABILITY OF CERTAIN RULES OF CIVIL PROCEDURE. The following do not apply to probate proceedings:

(1) Rules 47(c) and 169, Texas Rules of Civil Procedure; and

(2) the portions of Rule 190.2, Texas Rules of Civil Procedure, concerning expedited actions under Rule 169, Texas Rules of Civil Procedure.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 6, eff. January 1, 2014.