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JOHANSON'S

TEXAS

ESTATES CODE

ANNOTATED

**WITH RELATED STATUTES, INCLUDING THE TEXAS TRUST CODE,
SUMMARY OF 2025 LEGISLATIVE CHANGES, SIGNIFICANT
RECENT CASE DECISIONS, AND DISPOSITION AND
DERIVATION TABLES**

ANNOTATIONS BY

PROFESSOR STANLEY M. JOHANSON

2025 EDITION



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About the Author

Stanley M. Johanson is University Distinguished Teaching Professor and holds the James A. Elkins Centennial Chair in Law at the School of Law, University of Texas at Austin. In 2025, Professor Johanson was named Dean's Distinguished Faculty Scholar at the Law School. He is a nationally recognized authority on estate planning and probate law and practice and a leading authority in Texas on the subject.

A graduate of Yale University, Professor Johanson has obtained advanced degrees from the University of Washington (LLB), where he was Editor-in-Chief of the Washington Law Review, and from Harvard University (LLM). He is a Life Member of the American Law Institute; an Academic Fellow, American College of Trust & Estate Counsel; an Academic Fellow, American College of Tax Counsel; and a former member of the Council of the Real Estate, Probate & Trust Law section of the State Bar of Texas. In 1997, Professor Johanson was given the Treat Award for Excellence, awarded by the National College of Probate Judges. In 2008, Professor Johanson was elected by the National Association of Estate Planning Councils to the Estate Planning Hall of Fame.

Since joining the faculty of the University of Texas in 1963, Professor Johanson has received several awards for teaching excellence from that University, and has been invited to lecture, as a visiting professor, at numerous other law schools throughout the country. He is also a frequent lecturer at Continuing Legal Education programs and Tax conferences throughout the country, and lectures to candidates preparing for the bar examination in Texas and several other states.

A prolific writer, Professor Johanson is the co-author emeritus of a widely-used casebook on the law of wills, trust and estates, a legal summary of the law of wills, and numerous law review articles and continuing legal education materials on estate planning and probate practice.

In 2005, Professor Johanson was given the Distinguished Probate Lawyer Lifetime Achievement Award by the Real Estate, Probate and Trust Law Section of the State Bar of Texas. In 2006, he was presented with the endowed Massey Teaching Excellence Award by the University of Texas School of Law. In 2011, Professor Johanson was named the Outstanding Texas Tax Lawyer by the Taxation Section of the State Bar of Texas. In May 2025, Professor Johanson completed his 62st year of teaching at The University of Texas School of Law.

Publisher's Preface

This publication is designed to provide a compact and authoritative presentation of the Texas Estates Code and related Texas laws, including the full text of Title 9 of the Property Code, relating to trusts. The publication is intended to combine the most salient features of an unannotated code—compactness and portability—and those of a fully annotated code—interpretative aids—into a single publication containing a carefully constructed selection of primary law materials relating to Texas estate planning and probate practice. Thus the publication contains the full text of the Estates Code, and related statutes, accompanied by interpretive aids which have been constructed by the author and the publisher's editorial staff to provide materials which are highly focused, concise, practical, and authoritative.

The Commentary, Leading Cases, Leading CLE/Law Review Publications and Index have been prepared by the author, Stanley M. Johanson. Cross References and Collateral References have also been supplied by the author. The remainder of the editorial components were prepared by the editorial staff of the publisher.

This publication contains legislation affecting the Texas Estates Code and related Texas Codes enacted through the 89th Legislature, Regular Session (2025). New statutory language is in **boldfaced type** and deleted language is shown ~~struck-through~~. Federal legislation is current through P.L. 119-31 of the First Session of the 119th Congress (2025). The Commentary and Leading Cases cover decisions published through 706 S.W.3d (2025). The notes to Attorney General Opinions cover opinions published through June, 2025. The Leading CLE/Law Review Materials cover course materials, articles, notes and comments published through June, 2025.

Author's Preface

This book incorporates, in one volume, all of the Texas statutes that relate to the estate practice. The book is more than a compendium of the relevant statutes, however. The annotations following each Estates Code and Trust Code provision include what I regard to be the leading cases (or at least useful cases) dealing with the particular statute. While in most instances the cases are summarized in one or two sentences, for a number of statutes I have included a Commentary that presents the leading cases in text note form. Where appropriate, the Commentary is followed by citations to secondary authorities, including papers presented at Advanced Estate Planning & Probate CLE programs. Cited articles from the State Bar Advanced Estate Planning & Probate Course are available for downloading at www.reptl.org for members of the Real Estate, Probate & Trust Law Section, and at www.texasbarcle.com for all others.

The reader will be pleased to discover that the book's subject index has been prepared by a human being. In personally preparing the index, my goal was to enable the user to find the statute he or she is searching for after looking under at most two entries. If, in any instance, it doesn't work for you, let me know, and I will take appropriate measures in the next edition.

I may be the only person alive who has read the Texas Probate Code in its entirety, and also now the Estates Code in its entirety, not to mention most of the cases that have ever cited a Probate Code or Trust Code provision. (When I mentioned this from a CLE podium, someone responded with "Get a life!") I can't say that it was fun, but I think it was a useful endeavor, and I hope the reader agrees.

Stanley M. Johanson
Austin, Texas

Dedication

To all of the students I have had at the University of Texas School of Law over the years, and to the candidates to whom I have lectured in preparation for the Texas Bar Examination. Many of you have helped me to develop as a teacher, lecturer and scholar far more than you might imagine.

Acknowledgments

I want to acknowledge the contributions of members of the Texas Real Estate and Probate Institute ((T-REP) a new independent entity created in the summer of 2022) for their work on improvement of our probate and related laws. I don't believe there is any state in the country in which members of the Bar make such substantial contributions, quantitatively and qualitatively, to the betterment of our laws and to public service. This comes, in part, in the form of participation in continuing legal education programs, and in large part to the improvement of our statutory laws. For over four decades, REPTL Council members (and now T-REP Board members) and sundry subcommittees have been spent much (unbillable) time and effort in proposing new legislation, and in keeping an eye on stray bills that could do damage.

For many years and legislative sessions, Austin attorney Bill Pargaman spent much of his time (Bill's avocation, actually) meticulously tracking every single House and Senate bill relating to probate, guardianship and trust law matters. Bill's Legislative Update (both the newsletter and his lectures) gave invaluable summaries of ongoing legislative developments. Sadly, Bill passed away in August 2024, a real loss to the Texas estate planning community. The torch was picked up by Austin attorneys Meredith McIver and Julia Jonas, who did an excellent job of summarizing bills wending through this past legislative session via weekly newsletters. Barbara Klitch, who for 15 legislative sessions tracked legislation on behalf REPTL and its successor T-REP, stepped down to reenter the law practice with Saunders and Associates, an Austin estate planning firm. She was succeeded by Caitlin Haney Johnston and Amber Haney.

Deserved recognition also goes to Lauren Hunt, another Austin attorney, who continued her second session as Chair of T-REP's Estates and Trusts Legislative Affairs Committee. Lauren and her team of estates and trusts attorneys from across the state spent countless hours before and during the legislative session, preparing, promoting, and testifying for and against bills relating to decedents' estate, trusts, guardianships, and powers of attorney.

And most important of all, I want to acknowledge the contribution of my wife, Gerrie Johanson, whose strength and character continue to inspire me.

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