

BILL ANALYSIS

Senate Research Center
80R10221 CLG-F

H.B. 660
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 1983, statutory probate courts have had the power to transfer cases filed elsewhere that are appertaining to or incident to an estate pending in that court for trial and disposition. One of the reasons for authorizing these courts to make such a transfer is to permit these courts to resolve issues upon which the prompt and efficient administration of an estate depends. However, this transfer authority has generated some controversy and accusations of forum shopping due to the occasional transfer of personal injury or wrongful death cases by a statutory probate court to itself where the venue was not proper. Subsequent legislation and court rulings have not resolved confusion regarding the power transfer to transfer venue.

H.B. 660 clarifies that statutory probate courts are prohibited from transferring to themselves personal injury, death, and related property damage claims filed in another court unless venue for those actions is proper in the statutory probate court. This bill also clarifies that statutory probate courts are authorized to transfer to themselves non-tort cases that are appertaining to or incident to the estate being administered.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15.007, Civil Practice and Remedies Code, as follows:

Sec. 15.007. CONFLICT WITH CERTAIN PROVISIONS. Provides that Chapter 15 (Venue), Civil Practice and Remedies Code, controls to the extent that venue under this chapter for a suit by or against an executor, administrator, or guardian as such, for personal injury, death, or any property damage related to the personal injury or death suit conflicts with venue provisions under the Texas Probate Code, notwithstanding Sections 15.004, 15.005, and 15.031.

SECTION 2. Amends Section 5B(b) (Transfer of Proceeding), Texas Probate Code, as follows:

(b) Provides that venue of a cause of action described by Subsection (a) of this section is proper, as provided by Section 7(a) of this code, in the statutory probate court in which the estate is pending. Authorizes the judge of the statutory probate court to transfer the cause of action as provided by Subsection (a) of this section to the statutory probate court, regardless of whether venue would otherwise be proper or mandatory in the county of the court from which the action will be transferred, except with respect to a cause of action described by Section 15.007, Civil Practice and Remedies Code, or Section 123.005 (Breach of Fiduciary Duty), Property Code. Deletes existing text providing that, notwithstanding any other provision of this chapter, the proper venue for an action by or against a personal representative for personal injury, death, or property damages is determined under Section 15.007, Civil Practice and Remedies Code.

SECTION 3. Amends Chapter I (General Provisions), Texas Probate Code, by adding Section 7, as follows:

Sec. 7. VENUE FOR CERTAIN ACTIONS APPERTAINING TO OR INCIDENT TO AN ESTATE OR IN WHICH PERSONAL REPRESENTATIVE IS PARTY. (a) Provides that venue for a cause of action appertaining to or incident to a decedent's estate, or a cause of action in which the personal representative of a decedent's estate is a party, is proper in the court in which the estate is pending, except with respect to a cause of action described by Section 15.007, Civil Practice and Remedies Code.

(b) Provides that venue for a cause of action against a former personal representative of a decedent's estate is proper in the court in which the estate is pending or was last pending, except with respect to a cause of action described by Section 15.007, Civil Practice and Remedies Code.

(c) Provides that the proper venue for an action by or against a personal representative for personal injury, death, or any property damages related to the personal injury or death action is determined under Section 15.007, Civil Practice and Remedies Code, notwithstanding any other provision of this chapter.

SECTION 4. Amends Section 608, Texas Probate Code, as follows:

Sec. 608. TRANSFER OF GUARDIANSHIP PROCEEDING. (a) Creates this subsection from existing text relating to a motion to transfer venue to consolidate related guardianship proceedings.

(b) Provides that venue of a cause of action described by Subsection (a) of this section is proper, as provided by Section 610A(a) of this code, in the statutory probate court in which the guardianship is pending, except with respect to a cause of action described by Section 15.007, Civil Practice and Remedies Code, or Section 123.005, Property Code. Authorizes the judge of the statutory probate court to transfer the cause of action as provided by Subsection (a) of this section to the statutory probate court, regardless of whether venue would otherwise be proper or mandatory in the county of the court from which the pending guardianship will be transferred.

SECTION 5. Amends Subpart B (Venue), Part 2 (Guardianship Proceedings and Matters), Chapter XIII (Guardianship), Texas Probate Code, by adding Section 610A, as follows:

Sec. 610A. VENUE FOR CERTAIN ACTIONS APPERTAINING TO OR INCIDENT TO AN ESTATE OR IN WHICH GUARDIAN, WARD, OR PROPOSED WARD IS PARTY. (a) Provides that venue is proper in a court in which the guardianship estate is pending for a cause of action appertaining to or incident to the guardianship estate, or a cause of action related to the guardianship in which a guardian, ward, or proposed ward is a party, except with respect to a cause of action described by Section 15.007, Civil Practices and Remedies Code.

(b) Provides that venue for a cause of action against a former guardian of a ward is proper in the court in which the ward's guardianship is pending or was last pending, except with respect to a cause of action described by Section 15.007, Civil Practices and Remedies Code.

(c) Provides that the proper venue for an action by or against a guardian for personal injury, death, or any property damages related to the personal injury or death action is determined under Section 15.007, Civil Practice and Remedies Code, notwithstanding any other provisions of this chapter.

SECTION 6. Repealer: Section 5A(f) (providing that proper venue for an action by or against a personal representative for personal injury, death, or property damages is determined under Section 15.007, Civil Practice and Remedies Code), and Section 607(e) (providing that proper venue for an action by or against a personal representative for personal injury, death, or property damages is determined under Section 15.007, Civil Practice and Remedies Code), Texas Probate Code.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2007.