

## BILL ANALYSIS

Senate Research Center

S.B. 408  
By: Carona  
Jurisprudence  
8/12/2009  
Enrolled

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a judgment rendered by a small claims court may be appealed to a county court or a county court at law. However, the judgment rendered by the county court or the county court at law is not appealable.

S.B. 408 relates to jurisdiction, venue, and appeals in certain matters, including the jurisdiction of and appeals from certain courts and administrative decisions and the appointment of counsel in certain appeals.

### 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 51.012, Civil Practice and Remedies Code, to authorize a person to take an appeal or writ of error to the court of appeals from a final judgment of the district or county court in a civil case in which the judgment or amount in controversy exceeds \$250, rather than \$100, exclusive of interest and costs.

SECTION 2. (a) Amends Section 82.003, Civil Practice and Remedies Code, by adding Subsection (c), as follows:

(c) Provides that if after service on a nonresident manufacturer through the secretary of state in the manner prescribed by Subchapter C (Long-arm Jurisdiction in Suit on Business Transaction or Tort), Chapter 17 (Parties; Citation; Long-arm Jurisdiction), the manufacturer fails to answer or otherwise make an appearance in the time required by law, it is conclusively presumed for the purposes of Subsection (a)(7)(B) that the manufacturer is not subject to the jurisdiction of the court unless the seller is able to secure personal jurisdiction over the manufacturer in the action.

(b) Provides that the change in law made by this section applies to an action filed on or after the effective date of this Act or pending on the effective date of this Act.

SECTION 3. Amends Section 22.220(a), Government Code, to make a conforming change.

SECTION 4. Amends Subchapter A, Chapter 25, Government Code, by adding Section 25.0020, as follows:

Sec. 25.0020. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a) Authorizes the county court or county court at law in which an appeal of the suit is filed, on a written application of any party to an eviction suit, to appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a (Pauper's Affidavit), Texas Rules of Civil Procedure.

(b) Requires the appointed counsel to represent the individual in the proceedings of the suit in the county court or county court at law. Provides that at the conclusion of those proceedings, the appointment terminates.

(c) Authorizes the court to terminate representation appointed under this section for cause.

(d) Prohibits appointed counsel from receiving attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. Provides that the county is not responsible for payment of attorney's fees to appointed counsel.

(e) Requires the court to provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

SECTION 5. Amends Subchapter A, Chapter 26, Government Code, by adding Section 26.010, as follows:

Sec. 26.010. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a) Authorizes the county court or county court at law in which an appeal of the suit is filed, on a written application of any party to an eviction suit, to appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) Requires the appointed counsel to represent the individual in the proceedings of the suit in the county court or county court at law. Provides that at the conclusion of those proceedings, the appointment terminates.

(c) Authorizes the court to terminate representation appointed under this section for cause.

(d) Prohibits appointed counsel from receiving attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. Provides that the county is not responsible for payment of attorney's fees to appointed counsel.

(e) Requires the court to provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

SECTION 6. Amends Section 26.042(c), Government Code, to make a conforming change.

SECTION 7. Amends Section 28.052(b), Government Code, to provide that appeal is the manner provided by law for appeals from justice courts, rather than from justice court to county court, except to the extent of any conflict with this subchapter. Makes nonsubstantive changes.

SECTION 8. Amends the heading to Section 28.053, Government Code, to read as follows:

Sec. 28.053. DE NOVO TRIAL ON APPEAL.

SECTION 9. Amends Sections 28.053(b) and (d), Government Code, as follows:

(b) Provides that trial on appeal to the county court or county court at law is de novo. Provides that no further pleadings are required. Deletes existing text providing that the procedure is the same as in small claims court.

(d) Authorizes a person to appeal the final judgment of the county court or county court at law on the appeal to the court of appeals. Deletes existing text providing that judgment of the county court or county court at law on the appeal is final.

SECTION 10. (a) Amends Sections 531.019(a) and (e), Government Code, as added by Chapter 1161 (H.B. 75), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(a) Defines "public assistance benefits" in this section.

(e) Provides that for purposes of Section 2001.171 (Judicial Review), an applicant for or recipient of public assistance benefits has exhausted all available administrative remedies and a decision, including a decision under Section 31.034 (Annual Report) or 32.035 (Appeals), Human Resources Code, is final and appealable on the date that, after a hearing:

(1) the hearing officer for the commission or a health and human services agency reaches a final decision related to the benefits; and

(2) the appropriate attorney completes an administrative review of the decision and notifies the applicant or recipient in writing of the results of that review.

