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Trust Modifications and Reformations In Texas

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Introduction

- Trust drafters often do not anticipate future events or legal changes.
- There are circumstances when parties need to file suit to modify or reform a trust.
- This presentation will attempt to address the main legal issues that arise when there is desire to modify or reform a trust.

Areas of Discussion

- Common-Law Basis for Modification
- Statutory Basis for Modification
- Statutory Basis for Reformation
- Special Needs Trusts Issues
- Case law on Modifications
- Standing
- Jurisdiction
- Parties
- Appellate Review
- Jury Trial Rights

Common-Law Basis To Modify

- Before the enactment of the Trust Code, courts derived authority to modify trusts under the "rule or doctrine of deviation implicit in the law of trusts." *See In re Troy S. Poe Tr.*, 646 S.W.3d 771 (Tex. 2022).
- Under this doctrine, a court had the power to "order a deviation from the terms of the trust if it appears to the court that compliance with the terms of the trust is impossible, illegal, impractical or inexpedient, or that owing to circumstances not known to the settlor and not anticipated by him, compliance would defeat or substantially impair the accomplishment of the purpose of the trust." *Id*.

Title search: Trust Modifications and Reformations in Texas

Also available as part of the eCourse
2025 Special Needs Trusts eConference

First appeared as part of the conference materials for the
21st Annual Changes and Trends Affecting Special Needs Trusts session
"Don’t Modify that Trust: Reform It! When and How to Reform a Trust that Needs to be an SNT"