

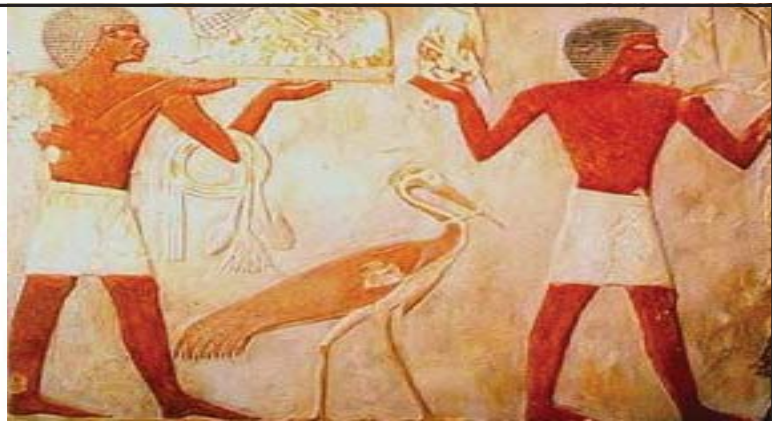


# *HEIRSHIP DETERMINATION*

**Hon. Guy Herman**  
Judge  
Travis County Probate Court  
Austin, Texas



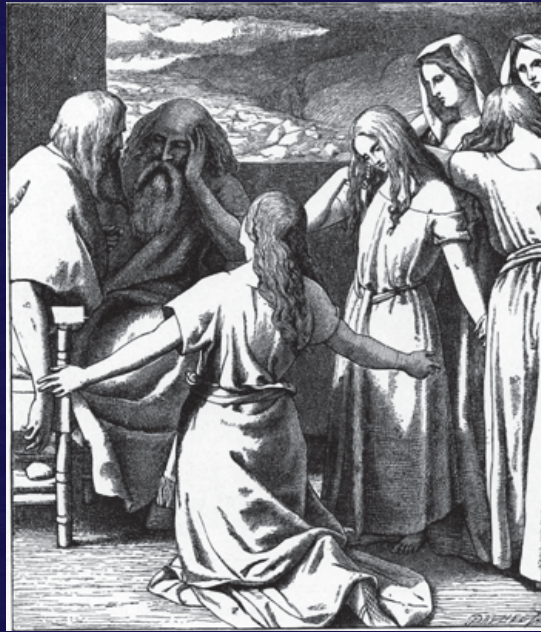








# First Heirship Determination



## Goals

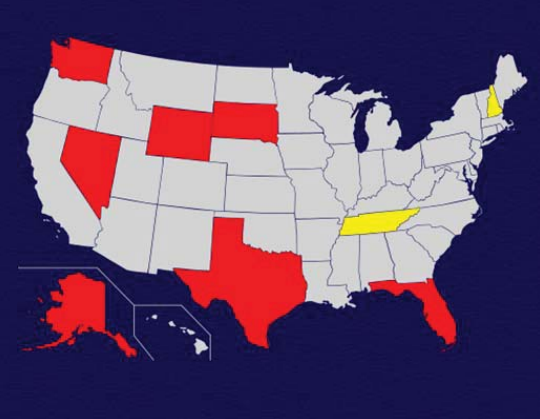
- “Heirship Determination?”
  - What it is
  - What it is not
  - How it is done
- Best Practices
- The Hearing Process
- Problem Areas







# Heirship Basics

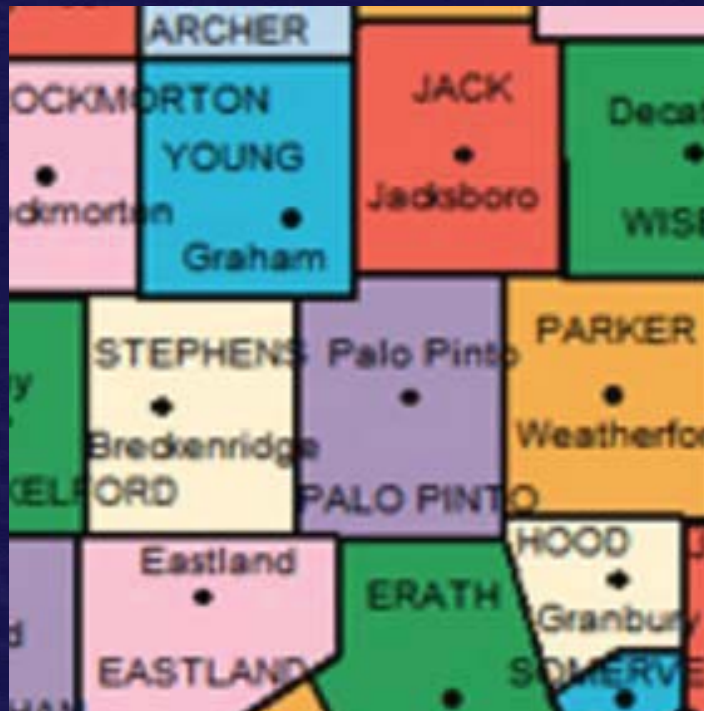




# Jurisdiction



# Venue



# A Creature of Statute, Sometimes Affected by Common Law

- Homestead
- Exempt Property
- Allowances
- No Forfeitures
- Anti-alienage Laws
- Voiding devises, etc. to Former Spouse

## Inheritance Laws

SUBCHAPTER B. MATTERS AFFECTING INHERITANCE (§§201.051 - 201.062)

**Sec. 201.051. Maternal Inheritance. [TPC §42(a)]**  
(a) For purposes of inheritance, a child is the child of the child's biological father and the child's issue shall inherit from the child's biological father, both descendants, ascendants, and collateral kin, as if the child and the child's issue. However, if the child is born under a gestational surrogacy agreement, the child and the child's issue shall inherit from the child's biological mother and the child's issue. However, if the child is born under a gestational surrogacy agreement, the child and the child's issue shall inherit from the child's biological mother and the child's issue.

**Sec. 201.052. Paternal Inheritance. [TPC §42(b)(1)]**  
(a) For purposes of inheritance, a child is the child of the child's biological father if:  
(1) the child is born under circumstances described by Section 160.201, Family Code;  
(2) the child is adjudicated to be the child of the father by court decree under Chapter 160, Family Code;  
(3) the child was adopted by the child's father; or



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First appeared as part of the conference materials for the  
20<sup>th</sup> Annual Estate Planning, Guardianship and Elder Law Conference session  
"Heirship Determination"