

## Title 12 - WILLS AND ESTATES OF DECEASED PERSONS

### CHAPTER 132 - GENERAL PROVISIONS

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**SECTION 132.010 Construction of title.** This title must be liberally construed so that a speedy settlement of estates is accomplished at the least expense to the parties.

**SECTION 132.025 Definitions.** As used in this title, unless the context otherwise requires, the words and terms defined in [SECTION 132.030](#) to [132.370](#), inclusive, have the meanings ascribed to them in those sections.

**SECTION 132.030 “Abatement” defined.** “Abatement” means a proportional reduction of a pecuniary devise when the money or other assets out of which the devise is payable are not sufficient to pay the devise in full.

**SECTION 132.035 “Acknowledgment” defined.** “Acknowledgment” means a declaration that an instrument has been executed for the purposes stated therein and, if the instrument was executed in a representative capacity, that the instrument was signed with proper authority and executed as the act of the person represented and identified therein.

**SECTION 132.040 “Administrator” defined.** “Administrator” means a person not designated in a will who is appointed by the court to administer an estate.

**SECTION 132.045 “Agent” defined.** “Agent” means a person authorized to represent or act for another person, including an attorney-in-fact under a durable or nondurable power of attorney and a person authorized to make decisions concerning the health care of another person.

**SECTION 132.050 “Beneficiary” defined.** “Beneficiary,” as it relates to:

1. A trust, includes a person who has a present or future interest, vested or contingent, and the owner of an interest by assignment or other transfer;
2. A charitable trust, includes any person entitled to enforce the trust;

3. An instrument designating a beneficiary, includes a beneficiary of an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer at death; and

4. A beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a beneficiary of a trust, a beneficiary under a designation, a donee, an appointee or a taker in default under a power of appointment, or a person in whose favor a power of attorney or a power held in any individual, fiduciary or representative capacity is exercised,

↳ but does not include a person who receives less than \$100 under a will.

**SECTION 132.055 “Child” defined.** “Child” includes a person entitled to take as a child by intestate succession from the parent whose relationship is involved and excludes a person who is a stepchild, a foster child, a grandchild or any more remote descendant.

**SECTION 132.060 “Citation” defined.** “Citation” means a document issued by the clerk of the court, as authorized by statute or ordered by the court, requiring a person to appear, directing a person to act or conduct himself in a specified way, or notifying a person of a hearing.

**SECTION 132.065 “Claim” defined.** “Claim,” in respect to the estate of a decedent, includes a liability of the decedent, whether arising in contract, in tort or otherwise, that arises before the death of the decedent.

**SECTION 132.070 “Codicil” defined.** “Codicil” means an addition to a will that may modify or revoke one or more provisions of the will, or add one or more provisions to the will, and is signed with the same formalities as a witnessed will, electronic will or holographic will.

**SECTION 132.075 “Community property” defined.** “Community property” has the meaning ascribed to it in [SECTION 123.220](#).

**SECTION 132.080 “Community property with right of survivorship” defined.** “Community property with right of survivorship” means community property in which a right of survivorship exists pursuant to [SECTION 111.064](#) or [115.060](#) or any other provision of law.

**SECTION 132.085 “Descendant” defined.** “Descendant” includes descendants of all generations. For the purposes of this section, the relationship of parent and child at each generation is determined by the definitions of “child” and “parent” contained in this title.

**SECTION 132.090 “Designation of beneficiary” defined.** “Designation of beneficiary” means a governing instrument naming a beneficiary of an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer at death.

**SECTION 132.095 “Devise” defined.** “Devise,” used as a noun, means a testamentary disposition of real or personal property and, used as a verb, means to dispose of real or personal property by will.

**SECTION 132.100 “Devisee” defined.** “Devisee” means a person designated in a will to receive a devise. For the purposes of [chapters 133](#), [134](#), [135](#) and [148](#), in the case of a devise to an existing trust or trustee, or to a trustee of a trust described by will, the term means the trust or trustee, and not a beneficiary of the trust.

**SECTION 132.105 “Disclaimant” defined.** “Disclaimant” means a person who executes a disclaimer. The term includes a beneficiary and his guardian, personal representative, general attorney-in-fact, and special attorney-in-fact with power to disclaim.

**SECTION 132.110 “Disclaimer” defined.** “Disclaimer” means a written instrument that declines, refuses, renounces or disclaims an interest to which a beneficiary would otherwise succeed.

