

PRESENTED AT

21st Annual Estate Planning, Guardianship, and Elder Law Conference

August 1-2, 2019
Moody Gardens, Galveston, Texas

Is There Meat in Those Beans?

The 2019 Texas Estate and Trust Legislative Update

Presented by Craig Hopper

Written by William D. Pargaman

Presenter Contact Information:

Craig Hopper
Hopper Mikeska, pllc
Austin, Texas
chopper@hoppermikeska.com
512.615.6195

Author Contact Information:

William D. Pargaman
Saunders, Norval, Pargaman & Atkins, LLP
Austin, Texas
bpargaman@snpalaw.com
512.617.7328

Is There Meat in Those Beans?

The 2019 Texas Estate and Trust Legislative Update

(Including Decedents' Estates, Guardianships, Trusts,
Powers of Attorney, and Other Related Matters)

Author and Alternate Presenter:

William D. Pargaman

Saunders, Norval, Pargaman & Atkins, LLP
Past Chair, REPIL Estate and Trust Legislative Affairs Committee
(See Contact Info and Bio on Page i.)

Legislative Liaison and Principal Presenter:

Craig Hopper

Hopper Mike ska, PLLC
Chair, REPIL Estate and Trust Legislative Affairs Committee
(See Contact Info and Bio on Page iii.)

This version was updated **June 27, 2019**. You can check for a more recent version at:

www.snplaw.com/resources/2019LegislativeUpdate

Or go to the [Resources](#) page at snplaw.com and scroll to
"2019 Texas Estate and Trust Legislative Update."

(See the note on page 1 about hyperlinking to the online version of this paper.)



Legal Experience

Bill Pargaman has been a partner in the Austin law firm of Saunders, Norval, Pargaman & Atkins since July of 2012. He has been certified as a specialist in Estate Planning and Probate Law by the Texas Board of Legal Specialization (since 1986) and has been a Fellow in the American College of Trust and Estate Counsel (since 1994). He is very active in the Real Estate, Probate and Trust Law Section of the State Bar of Texas, having served as REPTIL's Chair for the 2015-2016 bar year, as chair of its Estate and Trust Legislative Affairs Committee for the 2009, 2011, and 2013 legislative sessions, and as a Council member and chair of REPTIL's Trusts Committee from 2004 to 2008.

Bill's practice involves the preparation of wills, trusts and other estate planning documents, charitable planning, and estate administration and alternatives to administration. He advises clients on the organization and maintenance of business entities such as corporations, partnerships, and limited liability entities. He represents nonprofit entities with respect to issues involving charitable trusts and endowments. Additionally, he represents clients in contested litigation involving estates, trusts and beneficiaries, and tax issues.

Education

- Doctor of Jurisprudence, *with honors*, University of Texas School of Law, 1981, Order of the Coif, Chancellors
- Bachelor of Arts, Government, *with high honors*, University of Texas at Austin, 1978, Phi Beta Kappa

Professional Licenses

- Attorney at Law, Texas, 1981

Court Admissions

- United States Tax Court

Prior Experience

- Brown McCarroll, LLP. (now Husc h Blac kwell LLP), 1981 – 2012

Speeches and Publications

Mr. Pargaman has been a speaker, author, or course director at numerous seminars, including:

- State Bar of Texas (Texas BarCLE) – Advanced Estate Planning and Probate Course, Advanced Estate Planning Strategies Course, Estate Planning and Probate Drafting Course, Advanced Guardianship Law Course, Advanced Real Estate Law Course, Advanced Real Estate Drafting Course, Advanced Tax Law Course, State Bar College Summer School, State Bar Annual Meeting, Practice Skills for New Lawyers, Essentials for the General Practitioner, Miscellaneous Webcasts, and more
- Real Estate, Probate and Trust Law Section Annual Meeting
- University of Texas Estate Planning, Guardianship, and Elder Law Conference
- South Texas College of Law Wills and Probate Institute
- Estate Planning & Community Property Law Journal Seminar
- Texas NAELA Summer Conference
- University of Houston Law Foundation General Practice Institute, and Wills and Probate Institute

