

I. All assets of the Decedent's estate and their values are listed here.

Asset <i>List with enough detail to identify the asset, including the last three digits of any account number(s).</i>	Value	Additional information <i>If decedent was married, indicate:</i> <ul style="list-style-type: none"> • <i>whether each asset was community or separate property, and</i> • <i>facts that explain why the asset was community or separate</i> <i>If exempt property, so indicate.</i> <i>Use additional pages as necessary.</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Continue list as necessary.)

J. All liabilities of the Decedent's estate (including money and general debts) and their values are listed here. If none, write "none."

Creditor <i>List with enough detail to identify the creditor and amount.</i>	Amount of Liability
_____	_____
_____	_____
_____	_____
_____	_____

(Continue list as necessary.)

K. The following facts regarding Decedent's family history show the Distributees' entitlement to Decedent's estate to the extent that the assets, exclusive of homestead and exempt property, exceed the liabilities of Decedent's estate. **[Put check marks in the appropriate small boxes, and provide additional information as indicated.]**

Family History #1: Marriage.

On the date of Decedent's death, Decedent was a single person.

OR

On the date of Decedent's death, Decedent was married to _____.

_____ .The date they were married: _____.

_____ .

Family History #2: Children.

Decedent had no children by birth or adoption, and Decedent did not take any children into Decedent's home to raise as a child. (Skip to Family History #4 if you check this box.)

OR

The following children were born to or adopted by Decedent (list all children, whether or not the child is still alive).

Child's name	Name of child's other parent	Birth date, if known
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Continue list as necessary.)

Family History #3: Children, part 2. If Decedent has any children, answer the following questions.

All of Decedent's children, natural born or adopted, were alive when Decedent died.

OR

The following of Decedent's children, natural born or adopted, died before the Decedent's death and were survived by any children, grandchildren, or great-grandchildren:

Name of deceased child	Names of all children of the deceased child <i>(if any of these children died before Decedent, use a separate page to give date of death, plus names & birth dates of all grandchildren)</i>
_____	_____
_____	_____

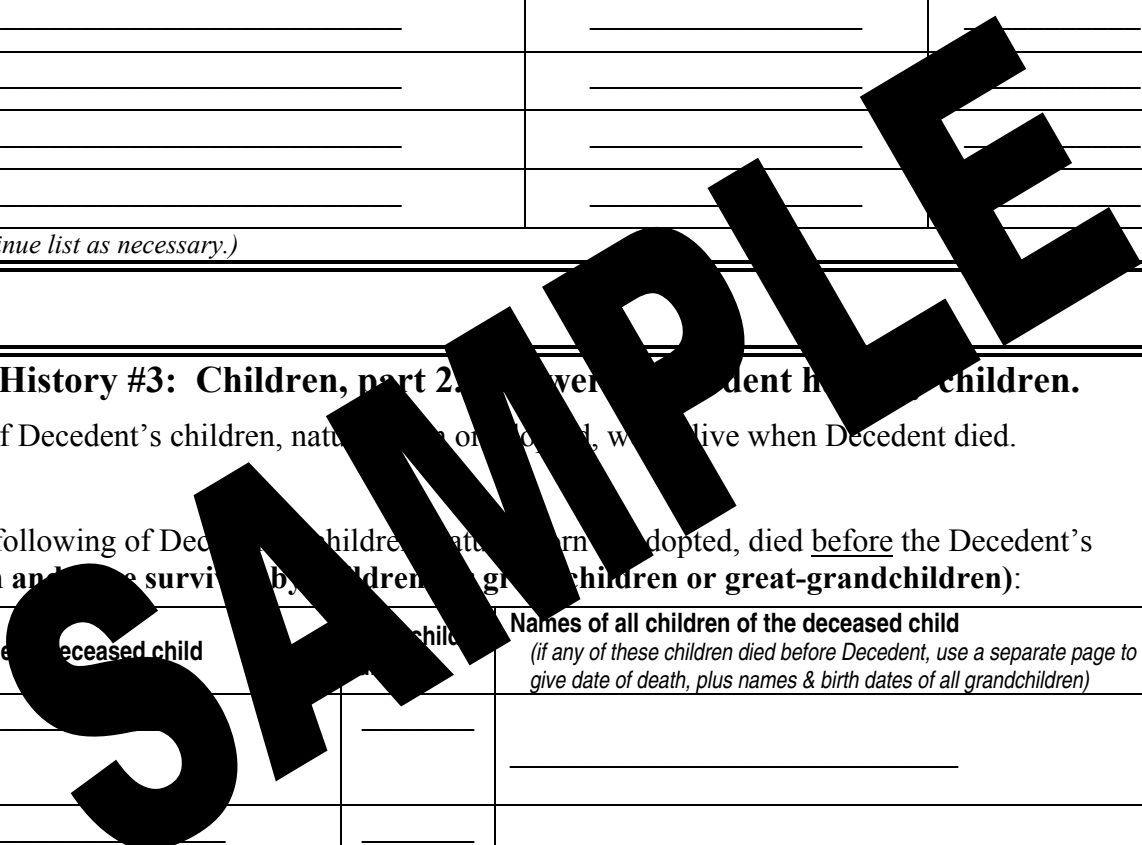
(Continue list as necessary.)

