

BILL ANALYSIS

Senate Research Center

S.B. 1348
By: Brown
Jurisprudence
4-9-97
As Filed

DIGEST

Currently, state law authorizes a statutory probate court to transfer to itself certain cases which are pending in a district court, county court at law, or county court, without notice to or consent of the transferring court. There is no restriction on when the transfer can be ordered, nor is there any procedural requirement other than a motion by a party to the action or a person interested in the related estate or guardianship. The law effectively gives the parties the right to "shop" for an acceptable venue in certain cases if they are not satisfied with the court in which the case was originally filed. This bill will provide procedures regarding the transfer of a case to a statutory probate court.

PURPOSE

As proposed, S.B. 1348 provides procedures regarding the transfer of a case to a statutory probate court.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5B, Probate Code, to authorize a judge of a statutory probate court to transfer to the court, from a district, county, or statutory court, certain causes of action only if, after the statutory probate court judge grants the motion to transfer the cause of action, the district, county, or statutory court from which the cause of action is to be transferred takes certain actions. Requires the judge of the transferring court, in the event that a cause of action is transferred pursuant to Subsection (a), to order the clerk of the transferring court to make and deliver to the clerk of the statutory probate court a copy of the file for a cause of action transferred as provided by this section. Requires the individual who filed the motion to transfer to pay all court costs of the transfer.

SECTION 2. Amends Section 608, Probate Code, to make a conforming change.

SECTION 3. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 4. Emergency clause.