- Austin Bar Association Estate Planning and Probate Section Annual Probate and Estate Planning Seminar
- Austin Bar Association and Austin Young Lawyers Association Legal Malpractice Seminar
- Dallas Bar Association Probate, Trusts & Estate Section
- Houston Bar Association Probate, Trusts & Estate Section
- Tarrant County Probate Bar Association
- Hidalgo County Bar Association Estate Planning and Probate Section
- Bell County Bench Bar Conference
- Midland College/Midland Memorial Foundation Annual Estate Planning Seminar
- Austin Chapter, Texas Society of Certified Public Accountants, Annual Tax Update
- Texas Bankers Association Advanced Trust Forum
- Texas Credit Union League Compliance, Audit & Human Resources Conference
- Estate Planning Councils in Austin, Amarillo, Corpus Christi, Lubbock, San Antonio, and Tyler
- Austin Association of Life Underwriters

Professional Memberships and Activities

- American College of Trust and Estate Counsel, Fellow
- State Bar of Texas
 - Real Estate, Probate and Trust Law Section, Member (Chair, 2015-2016)
 - Real Estate, Probate, and Trust Law Council, Member, 2004–2008
 - Estate and Trust Legislative Affairs Committee, Member, 2000–Present (Chair, 2008–2013)
 - Public Service Committee, Chair, 2013–2014
 - Trusts Committee, Member, 2000–2010 (Chair, 2004–2008)
 - Uniform Trust Code Study Project, Articles 7–9 & UPIA, Subcommittee Member, 2000–2003
 - Continuing Legal Education Committee, 2018-2021
 - Texas Board of Legal Specialization (Estate Planning and Probate Law), Examiner, 1995-1997
- Estate Planning Council of Central Texas, Member (President, 1991-1992)
- Austin Bar Association, Member
 - Estate Planning and Probate Section, Member (Chair, 1992-1993, Board Member, 1997-1999)

Honors

- Recipient, Texas Bar CLE STANDING OVATION award, 2014
- Listed in The Best Lawyers in America® (2019 Trusts & Estates “Lawyer of the Year” in Austin, TX)
- Listed in *Texas Super Lawyers* (Texas Monthly)
- Listed in The Best Lawyers in Austin (Austin Monthly)

Community Involvement

- St. Stephen’s Episcopal School Professional Advisory Council, Past Member
- City of Austin, XERISCAPE Advisory Board, Past Member
- Volunteer Guardianship Program of Family Eldercare, Inc. of Austin, Past Member, Advisory Board

CRAIG HOPPER

HOPPER MIKESKA, PLLC
BARTON OAKS II
901 S. MOPAC EXP.
SUITE 570
AUSTIN, TEXAS 78746
(512) 615-6195

chopper@hoppermikeska.com

AREAS OF PRACTICE

Probate litigation, probate administration, guardianship administration, trust administration, and estate planning law.

EDUCATION

Juris Doctor degree, Duke University School of Law, 1995.

Bachelor of Arts degree with high honors, Plan II program, University of Texas at Austin, 1990

PROFESSIONAL HISTORY

Hopper Mikeska, PLLC, 2012-Present

Hopper & Associates, P.C., 2005 - 2012

Shareholder, Graves, Dougherty, Hearon & Moody, 1998 - 2005

Law Clerk, Honorable Guy Herman, Travis County Probate Court No. 1, 1996-1998

PROFESSIONAL AFFILIATIONS

Board Certified in Estate Planning and Probate Law, Texas Board of Legal Specialization

Fellow, American College of Trusts and Estates Counsel

Member, Austin Bar Association

Member, State Bar of Texas

Member, SBOT Real Estate, Probate and Trust Law (REPTL) Section Treasurer 2019-2020; Council Member 2010-2014; Chair of Estate and Trust Legislative Affairs Committee 2014-2019

Member, Estate Planning Council of Central Texas; Director 2008-2014; Chair 2012-2013

Member, Travis County Bar Association Probate and Estate Planning Section; Director, 1999- 2004; Chair, 2003

