

APPLICATION FOR PROBATE OF WILL AND ISSUANCE OF LETTERS
TESTAMENTARY

ILLUSTRATIVE DOCUMENT — NOT A FORM — NOT FOR FILING

Why is this document 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.

A will may be offered with a request for letters testamentary, with another form of administration, or in some circumstances as a muniment of title rather than through an administration.

The original will may be available, unavailable, lost, destroyed, outside Texas, self-proved, not self-proved, witnessed, or holographic; different proof and notice requirements can follow.

The person named as executor may serve, decline, be deceased, be disqualified, or be replaced under the will or other law. Bond and independent-administration provisions also vary.

Post-will children, divorce after execution, charitable or governmental devisees, late probate, codicils, and local court requirements can materially change the application and hearing.

Consult a lawyer: The reader or user of this document should consult with a lawyer to determine the proper procedure, allegations, proof, citation, parties, requested relief, and local filing requirements for the particular estate.

ESTATE OF §
JOHN DOE DECEDENT, §
DECEASED §

IN PROBATE COURT NO.

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HARRIS COUNTY, TEXAS

APPLICATION FOR PROBATE OF WILL AND ISSUANCE OF LETTERS
TESTAMENTARY

TO THE HONORABLE JUDGE OF SAID COURT:

FAVORITE FAVORED EXECUTOR ("Applicant") furnishes the following information to the Court for the probate of the written will of JOHN DOE DECEDENT ("Decedent") and for issuance of letters testamentary to Applicant:

1. Applicant is an individual interested in this estate, domiciled in Texas and residing in Harris County, Texas. Applicant's physical address for service is [illustrative address omitted]. [The application must address any identification-number allegations required by current law or explain why required information is not stated.]

ANNOTATION: Applicant identity and standing can vary. An executor named in the will, another person designated under applicable law, or another interested person may have standing. Multiple applicants, corporate fiduciaries, nonresident executors, and alternate appointees require different allegations. Generally, any person seeking to apply must have an interest in the estate. Names and aliases of every person involved can be equally important and

the name of the decedent should be as made in the will with aliases and even misspelled names on official documents; i.e., Favorite Favored Executor aka Faborite Favored Executor.

2. Decedent died on [date] in Houston, Harris County, Texas, at the age of [age] years. Decedent was domiciled and had a fixed place of residence in Harris County, Texas, on the date of death. [Generally, driver's license and Social Security identification-number allegations required by current law must be supplied or their omission explained.]

ANNOTATION: Venue is fact-dependent. Different rules may apply when the decedent had no fixed Texas domicile, owned Texas property while domiciled elsewhere, or when another probate proceeding is pending.

3. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in Harris County, Texas, on the date of death.

4. Decedent owned property described generally as real property, cash, securities, motor vehicles, household goods, personal effects, and other property having a probable aggregate value in excess of \$[amount].

ANNOTATION: The description and probable value must fit the estate. Characterization, nonprobate assets, exempt property, homestead rights, community property, secured debt, and property located outside Texas can affect both the application and the administration.

5. Decedent left a written will dated [date] ("Will"), which was not revoked and is filed with this application or was previously delivered to the clerk. [If applicable: Decedent also left one or more codicils dated _____.]

ANNOTATION: The original will may not be available. Texas Estates Code Sections 256.054 and 256.156 provide special procedures when a will cannot be produced in court. The application must contain additional allegations, and the applicant must prove why the original cannot be produced and substantially prove the contents. A copy of the will may be used as part of that proof. Under current law, a copy that includes a qualifying self-proving affidavit can also affect the proof required. The reader or user of this document should consult with a lawyer before deciding whether to proceed with an original will, a copy, or another form of proof.

6. The subscribing witnesses to the Will are [names, if any]. [Select and adapt only if true: The Will was made self-proved in the manner prescribed by law.]

ANNOTATION: Proof of execution depends on the document. A self-proved will, a non-self-proved attested will, and a holographic will present different evidentiary requirements. Do not assume that a document labeled "will" is self-proved or validly executed.

7. [SELECT AND ADAPT: No child was born to or adopted by Decedent after execution of the Will and survived Decedent. OR: After execution of the Will, the following child or children were born to or adopted by Decedent and survived Decedent: _____.]

ANNOTATION: Post-will children can create substantive rights and pleading issues. The correct treatment depends on the will, family history, statutory provisions, and other facts.

8. [SELECT AND ADAPT: No marriage of Decedent was dissolved after execution of the Will. OR: After execution of the Will, Decedent's marriage to _____ was dissolved on or about _____.]

***ANNOTATION:** A divorce or annulment after execution can affect provisions for a former spouse and certain relatives of that spouse. The application should state the required facts without assuming their legal effect.*

9. A necessity exists for administration of the estate because [identify actual facts supporting administration, such as collection and transfer of estate assets, payment of enforceable claims and expenses, management or sale of property, tax matters, or other administration needs].

***ANNOTATION:** Filing an application for letters testamentary is only one possible procedure. Probate as a muniment of title, independent administration, dependent administration, administration with will annexed, a proceeding involving a will that cannot be produced, and other procedures may be available. In some estates, more than one proceeding is required. For example, a will that does not dispose of all property may create a partial intestacy that requires both probate of the will and a determination of heirship. Some procedures may be less costly, less time-consuming, and less formal; other facts may require a more complex procedure or a combination of procedures. The reader or user of this document should consult with a lawyer to determine the proper procedure before preparing or filing an application.*

10. [SELECT AND ADAPT: The Will names Applicant to serve as independent executor without bond or other security, and Applicant is not disqualified by law from accepting letters testamentary. OR: The Will names _____ as executor, but that person is deceased, unable or unwilling to serve, disqualified, or has waived appointment; Applicant therefore requests appointment under the Will and applicable law. OR: Another fiduciary procedure is requested and requires different allegations.]