AND/OR

The following of Decedent's children, natural born or adopted, died before the Decedent's death and were not survived by any children, grandchildren, or great-grandchildren:

Name of deceased child	Date child died
_____	_____
_____	_____

(Continue list as necessary.)



Family History #6: Other.

Fill out a separate page if Decedent was survived by none of the following: spouse, child, grandchild, parent, brother, sister, half-brother, half-sister, niece, or nephew. If Decedent was survived by none of the above, list **all** of the surviving relatives of Decedent on a separate page. Specify Decedent's family history with respect to each of the survivors, giving sufficient detail about names, birth dates, death dates, and relationships to explain how each survivor is related to Decedent.

EVERYONE MUST FILL OUT THE FOLLOWING CHART. (See #13 of the checklist.)

L. Based on the family history given in this Affidavit, the following chart lists all of Decedent's heirs at law, together with their fractional interest in Decedent's estate:

For each Distributee, list: 1. Name 2. Address 3. Telephone number 4. Email address 5. Fax number, if available	Share of separate personal property	Share of separate real property	Share of Decedent's community property (if Decedent was married)
_____ _____ _____ _____	_____	_____	_____
_____ _____ _____ _____	_____	_____	_____
_____ _____ _____ _____	_____	_____	_____
_____ _____ _____ _____	_____	_____	_____
_____ _____ _____ _____	_____	_____	_____
_____ _____ _____ _____	_____	_____	_____

SAMPLE

(Continue list as necessary.)

Affidavits and signatures of two disinterested witnesses

STATE OF _____ §
COUNTY OF _____ §

I have no interest in the Estate of _____, Deceased, and am not related to Decedent under the laws of descent and distribution of the State of Texas. I swear or affirm that the facts contained in this Affidavit regarding family history, assets, and liabilities are true and complete to the best of my knowledge.

Disinterested Witness's printed name

Disinterested Witness's signature

SWORN TO AND SUBSCRIBED before me by _____ [name of witness],
a disinterested witness, on this the _____ day of _____, 20____.

(SEAL)

Notary Public, State of _____

STATE OF _____ §
COUNTY OF _____ §

I have no interest in the Estate of _____, Deceased, and am not related to Decedent under the laws of descent and distribution of the State of Texas. I swear or affirm that the facts contained in this Affidavit regarding family history, assets, and liabilities are true and complete to the best of my knowledge.

Disinterested Witness's printed name

Disinterested Witness's signature

SWORN TO AND SUBSCRIBED before me by _____ [name of witness],
disinterested witness, on this the _____ day of _____, 20____.

(SEAL)

Notary Public, State of _____

Prepared in the Law Office of:
[Attorney signature block, if applicable]

This checklist explains the basics for filing the Small Estate Affidavit (SEA)

1. Form. The SEA must be completed by persons who have actual knowledge of the stated facts.

2. Cover Sheet. Texas Rule of Civil Procedure 78a requires that a Civil Case Information Sheet, including contact information, be filed with all original applications. Also check with the court clerk to see if a Supplementary Probate Court Information Sheet is needed. These “cover sheets” are to be filed at the time an SEA is first filed. The court will not consider an SEA unless all needed cover sheets are on file.

3. Death Certificate. The court requires a death certificate to be filed with all probate applications, including SEAs. An easily readable copy is fine. The social security number must be crossed out.

4. Must be filed at least 30 days after Decedent’s death.

5. County where Decedent resided. An SEA should be filed in the county where Decedent resided if Decedent had a domicile or fixed place of residence in Texas. If that’s not the county you’re filing in, add facts to support venue in the county you’re filing in. Remember that granting an SEA is in the court’s discretion; it is unusual for the court to approve an SEA for a Decedent who did not have a fixed place of residence in the filing county.