PUBLICATIONS

O'Connor's Texas Probate Law Handbook, 2018-Present

Texas Guardianship Manual, State Bar of Texas, Manual Committee 2013-Present

O'Connor's Estates Code Plus, co-author, 2012-Present

RECENT PRESENTATIONS/PAPERS

- Speaker, 2017 Trusts and Estates Legislative Update, numerous locations in 2017
- Author/Moderator, "How 2015 [Guardianship] Changes Are Affecting Your Practice," SBOT Advanced Guardianship Course 2016, Dallas
- Panelist, "Peace Treaties: Considerations when Negotiating, Drafting & Enforcing Settlement Agreements and Releases," SBOT Estate Planning and Probate Drafting Course, Houston 2015
- Speaker, 2015 Trusts and Estates Legislative Update, numerous locations in 2015-2016 Author/Speaker, "Extraordinary Remedies in Probate Proceedings," SBOT Probate and Estate Planning Drafting Course 2014, Dallas
- Author/Speaker, "Whack-a-Mole: Handling Problem Litigants and the Occasional Overzealous Ad Litem," SBOT Advanced Guardianship Course 2014, Dallas;
- Speaker, "Mock Guardianship Hearing—How and When to Put Your Ward on the Stand," SBOT Advanced Guardianship Course 2014, Dallas; Tarrant County Bar Association Probate Litigation Seminar 2014, Ft Worth
- Speaker, "Basic Guardianship," Docket Call in Probate Court, San Antonio, Texas 2014
- Speaker, "Ask the Experts" panel 15th Annual University of Texas Estate Planning, Guardianship and Elder Law Conference, Galveston 2013
- Author/Speaker, "Creating a Travis County Guardianship," Austin Advisors Forum, Austin 2013
- Course Director, SBOT Advanced Guardianship and Elder Law Courses, Houston, 2013
- Speaker, "Alternatives to Guardianship" and "Ask the Experts" panel 14th Annual University of Texas Estate Planning, Guardianship and Elder Law Conference, Galveston 2012
- Author/Speaker, "Drafting the Estate and Trust Distribution Documents," SBOT Advanced Drafting Course, Dallas 2011

- Speaker, “Contested Guardianships,” SBOT Advanced Guardianship Course 2011, Houston; South Texas College of Law 26th Annual Wills and Probate Institute, Houston 2011
- Author/Speaker, “The Role of the Guardian,” 13th Annual University of Texas Estate Planning, Guardianship and Elder Law Conference, Galveston 2011
- Speaker, “Call in the Sheriff: Handling Overzealous Ad Litem and Other Outlaws,” SBOT Advanced Guardianship Course 2010, Houston
- Author/Speaker, “Extraordinary Preparation for Mediation in Guardianship Disputes,” SBOT Advanced Guardianship Course 2009, Houston
- Author/Speaker, “Extraordinary Remedies in Probate Proceedings,” SBOT Advanced Estate Planning and Probate Course 2008, Dallas
- Panel Member, “Ask the Experts,” and “Former Statutory Probate Court Staff Attorneys Panel” 9th Annual Intermediate Estate Planning, Guardianship and Elder Law Conference, Galveston, Texas, August 2007
- Speaker, “Attorney Ad Litem Duties” and Panel Member, “Ask the Experts,” 8th Annual Intermediate Estate Planning, Guardianship and Elder Law Conference, Galveston, Texas, August 2006
- Speaker/Panel Member, SBOT Building Blocks of Probate and Estate Planning: Probate Administration, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013
- Author/Speaker, “Using Independent Facilitators to Resolve Probate Disputes,” Guardianship and Elder Law Conference, Galveston, Texas, August 2004

Is There Meat in Those Beans?

The 2019 Texas Estate and Trust Legislative Update

(Including Decedents' Estates, Guardianships, Trusts,
Powers of Attorney, and Other Related Matters)

© 2019, William D. Pargaman, All Rights Reserved.¹

TABLE OF CONTENTS

1.	The Preliminaries.....	1
1.1	Introduction and Scope.....	1
1.2	CMA Disclaimers.....	1
1.3	If You Want to Skip to the Good Stuff.....	1
1.4	A Note About Linking to the Electronic Version.....	1
1.5	Where You'll Be Able to Find the Statutory Language After the Session's Over.....	1
1.6	Acknowledgments.....	2
1.7	Obtaining Copies of Bills.....	2
2.	The People and Organizations Most Involved in the Process.....	2
2.1	REPTL.....	2
2.2	The Statutory Probate Judges.....	3
2.3	The Bankers.....	3
2.4	The Texas Legislative Council.....	3
2.5	The Authors and Sponsors.....	3
2.6	The Committees.....	3
3.	The Process.....	3
3.1	The Genesis of REPTL's Legislative Package.....	3
3.2	Preliminary Approval by the REPTL Council.....	3
3.3	Statutory Language is Drafted.....	3
3.4	REPTL's Package is Submitted to the Bar.....	4
3.5	Legislative Policy Committee Review.....	4
3.6	State Bar Board of Directors Approval.....	4
3.7	REPTL is Ready to Go.....	4
3.8	During the Session.....	4
3.9	Where You Can Find Information About Filed Bills.....	4
3.10	Where You Can Find Information About Previous Versions of Statutes.....	4
3.11	Summary of the Legislative Process.....	5
3.12	The Legislative Council Code Update Bill.....	5
3.13	The REPTL Substantive Code Update Bill.....	6
	(a) Example of a "Substantive Change".....	6
	(b) REPTL to the Rescue.....	6
	(c) We're Done! (?).....	6
4.	Key Dates.....	6