**SECTION 132.115 “Distributee” defined.** “Distributee” means a person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. As used in this section, “testamentary trustee” includes a trustee to whom assets are transferred by will to the extent of the devised assets.

**SECTION 132.117 “Electronic record” defined.** “Electronic record” means a record created, generated or stored by electronic means.

**SECTION 132.118 “Electronic signature” defined.** “Electronic signature” means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

**SECTION 132.119 “Electronic will” defined.** “Electronic will” means a testamentary document that complies with the requirements of [SECTION 133.085](#).

**SECTION 132.120 “Estate” defined.** “Estate” includes the property of the decedent or trust whose affairs are subject to this title as it is originally constituted and as it exists from time to time during administration.

**SECTION 132.130 “Executor” defined.** “Executor” means a person nominated in a will and appointed by the court to execute the provisions of the will and administer the estate of the decedent.

**SECTION 132.135 “Expenses of administration” defined.** “Expenses of administration” means funeral expenses and expenses actually and properly incurred by a personal representative in the administration of an estate, plus the fees of the personal representative, any attorney retained by him and any other consultant engaged by him.

**SECTION 132.140 “Family allowance” defined.** “Family allowance” means the money allocated from the estate by the court pursuant to [SECTION 146.030](#).

**SECTION 132.145 “Fiduciary” defined.** “Fiduciary” includes a personal representative, guardian and trustee.

**SECTION 132.150 “Gift” defined.** “Gift” means a gratuitous transfer of property to a recipient for less than full market value.

**SECTION 132.155 “Governing instrument” defined.** “Governing instrument” means:

1. A deed, will, trust, insurance policy or annuity, designated as payable on death;
2. A security registered as transferable on death;

3. A pension, profit-sharing, retirement or similar benefit plan;
4. An instrument creating or exercising a power of appointment or a power of attorney; or
5. A dispositive, appointive or nominative instrument of any similar type.

**SECTION 132.160 “Guardian” defined.** “Guardian” means a person who has qualified as the guardian of a minor or incapacitated person pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

**SECTION 132.165 “Heirs” defined.** “Heirs” means persons, including the surviving spouse and the state, who are entitled by intestate succession to the property of a decedent.

**SECTION 132.170 “Holographic will” defined.** “Holographic will” means a testamentary document that complies with the requirements of [SECTION 133.090](#).

**SECTION 132.175 “Incapacitated person” defined.** “Incapacitated person” means a person who is impaired by reason of mental illness, mental deficiency, advanced age, disease, weakness of mind or any other cause except minority, to the extent of lacking sufficient understanding or capacity to make or communicate responsible decisions.

**SECTION 132.180 “Interest” defined.** “Interest” means:

1. The whole of any property, real or personal, legal or equitable, present or future, or any part thereof, or any other estate therein;
2. A power to appoint, consume, apply or expend property; or
3. Any other right, power, privilege or immunity relating to property.

**SECTION 132.185 “Interested person” defined.** “Interested person” includes an heir, devisee, child, spouse, creditor, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent. The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

**SECTION 132.190 “Intestate” defined.** “Intestate,” used as a noun, means a decedent who dies without leaving a will.

**SECTION 132.195 “Intestate estate” defined.** “Intestate estate” includes an estate where no will has been offered or admitted to probate as the last will and testament and an estate where the will does not distribute the entire estate.

**SECTION 132.200 “Inventory” defined.** “Inventory” means the description of assets required by [SECTION 144.040](#).

**SECTION 132.205 “Issue” defined.** “Issue” means children, grandchildren or more remote lineal descendants.

**SECTION 132.210 “Joint tenants with right of survivorship” defined.** “Joint tenants with right of survivorship” includes co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others.

**SECTION 132.215 “Lease” defined.** “Lease” includes an oil, gas or other mineral lease.

**SECTION 132.220 “Letters” defined.** “Letters” includes letters testamentary, letters of administration, letters of administration with will annexed and letters of special administration.

**SECTION 132.225 “Lien” defined.** “Lien” means a charge upon property for the satisfaction of a debt, including an obligation not satisfied, a judgment, unpaid taxes and an unpaid obligation for materials or labor.

**SECTION 132.230 “Minor” defined.** “Minor” means a person who is under 18 years of age.

**SECTION 132.235 “Mortgage” defined.** “Mortgage” means a conveyance, agreement or arrangement in which property is encumbered or used as security.

