



**JUDGE SHEILA GARCIA BENCE**  
**COUNTY COURT AT LAW NO. 4**

**Cameron County**  
**974 E. Harrison Street**  
**Brownsville, TX 78520**  
**(956) 574-8116**

**STATUTORY REQUIREMENTS FOR PROBATING A WILL MORE THAN FOUR YEARS AFTER DEATH OF THE TESTATOR**

The Texas Estates Code (TEC) §256.003 prohibits the probate of a will more than four years after the death of the testator unless the applicant proves there was no default in failing to probate the will sooner. TEC §301.002 prohibits the issuance of letters testamentary or of administration if the will is filed more than four years after the date of death (except in special circumstances as are stated in TEC §301.002). Therefore, offering the will for probate as a muniment of title only is the sole option available. Further statutory requirements are as follows:

1. In the application and proof of death, please state the reason the will was not offered for probate during the four years after the date of death of decedent;
2. In the application, please list all intestate heirs of the decedent including their name, address, and relationship to the decedent; and
3. TEC §258.051 requires personal service upon all of decedent's intestate heirs who are not applicants or, in the alternative, sworn waivers of service which contain the specific language of §258.051.
4. TEC § 258.052 If an applicant described by Section [258.051\(a\)](#) cannot, with reasonable diligence, ascertain the address of any of the testator's heirs, the court shall appoint an attorney ad litem to protect the interests of the testator's unknown heirs after an application for the probate of a will is made under Section [256.003\(a\)](#).
5. The Court will require a disinterested witness to prove up and verify all of the potential intestate heirs so that the court may feel secure in finding that all of the potential intestate heirs have waived notice or have been personally served.