¹ For those who care and are viewing an electronic version of this paper, the color of the horizontal lines is "Living Coral" (Pantone 16-1546), Pantone's 2019 "Color of the Year."

5.	If You Have Suggestions	7
6.	The REPTL Bills.....	7
6.1	The Original REPTL Legislative Package.....	7
6.2	Consolidation Into REPTL Bills.....	7
7.	Decedents' Estates.....	8
7.1	REPTL Decedents' Estates Bill.....	8
	(a) Definition of "Probate Proceeding" (Sec. 31.001).....	8
	(b) Representative's Access to Nonprobate Asset Information (Secs. 111.101-111.102).....	8
	(c) Liability of Nonprobate Assets (Sec. 113.252).....	8
	(d) Memorandum of Conveyance Voids TODD (Sec. 114.102).....	8
	(e) Repeal of Statutory TODD Forms (Secs. 114.151-114.152).....	8
	(f) Community Property Intestacy Clarification (Sec. 201.003).....	8
	(g) Number of Disinterested Witnesses in an Heirship (Sec. 202.151).....	8
	(h) Ability to Delegate Appointment of Administrator (Secs. 254.006, 256.051, 301.051, 301.052, and 304.001).....	9
	(i) Failed Devise Provision Inapplicable to Charitable Gifts (Sec. 255.152).....	9
	(j) Will Reformation in Constitutional County Court (Sec. 255.456).....	9
	(k) Elimination of Reference to Unwritten Will (Sec. 256.051).....	9
	(l) Custody of Will (Secs. 256.053 & 256.202).....	9
	(m) Conversion of Muniment to Administration (Secs. 257.151 & 257.152).....	9
	(n) Clarification of Proof Required for Letters (Sec. 301.151).....	9
	(o) Extension of Time to File Affidavits in Lieu (Sec. 309.056).....	9
	(p) Executor's Access to Digital Assets (Secs. 351.106 & 402.003).....	10
	(q) Court Approval of Contingent Fee Agreements (Sec. 351.152).....	10
	(r) Fees Awarded to Successful Contestant (Sec. 352.052).....	10
	(s) Separate \$15,000 Class 1 Claim Limits (Secs. 355.102 & 355.103).....	10
	(t) Claim Holder's "Reasonable Time" Duty (Sec. 355.1551).....	10
	(u) Procedures to Sell Real Estate.....	10
	(v) Waiver of Bond Where Will Doesn't Waive Bond (Sec. 401.005).....	10
	(w) Claims Procedures for Medicaid Recovery in Independent Administrations (Sec. 403.05851).....	10
	(x) Public Probate Administrators (Secs. 455.008, 455.009, & 455.012).....	10
	(y) Recusal of Presiding Statutory Probate Judge (Gov't Code Secs. 25.002201 and 25.00255).....	10
7.2	Miscellaneous Decedents' Estates Changes in REPTL's Guardianship Bill.....	10
	(a) Personal Service in Heirships (Sec. 202.054).....	11
	(b) References Changed from Independent Executor to Administrator (Secs. 351.351, 404.0036, & 404.005).....	11
	(c) Notice of Appointment of Temporary Administrator (Sec. 452.006).....	11
	(d) Recording of Non-English Foreign Wills (Sec. 503.002).....	11
	(e) Online Notice by Publication (Secs. 51.054, 51.103, 1051.054, & 1051.153).....	11
7.3	Recovery of Unclaimed Funds from Comptroller (Secs. 551.051-551.055; Prop. Code Sec. 74.501).....	11
7.4	Exemption From Reporting Requirements (Gov't Code Secs. 36.003 & 37.002).....	11
7.5	Vacating Lease After Tenant's Death (Prop. Code Sec. 92.0162).....	11
7.6	Property Taxation of "Heir Property".....	11
7.7	Obtaining Medical Records From State Hospital (H&S Code Sec. 611.0041).....	11
8.	Guardianships and Persons With Disabilities.....	12
8.1	The REPTL Guardianship Bill.....	12
	(a) Matters Related to Guardianship Proceeding (Sec. 1021.001).....	12
	(b) Attorney Certification (Sec. 1054.201 & Gov't Code Sec. 81.114).....	12
	(c) Applicant's Former Name and Liquid Assets (Sec. 1101.001).....	12
	(d) Waiver of Guardianship Training (Sec. 1101.153).....	12
	(e) Criminal History Record Fee (Sec. 1104.402, 1104.403, & 1104.405).....	12
	(f) Attendance at Legal Proceeding (Sec. 1151.005).....	12