6. No Will. By statute, an SEA cannot be used if Decedent left a will. Applicant must swear that the Decedent died without a will.

7. No Administration. An SEA cannot be applied for if a petition for appointment of a personal representative is pending or has been granted. If it appears an administration is needed.

8. Assets.

List everything. The SEA must list all known estate assets – not just some of them. Assets are all property that has monetary value, including cash or bank accounts, vehicles, houses, personal belongings, and real property.

Small estate. The SEA must show that the total assets of the estate are \$50,000 or less, not including the homestead and exempt property.

Value of assets. Estimate the value of each asset as precisely as possible, describing the asset with sufficient detail so that it is clear exactly what property is being transferred by Affidavit. For example, include VIN numbers for cars and include the last four digits of any account number.

If Decedent was married at the date of death:

✓ State whether *each* asset was Decedent’s community property or Decedent’s separate property.

✓ For each asset, give the *facts* that explain why the asset was community or separate property.

Exempt property. If you are claiming that an asset is exempt property, allege the exempt status in the “additional information” column on the SEA form.

Real property: homestead to homestead. The only real property that can be transferred by an SEA is Decedent’s **homestead** property; even then, real property cannot be transferred by an SEA unless the real property **will be inherited by an heir who was homesteading with the Decedent when Decedent died** – a surviving spouse or unmarried child of Decedent who resided on property with Decedent. If this is the case, the SEA must include sufficient facts to support the homestead exemption **and** must also include the legal description and street address of the property.

9. Liabilities.

List everything. The SEA must list all of Decedent’s debts and other liabilities, including all credit card balances, doctor’s bills, utility bills, etc. – *anything* owed by Decedent and not paid off.

As one of the liabilities, the SEA must list any attorney's fees paid or to be paid for preparation of the Affidavit.

Provide sufficient detail. Indicate the amount of each liability as precisely as possible, describing the debt or other liability with sufficient detail so that it is clear who the creditor is. Also indicate at least the last four digits of any known account numbers.

10. Solvent. The total of the assets (not including the homestead and exempt property) must exceed the total known liabilities, not including liabilities secured by homestead and exempt property. If they do not, the SEA must be denied. (Distributees can pay off enough debts that the assets exceed the remaining liabilities.)

11. Medicaid. The SEA must indicate whether the Decedent applied for and received Medicaid benefits on or after March 1, 2005. If so, Applicant must either (1) list as a liability the amount owed to Medicaid or (2) file a Medicaid Estate Recovery Program (MERP) certification that Decedent's estate is not subject to a MERP claim or (3) include additional information proving that a MERP claim will not be filed. For more information, see http://www.dads.state.tx.us/services/estate_recovery/index.html.

12. Family history. The SEA must state the *facts* about Decedent's marital and family history in sufficient detail that it is clear who inherits Decedent's property and the shares those heirs under Texas law.

13. Correct inheritance shares. In "L" of the form, list each Distributee by name, address, phone number, email address, and fax number (if available) of each Distributee (heir) of Decedent's estate, along with the shares of each Distributee. Use the following:

If Decedent was married at the date of death, Applicant must state the shares of each Distributee in all three types of property: separate personal property, separate real property, and Decedent's share of the community property. If Applicant is a surviving spouse will retain his or her own share of the community property, Applicant must affirm that there was no separate property or no separate real property.

If Decedent was not married at the date of death, there is no community property. Put "NA" in the community property column.

14. Signed and sworn by distributees. Every Distributee who has legal capacity must sign and swear to the Affidavit before a notary. Use as many signature pages as needed.

Is there a minor or otherwise incapacitated Distributee? If applicable, the natural guardian or next of kin of any minor Distributee or the guardian of any other incapacitated Distributee may sign and swear to the Affidavit on behalf of the minor or otherwise incapacitated Distributee.

Is there a missing Distributee? If you do not know where to find a Distributee, you cannot use the Small Estate Affidavit probate procedure and must file an Application to Determine Heirship. Note that an Applicant for determination of heirship must be represented by an attorney.

15. Sworn to by two disinterested witnesses: Two disinterested witnesses must each sign and swear to the Affidavit before a notary. These witnesses must be able to swear to *all* of the facts included in the SEA, not only the family history facts. Disinterested witnesses are witnesses who have no interest in Decedent's estate and who are not related to Decedent under the laws of descent and distribution of the State of Texas.

16. Possible hearing. The court may require a hearing before an SEA will be approved. If a hearing is needed, the court will contact you to set a hearing. *Do not set a hearing until the court has asked you to do so.*