

APPLICATION TO DECLARE HEIRSHIP

ILLUSTRATIVE SAMPLE — NOT A FORM — NOT FOR FILING

Why is this sample annotated? Texas probate applications require legal and factual choices that cannot be reduced safely to a generic fill-in form. The bracketed alternatives and annotations below deliberately show some of those choices rather than selecting them for the reader.

Heirship turns on the decedent's complete family history, including every marriage, every child by birth or adoption, descendants of deceased children, parents, siblings, and more remote relatives when nearer classes are absent.

The proceeding can be joined to an administration or brought in another authorized setting; the need for administration and the identity of the proper applicant are separate questions.

The applicant must distinguish known heirs, unknown or missing heirs, adults, minors, and deceased relatives whose descendants may inherit. Citation and attorney-ad-litem requirements can follow from those facts.

Community-property and separate-property characterization can change the shares even when the family tree is undisputed. A valid will, partial intestacy, disclaimers, adoptions, nonmarital children, and other facts can alter the analysis.

Consulting counsel: A lawyer should determine the proper procedure, allegations, proof, citation, parties, requested relief, and local filing requirements for a particular estate.

ESTATE OF	§	IN PROBATE COURT NO.
JOHN DOE DECEDENT,	§	—
DECEASED	§	HARRIS COUNTY, TEXAS

APPLICATION TO DECLARE HEIRSHIP

TO THE HONORABLE JUDGE OF SAID COURT:

FAVORITE FAVORED EXECUTOR ("Applicant") furnishes the following information in support of an application to declare the heirs of JOHN DOE DECEDENT ("Decedent"):

1. Decedent died on [date] in [city], [county] County, [state]. [If any required fact concerning the date or place of death is not definitely known, state the known material facts and circumstances tending to establish it.]

***ANNOTATION:** A declaration of heirship is a fact-intensive proceeding. The application must state the required information or explain omissions rather than silently leaving blanks.*

2. [SELECT AND ADAPT: An administration is pending or has been requested in this cause, and a determination of heirship is necessary to identify Decedent's heirs and their respective interests. OR: No administration is presently pending; Applicant seeks a determination of heirship in a proceeding authorized by law. IF APPLICABLE: Applicant also requests a determination concerning whether administration is necessary under the statute and within the time permitted by law.]

***ANNOTATION:** A determination of heirship is one possible procedure, not a universal substitute for probate or administration. The estate may instead require probate of a will, an administration, a small-estate procedure if legally available, or another proceeding. More than one procedure can be necessary. For example, a will that does not dispose of all property may require an application to probate the will together with an application to declare heirship for*

the intestate property. The reader or user of this sample should consult with a lawyer to determine the proper procedure before preparing or filing an application.

3. This Court has jurisdiction and venue because [state the facts that establish venue under the applicable Texas Estates Code provisions].

ANNOTATION: *Do not assume the county merely from the location of property or an heir. Venue can depend on domicile, residence, property location, and the existence of another probate proceeding.*

4. Applicant is a person authorized by law to commence this proceeding because [state Applicant's interest or other statutory basis]. Applicant claims the following interest in Decedent's estate or relevant trust: _____.

5. The following persons are believed to be Decedent's heirs. Their physical addresses for service, relationships to Decedent, whether each person is an adult or a minor, and claimed or estimated interests are set out below. The stated interests are illustrative only until the Court determines heirship and the character of the property:

Name	Physical Address for Service	Relationship	Status as Adult or Minor	Potential Interest*
SAMPLE HEIR A	[address]	surviving spouse	adult	depends on property character and descendants
SAMPLE HEIR B	[address]	child	adult	depends on property character and other heirs
SAMPLE HEIR C	[address]	grandchild through deceased child	minor or adult	depends on representation and other heirs

**Potential interests are not a substitute for a legal determination of heirship or property characterization.*

ANNOTATION: *The table must include every heir required by law. If a name, service address, or other required fact is not definitely known, the application should state the known circumstances that could reasonably help identify or locate the person.*

6. Decedent's complete marital history is as follows: [for each marriage, state the date of marriage, spouse's name, date and place of termination if terminated, and facts showing whether that spouse has or had an interest in Decedent's property].

ANNOTATION: *One sentence such as "Decedent was divorced" is usually not enough. Every marriage must be accounted for, and the property consequences can differ depending on death, divorce, annulment, timing, and characterization.*

7. Decedent's complete child and descendant history is as follows: [identify every child born to or adopted by Decedent; identify whether each child survived Decedent; for any deceased child, trace that child's descendants as required to determine the next generation of potential heirs]. All children born to or adopted by Decedent have been listed.

ANNOTATION: *The family tree can require multiple generations. Adoption, children born outside marriage, deceased descendants, disclaimers, and uncertain parentage can present additional legal and evidentiary issues.*

8. [IF RELEVANT TO THE SUCCESSION LINE: Decedent's parents were _____. State whether each survived Decedent and provide current service information or date of death as applicable.]

9. [IF RELEVANT TO THE SUCCESSION LINE: Decedent's siblings and the descendants of any deceased siblings are _____. Provide the information necessary to trace the branch of the family tree.]