(g)	Wards' Bill of Rights (Sec. 1151.351).....	12
(h)	Notice to Creditors (Sec. 1153.001).....	12
(i)	Attorney's Fees (Sec. 1155.054).....	13
(j)	Costs (Sec. 1155.151).....	13
(k)	Agency References (Secs. 1163.005 & 1163.101).....	13
(l)	Transfer of Guardianship to Foreign Jurisdiction (Sec. 1253.001).....	13
(m)	Ch. 1301 Management Trusts.....	13
(n)	Sale of Property by Nonresident Guardian (Secs. 1355.002 & 1355.105).....	13
(o)	Criminal History Record of Proposed Guardian (Gov't Code Secs. 155.202 & 155.205).....	13
(p)	Office of Public Guardian.....	13
(q)	Notice and Filing Under Mental Health Code (H&S Code Secs. 571.013 & 571.014).....	13
8.2	Compensation of Guardians of Medicaid Recipients (Sec. 1155.202).....	13
8.3	Online Notice by Publication (Secs. 51.054, 51.103, 1051.054, & 1051.153).....	14
8.4	Exemption From Reporting Requirements (Gov't Code Secs. 36.003 & 37.002).....	14
8.5	Electronic Database for Settlement Agreements Involving Minors or Incapacitated Persons (Gov't Code Sec. 72.034).....	14
8.6	Guardianship Abuse, Fraud, and Exploitation Deterrence Program (Gov't Code Secs. 72.121 – 72.124).....	14
8.7	Task Force on Best Practices for Detention.....	14
8.8	Use of Person First Respectful Language.....	14
8.9	Signature Authority Over ABLE Account.....	15
8.10	Court-Ordered Support Paid to SNT.....	15
8.11	Phishing Against the Elderly.....	15
8.12	Adult Survivors of Sexual Assault.....	15
8.13	Mental Health Services and Emergency Detention.....	15
(a)	Admission of Person for Voluntary Mental Health Services.....	15
(b)	Provision of Mental Health Services to Minor (H&S Code Sec. 572.001).....	15
(c)	Authority for Emergency Detention (H&S Code Sec. 573.001).....	15
8.14	Mental Health Services and Emergency Detention.....	15
8.15	Authority to Release Person With Intellectual or Developmental Disability In Lieu of Arrest.....	15
8.16	Criminal Defendant Suspected of Mental Illness or Intellectual Disability.....	16
9.	Trusts.....	16
9.1	The REPTL Trusts Bill.....	16
(a)	Mandatory Rules – Trustee's and Attorney's Fees (Sec. 111.0035).....	16
(b)	Incorporation of Will Construction Concepts Into Revocable Trusts (Sec. 112.0335).....	16
(c)	Effective Date of Reformations (Sec. 112.054).....	16
(d)	Decanting Into the Same Trust? (Sec. 112.071).....	16
(e)	Effect of Divorce on Certain Transfers in Trust (Secs. 112.101-112.105).....	16
(f)	Termination of Ch. 142 Trusts (Sec. 142.005).....	16
(g)	Pooled Trust Subaccounts (Sec. 142.010 and Ch. 143).....	16
9.2	The REPTL Directed Trusts Bill (Sec. 114.0031).....	16
10.	Disability Documents.....	16
10.1	The REPTL Financial Power of Attorney Bill.....	16
10.2	The REPTL Medical Power of Attorney Bill.....	16
10.3	The REPTL Anatomical Gift Bill (Health & Saf. Code Ch. 692 & Secs. 692A.005-007).....	17
10.4	The REPTL Disposition of Remains Bill (Health & Saf. Code Secs. 711.002 & 711.004).....	17
10.5	Anatomical Gifts.....	17
10.6	In-Hospital DNR Orders (Health & Saf. Code Secs. 166.201-166.209).....	17
(a)	September 2018 Hearing.....	17
(b)	Revocation of In-Hospital DNR Orders (Health & Saf. Code Sec. 166.205).....	18
11.	Nontestamentary Transfers.....	18
11.1	The REPTL Decedents' Estates Bill – Repeal of Statutory TODD Forms.....	18
11.2	TODD Forms (Gov't Code Sec. 22020 & Est. Code Ch. 114).....	18