One procedural complexity can lead to another. For example, a proceeding to probate a copy of a will may require the appointment of an attorney ad litem. The court may also require an attorney ad litem fee deposit before making that appointment. The Court may respectfully refuse, pursuant to other orders and rules, to appoint an ad litem, unless and until the current \$750 deposit is paid. Additional facts can require additional pleadings, notice, proof, hearings, or related proceedings. This increasing set of procedural choices and requirements makes it essential to identify and understand the proper probate procedure from the outset. The reader or user of this document should consult with a lawyer concerning the procedure appropriate to the particular estate.

***ANNOTATION:** The identity and authority of the fiduciary must be determined from the will, the facts, and applicable law. Issues can include a named executor, successor executor, co-executors, an administrator with will annexed, bond, independent or dependent administration, corporate fiduciaries, nonresident fiduciaries, waivers, inability to serve, and statutory disqualification. The reader or user of this document should consult with a lawyer before selecting the requested fiduciary procedure.*

11. [SELECT AND ADAPT: The Will does not name the State of Texas, a Texas governmental agency, or a charitable organization as a devisee. OR: The Will names the following such devisee: _____.]

12. [IF APPLICABLE, INSERT ANY ADDITIONAL ALLEGATIONS REQUIRED BY THE FACTS OR PROCEDURE, including an explanation for information required by law that is not stated; matters concerning a will not produced in court; late probate; requested powers; dependent or independent administration; or other relief.]

ANNOTATION: Texas Estates Code Section 256.052 prescribes required contents for an application to probate a will, but it does not select the correct probate procedure for a particular estate. Additional allegations may be required by other statutes, the will, the facts, and local court practice. The reader or user of this document should consult with a lawyer to determine the proper procedure and the allegations required for that procedure.

WHEREFORE, Applicant prays that citation issue as required by law; that the Will [and any Codicil] be admitted to probate; that letters testamentary be issued to the person legally entitled to receive them if letters are the proper relief; and that the Court grant such other relief to which Applicant may be entitled.

ANNOTATION: The requested relief must match the selected procedure. An application for letters testamentary is materially different from an application to probate a will as a muniment of title, an application involving a will that cannot be produced, a dependent administration, or another probate proceeding. The reader or user of this document should consult with a lawyer before selecting the relief requested from the court.

BEFORE USING THIS SAMPLE: IS THIS THE PROPER PROCEDURE?

Procedure: A probate application should not be selected merely because a sample pleading appears to fit the facts. Texas law provides multiple procedures. Some may be less costly, less time-consuming, and less formal. Other estates require more complex proceedings. A will that causes a partial intestacy can require probate of the will together with a determination of heirship for property not effectively disposed of by the will. The reader or user of this document should consult with a lawyer to identify the proper procedure at the outset.

Will status: The original will may be available, deposited with the clerk, lost, destroyed, otherwise unavailable, foreign, holographic, attested, self-proved, not self-proved, or accompanied by one or more codicils. Texas law provides special procedures when the original cannot be produced. A copy may be used in proving the contents under the statutory requirements. The reader or user of this document should consult with a lawyer before determining what pleading and proof are required. Do not unstaple or unbind the will for any reason, including making a copy.

Timing: Texas Estates Code Section 256.003 generally provides that a will may not be admitted to probate after the fourth anniversary of the testator's death unless the applicant proves that the applicant was not in default in failing to present the will within that period. The statute separately limits issuance of letters testamentary when probate occurs after four years. Late probate therefore requires legal analysis rather than a simple deadline calculation.

Late probate experience and statute of limitations and time bars: The Overton Law Firm, P.C. has successfully probated wills as muniments of title more than fifteen years after a decedent's death. Unique experience does not mean late probate is available in every case. The result depends on the governing statute, the applicant's conduct, the will, property rights, intervening events, and the proof available. Selecting the correct procedure and developing the required proof are central parts of the lawyer's work.

Local court practice and self-representation: Harris County Probate Court No. 4 states, "Attorney representation is recommended for all legal matters." *Its current frequently asked questions describe a limited circumstance in which a person may probate a will without an attorney: the proceeding must be for probate as a muniment of title only, and all beneficiaries must be co-applicants. Harris County's posted materials also emphasize that selecting the proper probate method is a legal decision.* Other Texas counties may have different policies concerning self-represented applicants.

The Overton Law Firm, P.C.

The reader or user of this document should consult with a lawyer and check the current requirements of the particular court.

Fiduciary and administration: The will may nominate a sole executor, successor executor, co-executors, or another fiduciary arrangement. The estate may require independent administration, dependent administration, administration with will annexed, or no issuance of letters at all. Bond, qualification, nonresident status, waivers, creditor issues, taxes, businesses, real property, homestead rights, exempt property, and multistate assets can change the proper procedure.

Current statutory references used in preparing this educational sample include Texas Estates Code Sections 256.003, 256.051 through 256.054, 256.151 through 256.156, and related provisions. Harris County practice reference: Harris County Probate Court No. 4 Frequently Asked Questions and Harris County Probate Courts Pro Se Applicants Policy. Reviewed August 29, 2026.