ANNOTATION: *Parents, siblings, nieces, nephews, grandparents, aunts, uncles, cousins, and more remote kin do not all inherit at once. Which branches matter depends on which nearer classes survived and on the character of the property.*

10. [SELECT AND ADAPT: Decedent died intestate. OR: Decedent left a will dated _____, and the following disposition has been made of that will: _____. OR: Decedent's estate is partially intestate, requiring a determination of heirship only as to property not effectively disposed of by will.]

ANNOTATION: *A determination of heirship is not limited to a simple case in which no will exists. A decedent may have left a will that was never offered for probate, a will may be subject to a proceeding in which the original cannot be produced, a devise may fail, or a will may dispose of only part of the estate. Partial intestacy can require probate of the will and a separate determination of heirship as to the property passing by intestacy. The reader or user of this sample should consult with a lawyer to determine whether heirship is necessary and whether another proceeding should be filed with it.*

11. Property subject to distribution under the requested heirship judgment is described generally as follows: [identify the relevant real property, personal property, or trust property]. [Where material, identify which property is alleged to be separate property, community property, or of uncertain character.]

ANNOTATION: *Heirship shares can differ between separate real property, separate personal property, and community property. A family tree alone does not necessarily determine the percentage interest in every asset.*

12. [IF APPLICABLE: Required information omitted from this application cannot presently be stated for the following reasons: _____. The material facts and circumstances presently known to Applicant are: _____.]

13. Applicant requests issuance and service of citation and notice as required by law, appointment of any attorney ad litem required by law, and a hearing at which the Court may determine Decedent's heirs and their respective shares and interests in the property subject to the judgment.

ANNOTATION: *Citation can involve personal service, publication, and other statutory notice depending on the persons involved and what is known about them. Unknown heirs, minors, incapacitated persons, missing heirs, and persons whose addresses cannot be found can affect notice and representation. The reader or user of this sample should consult with a lawyer concerning the required citation, notice, and representation before filing.*

14. [IF REQUESTED AND LEGALLY AVAILABLE: Applicant requests that the Court determine whether a necessity exists for administration of Decedent's estate. State the factual and statutory basis for the request.]

WHEREFORE, Applicant prays that citation issue as required by law; that, after hearing, the Court determine the heirs and only heirs of Decedent and their respective shares and interests in the property subject to the judgment; and that the Court grant such other relief to which Applicant may be entitled.

ANNOTATION: Texas Estates Code Section 202.007 requires supporting affidavits from the applicants. No affidavit is included in this website sample. The required supporting proof, witness testimony, citation, attorney-ad-litem work, and judgment are separate matters. The reader or user of this sample should consult with a lawyer concerning the evidence and additional documents required in a particular heirship proceeding.

BEFORE USING THIS SAMPLE: IS THIS THE PROPER PROCEDURE?

Procedure: A determination of heirship is only one of several possible Texas probate procedures. Some estates can be handled through a less costly, less time-consuming, or less formal procedure. Other facts require an administration or another more complex proceeding. The reader or user of this sample should consult with a lawyer before deciding that a determination of heirship is the proper procedure.

Relationship to a will: The existence of a will does not necessarily eliminate an heirship issue. A will may fail to dispose of all property, a devise may fail, the original will may not be available, or another circumstance may create a partial intestacy. In an appropriate case, an application to probate a will and an application to declare heirship may both be required. The reader or user of this sample should consult with a lawyer to determine whether one proceeding or a combination of proceedings is necessary.

Family history: Heirship can require proof of every marriage, every child, deceased descendants, adoption, parentage, prior deaths, and more remote family branches. The legally relevant branch depends on which relatives survived the decedent and on the character of the property. A family tree alone does not determine the legal shares.

Property character: Community property, separate real property, separate personal property, homestead rights, exempt property, nonprobate transfers, and property located outside Texas can produce different results even when the family relationships are undisputed. The reader or user of this sample should consult with a lawyer concerning both heirship and property characterization.

Local court practice and self-representation: Harris County's posted Pro Se Applicants Policy states that individuals applying for determinations of heirship must be represented by a licensed attorney. Harris County Probate Court No. 4 also states, "Attorney representation is recommended for all legal matters," and describes only a narrow circumstance for self-represented probate of a will as a muniment of title. Other Texas counties may have different local policies concerning self-represented applicants. The reader or user of this sample should consult with a lawyer and check the current requirements of the particular court.

Evidence and notice: The application is only the pleading that begins the proceeding. Citation, publication, personal service, appointment of an attorney ad litem, supporting affidavits, disinterested-witness testimony, documentary proof, and a legally sufficient judgment may be required. The reader or user of this sample should consult with a lawyer concerning the proof and notice required by the facts.

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Current statutory references used in preparing this educational sample include Texas Estates Code Sections 202.004 through 202.007 and related provisions. Harris County practice reference: Harris County Probate Courts Pro Se Applicants Policy and Harris County Probate Court No. 4 Frequently Asked Questions. Reviewed August 29, 2026.

The Overton Law Firm, P.C.

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