12.	Exempt Property.....	18
12.1	The REPTL Exempt Savings Plan Bill (Prop. Code Secs. 42.0021, 42.0022,).	18
13.	Jurisdiction and Venue.....	18
13.1	The REPTL Decedents' Estates Bill – Removal of Will Reformation.....	18
13.2	The REPTL Guardianship Bill – Matters Related to Guardianship Proceeding.....	18
13.3	The REPTL Disposition of Remains Bill – Courts With Jurisdiction.....	18
13.4	Transfer of Guardianship to Foreign Jurisdiction (Sec. 1253.001).....	18
13.5	Jurisdiction of Certain Courts.....	18
14.	Court Administration.....	19
14.1	The REPTL Decedents' Estates Bill – Recusal of Presiding Statutory Probate Judge.....	19
14.2	Miscellaneous Court Administration Changes in REPTL's Guardianship Bill.....	19
	(a) Last Three Digits (Civ. Prac. & Rem. Code Sec. 30.014).....	19
	(b) Transfer of Clerk's File (Secs. 33.101-33.103 & 1023.006-1023.007).....	19
	(c) Citation Signed Under Court's Seal (Secs. 51.003 & 1051.003).....	19
	(d) Bond Extended to Visiting Judge (Gov't Code Secs. 25.0006, 25.00231, and 26.001).....	19
14.3	Online Service.....	19
	(a) Online Notice by Publication (Secs. 51.054, 51.103, 1051.054, & 1051.153; C.P. & R. Code Sec. 17.032).....	19
	(b) Substituted Service Through Social Media (C.P. & R. Code Sec. 17.033).....	19
14.4	Expedited Action Rules (Gov't Code Sec. 22.004).....	19
14.5	Exemption From Reporting Requirements (Gov't Code Secs. 36.003 & 37.002).....	19
14.6	Associate Judges for Guardianship and Protective Services Proceedings (Gov't Code Ch. 54A).....	20
14.7	New Travis County Probate Court and Building.....	20
15.	Selected Marital Issues.....	20
15.1	Agreements Incident to Divorce or Annulment Incorporated by Reference (Fam Code Sec. 7.006).....	20
15.2	Disclosure of Gestational Agreement; Standing (Fam Code Secs. 6.406 & 102.003).....	20
16.	Stuff That Doesn't Fit Elsewhere.....	21
16.1	The Uniform Electronic Legal Material Act.....	21
16.2	The Save Historic Mundy District.....	21
16.3	Protection of Religious Beliefs and Moral Convictions.....	21
16.4	Proposed Change to Disciplinary Rules Regarding Clients with Diminished Capacity.....	21
16.5	Comment Change to Disciplinary Rule Regarding Competent and Diligent Representation.....	22
16.6	Ethics Opinion No. 678 -- Serving as Executor and Attorney for Executor.....	22
17.	A Little Lagniappe.....	22
17.1	"Goin' Up the Country".....	23
17.2	Lemonade, Anyone?.....	23
17.3	"The Spirit of the Alamo [Still] Lives On".....	23
17.4	Repeal of Marijuana Laws!.....	23
17.5	Hook 'Em vs. Gig 'Em.....	23
17.6	Dangerous Wild Animals, Oh My!.....	23
17.7	What Time is It?.....	23
17.8	One Plate or Two?.....	24
17.9	Thank You For Your Service, Mr. Overton.....	24
17.10	The Texas Sovereignty Act.....	24
17.11	Government Efficiency.....	24
17.12	TBs and TLAs.....	25
17.13	"I Like Beer!".....	25
17.14	Just Add Water!.....	25
17.15	Sit in the Driver's Seat.....	25
17.16	Places.....	25
17.17	Symbols.....	26
17.18	Dates.....	26