**SECTION 132.240 “Notice” defined.** “Notice” means information provided pursuant to [SECTION 155.010](#) or [155.020](#) or any other statute requiring advance information of an opportunity, obligation or the occurrence of an event.

**SECTION 132.245 “Oath” defined.** “Oath” means a form of attestation which affirms that the taker will faithfully perform the duties of a specified office.

**SECTION 132.250 “Order” defined.** “Order” includes a declaration, decree or judgment by a court and is a final judgment for all purposes, including an appeal under [SECTION 155.190](#).

**SECTION 132.255 “Parent” defined.** “Parent” includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent by intestate succession from the child whose relationship is in question and excludes any person who is a stepparent, foster parent or grandparent.

**SECTION 132.260 “Person” defined.** “Person” includes a natural person, organization, government or a governmental subdivision, agency or instrumentality.

**SECTION 132.265 “Personal representative” defined.** “Personal representative” includes an executor, an administrator, a successor personal representative, a special administrator and persons who perform substantially the same function under the law governing their status.

**SECTION 132.270 “Petition” defined.** “Petition” means a verified written request to the court for an order.

**SECTION 132.275 “Probate” defined.** “Probate,” used as a noun, means a legal proceeding in which the court has jurisdiction to administer, pay out and distribute the assets of a decedent to the persons entitled to them, including devisees, heirs, creditors and others.

**SECTION 132.280 “Probate homestead” defined.** “Probate homestead” means a homestead that can be set apart by the court pursuant to [SECTION 146.020](#).

**SECTION 132.285 “Property” defined.** “Property” means anything that may be the subject of ownership, and includes both real and personal property and any interest therein.

**SECTION 132.287 “Record” defined.** “Record” means information that is inscribed on a tangible medium, or that is stored in an electronic medium and is retrievable in perceivable form.

**SECTION 132.290 “Right of representation” defined.** “Right of representation” means the method of distributing property by which, through inheritance or succession, the descendants of a deceased heir take the same share or right in the estate of another person that their parent or other ancestor would have taken if living. A posthumous child is deemed living at the death of his parent.

**SECTION 132.295 “Security” defined.** “Security” includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase any of the foregoing.

**SECTION 132.300 “Separate property” defined.** “Separate property” has the meaning ascribed to it in [SECTION 123.130](#).

**SECTION 132.305 “Settlement” defined.** “Settlement,” in reference to the estate of a decedent, includes administration, distribution and closing.

**SECTION 132.310 “Settlor” defined.** “Settlor” means the person who creates a trust, however described in the trust instrument.

**SECTION 132.315 “Special administrator” defined.** “Special administrator” means a personal representative appointed pursuant to Section [140](#).

**SECTION 132.320 “State” defined.** “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

**SECTION 132.325 “Successor personal representative” defined.** “Successor personal representative” means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

**SECTION 132.330 “Successors” defined.** “Successors” means persons, other than creditors, who are entitled to property of a decedent under the terms of his will or pursuant to this title.

**SECTION 132.335 “Tax” defined.** “Tax” includes an income, property, excise, estate, gift or inheritance tax.

**SECTION 132.340 “Testate estate” defined.** “Testate estate” means an estate with respect to which a will has been offered and admitted to probate.

**SECTION 132.345 “Testator” defined.** “Testator” means a person who makes a will.

**SECTION 132.350 “Trust” defined.** “Trust” means an interest in property held by one person for the benefit of another, established by an instrument executed during the life of the settlor or by his will. The term includes an express trust, private or charitable, with additions thereto, wherever and however created. The term also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

**SECTION 132.355 “Trustee” defined.** “Trustee” includes an original, additional or successor trustee, whether or not appointed or confirmed by a court.

**SECTION 132.360 “Verification” defined.** “Verification” means a declaration that a statement is true, made under oath or affirmation under penalty of perjury for false statement.

**SECTION 132.365 “Ward” and “minor ward” defined.** “Ward” means a person for whom a guardian has been appointed. A “minor ward” is one for whom a guardian has been appointed solely by reason of minority.

**SECTION 132.370 “Will” defined.** “Will” means a formal document that provides for the distribution of the property of a decedent upon his death. The term includes a codicil and a testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

**SECTION 132.380 Terms: “Writing” or “written.”** As used in this title, unless the context otherwise requires, when the term “writing” or “written” is used in reference to a will, the term includes an electronic will.