17.19 Mascots.....	26
18. The End.....	26
Selected Bills that <i>DID NOT</i> Pass.....	27
7. Decedents' Estates.....	27
7.1 Electronic Wills Act (Ch. 259).....	27
7.2 Actions Without Court Approval (Sec. 351.052).....	27
7.3 Claims for Cost of Certain Electrical Service (Secs. 355.102 & 355.103).....	27
7.4 Finality of Foreclosures (Prop. Code Secs. 51.0001, 51.002, & 51.0022).....	27
7.5 Disclosure of Insurance Beneficiary to Funeral Director (Ins. Code Secs. 1103.201 & 1103.202).....	27
7.6 Expedited Death Certificate.....	27
8. Guardianships and Persons With Disabilities.....	27
8.1 Mediation and Termination of Guardianships Bill.....	27
(a) Mediation (Secs. 1055.151-1055.153, 1101.001, 1101.052, 1201.053).....	27
(b) Termination (Secs. 1202.001, 1202.231-1202.235).....	27
(c) Mediation Training (Gov't Code Sec. 155.301).....	28
(d) No Liability (Sec. 1023.011).....	28
8.2 Parental Administration (Mostly New Ch. 1359).....	28
(a) A Few Definitions.....	28
(b) Parallel Provisions.....	28
(c) Differences.....	28
8.3 Task Forces Concerning Persons With Disabilities.....	28
(a) Appropriate Care Settings.....	28
(b) Access to Legal Services.....	28
8.4 Use of Person First Respectful Language.....	29
8.5 Investigations of Abuse of Elderly or Person With Disability (Hum. Res. Code Secs. 48.002 & 48.151).....	29
8.6 Referral of Alleged Incapacitated Person by DFPS to Probate Court (Hum. Res. Code Sec. 48.209).....	29
8.7 Property Tax Exemption.....	29
8.8 Possession of Firearm by Certain Persons.....	29
8.9 Financial Abuse of Elderly.....	29
8.10 Abuse or Exploitation of Elderly or Person With Disability.....	29
8.11 Mental Health Public Defenders.....	29
8.12 Abandoning Elder or Disabled Individual.....	30
8.13 Applicability of Death Penalty to Person With Intellectual Disabilities.....	30
9. Trusts.....	30
9.1 300-Year RAP (Sec. 112.036).....	30
10. Disability Documents.....	30
10.1 The REPTL Medical Power of Attorney Bill (Health & Saf. Code Secs. 166.152, 166.160 & 166.164).....	30
10.2 The REPTL Anatomical Gift Bill (Health & Saf. Code Ch. 692 & Secs. 692A.005-007).....	30
10.3 Creditor's Duty to Notify Agent (Secs. 751.231 & 751.251).....	30
10.4 Form of Advance Directive (Health & Saf. Code Secs. 166.032, 166.0325, 166.036, 166.102, & 166.163).....	31
10.5 Anatomical Gifts.....	31
10.6 The Respecting Texas Patients' Right to Life Act of 2019 (Health & Saf. Code Sec. 166.0465).....	31
10.7 Texas Health Care Right of Conscience Act (Health & Saf. Code Secs. 161.701-161-708).....	31
10.8 Other Bills Relating to Directives to Physicians.....	31
(a) Advance Directive and DNR of Pregnant Patient (Health & Saf. Code Secs. 166.033, 166.049, 166.083, & 166.098).....	31
(b) Limits on Refusal to Honor Patient's Wish for Life-Sustaining Treatment (Health & Saf. Code Ch. 166).....	31

10.9 Anatomical Gifts.....	32
10.10 Treatment Contrary to Declaration for Mental Health Treatment (Civ. Prac. & Rem. Code Sec. 137.008).	32
13. Jurisdiction and Venue.....	32
13.1 Jurisdiction of Contested Matters in Counties Without Statutory Court (Sec. 32.003).....	32
13.2 Venue for Probate of Wills (Sec. 33.1011).....	32
13.3 Venue and Transfer of Guardianships.	32
(a) Venue (Sec. 1023.001).	32
(b) Transfer (Sec. 1023.005).	32
(c) Effect of Transfer (Sec. 1023.008).	32
(d) No Liability (Sec. 1023.011).	32
14. Court Administration.	32
14.1 Payment of Costs Associated with Assigned Statutory Probate Judge (Sec. 352.054; Gov't Code Sec. 25.0022).	32
14.2 State Contribution for Statutory Probate Judges (Gov't Code Sec. 25.00211).....	33
14.3 Bar Card Access to Courthouses (Gov't Code Secs. 75.601 & 81.117; Local Gov't Code Sec. 291.010).	33
15. Selected Marital Issues.	33
15.1 Divorce.	33
15.2 Same-Sex Marriages and Conduct.....	33
15.3 Persons Conducting Marriage Ceremonies.....	33
16. Stuff That Doesn't Fit Elsewhere.....	33
16.1 Abeyance of Grievance Proceedings.	33
16.2 Fraudulent Securing of Document Execution.....	33
WHERE ARE ALL THE REST OF THE ATTACHMENTS?	35

Is There Meat in Those Beans?

The 2019 Texas Estate and Trust Legislative Update

(Including Decedents' Estates, Guardianships, Trusts,
Powers of Attorney, and Other Related Matters)

© 2019, William D. Pargaman, All Rights Reserved.

1. The Preliminaries.

1.1 Introduction and Scope. The 86th Regular Session of the Texas Legislature spans the 140 days beginning January 8, 2019, and ending May 27, 2019. This paper presents a summary of the bills that relate to probate (*i.e.*, decedents' estates), guardianships, trusts, powers of attorney, and several other areas of interest to estate and probate practitioners. Issues of interest to elder law practitioners are touched upon, but are not a focus of this paper. (And, to be honest, sometimes I go off on a tangent and discuss a bill of interest to me that has nothing to do with any of the areas mentioned above.)

1.2 CMA Disclaimers. While reading this paper, please keep in mind the following:

- I've made every reasonable attempt to provide accurate descriptions of the contents of bills, their effects, and in some cases, their background.
- Despite rumors to the contrary, I am human. And have been known to make mistakes.
- In addition, some of the descriptions in this paper admittedly border on editorial opinion, in which case the opinion is my own, and not necessarily that of REPTL, Craig Hopper, or anyone else.
- I often work on this paper late at night, past my normal bedtime, perhaps, even, under the influence of strategic amounts of Johnnie Walker Black (donations of Red, Black, Green, Gold, Blue, Platinum, or even Swing happily accepted!). Craig Hopper has informed me that he's also happy to accept donations of Scotch.
- As companion bills make their way through the legislative process, I usually base descriptions on the most recently approved version in either chamber. In the case of REPTL bills, I sometimes have access to drafts of substitutes before they are officially posted, in which case the descriptions may be based on what we think the bill will look like, rather than what the currently-online version looks like.
- As a consequence, while the descriptions contained in this paper are hopefully accurate at the time they are written, they may no longer accurately reflect the

contents of a bill at a later stage in the legislative process.

Therefore, you'll find directions in Section 1.6 on page 2 for obtaining copies of the actual bills themselves so you may review and analyze them yourself before relying on any information in this paper.

1.3 If You Want to Skip to the Good Stuff ... If you don't want to read the rest of these preliminary matters and want to skip to the legislation itself, you'll find it beginning with **Part 6 on page 7**.

1.4A Note About Linking to the Electronic Version. Feel free to link to the electronic version of this paper if you'd like. If you do, use the URL found on the cover page to link to the most recent version of the paper:

www.snpalaw.com/resources/2019LegislativeUpdate

Once you click on that link, you'll open a PDF version of this paper. However, **don't** copy the URL that you'll find in your browser's address bar when you open the PDF! That's likely to be a 100+ character web address that will take you to that particular version of the paper only, and only so long as that version remains posted. Trust me – the link I've given you will take you to the right version each time.

And note that you can bring up my previous legislative updates going back to 2009 by substituting the appropriate odd-numbered year for "2019" in the URL.

1.5 Where You'll Be Able to Find the Statutory Language After the Session's Over. In previous legislative updates, after the session was over and we knew what had passed, I added attachments to the update that included the actual language of bills marked to show what had been added or deleted. But this was quite lengthy. It took over 100 pages in the 2017 update, more than doubling the size of the paper. So, in an effort to be green (for anyone getting a hard copy), we're going to change things up. I've prepared a separate supplement that contains all of that statutory language – or at least the language I deem worthy to include. You may download it by pointing your browser to:

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Is There Meat in Those Beans? The 2019 Texas Estate and Trust Legislative Update

First appeared as part of the conference materials for the 21st Annual Estate Planning, Guardianship and Elder Law Conference session "Legislative Update"