(b) Provides that the changes in law made by this section apply only to an appeal of a final decision by the Health and Human Services Commission (HHSC) related to financial assistance benefits under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code, that is rendered on or after the effective date of this Act. A final decision rendered by HHSC before the effective date of this Act is governed by the law in effect on the date the decision was rendered, and the former law is continued in effect for that purpose.

SECTION 11. (a) Amends Section 821.025(a), Health and Safety Code, as follows:

(a) Authorizes an owner divested of ownership of an animal under Section 821.023 (Hearing; Disposition or Return of Animal), rather than an owner of an animal ordered sold at public auction as provided in this subchapter, to appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. Requires the owner, as a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, to file a notice of appeal and an appeal bond in an amount determined by the court, rather than justice or municipal court, from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. Requires the court from which the appeal is taken, not later than the fifth calendar day after the date the notice of appeal and appeal bond is filed, to deliver a copy of the court's transcript to the county court or county court at law to which the appeal is made. Requires the court, not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives the transcript, to dispose of the appeal. Provides that the decision of the county court or county court at law under this section is final and may not be further appealed. Deletes existing text prohibiting an owner to from appealing an order to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals, or to humanely destroy the animal.

(b) Makes application of Section 821.025(a), Health and Safety Code, as amended by this section, prospective.

SECTION 12. (a) Amends Section 3(bb), Texas Probate Code, to provide that "probate proceeding" is synonymous with the terms "probate matter," "proceeding in probate," and "proceedings for probate." Redefines "probate proceeding."

(b) Amends Chapter I, Texas Probate Code, by adding Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H, as follows:

Sec. 4A. GENERAL PROBATE COURT JURISDICTION; APPEALS. (a) Requires that all probate proceedings be filed and heard in a court exercising original probate jurisdiction. Provides that the court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 4B of this code for that type of court.

(b) Authorizes a probate court to exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) Provides that a final order issued by a probate court is appealable to the court of appeals.

Sec. 4B. MATTERS RELATED TO PROBATE PROCEEDING. (a) Provides that for purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative; an action against a surety of a personal representative or former personal representative; a claim brought by a personal representative on behalf of an estate; an action brought against a personal representative in the representative's capacity as personal representative; an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and an action for trial of the right of property that is estate property.

(b) Provides that for purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes all matters and actions described in Subsection (a) of this section, the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court, and the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) Provides that for purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes all matters and actions described in Subsections (a) and (b) of this section and any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

Sec. 4C. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS. (a) Provides that in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) Provides that in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. Authorizes the judge of a

county court to hear probate proceedings while sitting for the judge of any other county court.

(c) Provides that in a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

**Sec. 4D. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT.** (a) Provides that in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court is authorized to, on the judge's own motion, or the judge of the county court is required to, on the motion of any party to the proceeding, according to the motion request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022 (Administration of Statutory Probate Codes), Government Code; or transfer the contested matter to the district court, which is authorized to then hear the contested matter as if originally filed in the district court.

(b) Requires the county judge, if a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this section, to grant the motion for the assignment of a statutory probate court judge and prohibits the county judge from transferring the matter to the district court unless the party withdraws the motion.

(c) Authorizes a party to a probate proceeding to file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and provides that the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) of this section if the matter later becomes contested.

(d) Provides that notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section is disregarded for purposes of this section and does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) Provides that a statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this code. Requires the statutory probate court judge, on resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, to return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) Provides that a district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this code. Requires the district court, on resolution of a contested matter transferred to the district court under this section, including any appeal of the matter, to return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) Requires the county court to continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section.

Authorizes any matter related to the probate proceeding, after a contested matter is transferred to a district court, to be brought in the district court. Authorizes the district court in which a matter related to the probate proceeding is filed, on its own motion or on the motion of any party, to find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) Provides that if a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and requires the county court to transfer those contested matters to the district court. Requires a statutory probate court judge, if the statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, to be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) Authorizes the clerk of a district court to which a contested matter in a probate proceeding is transferred under this section to perform in relation to the contested matter any function a county clerk is authorized to perform with respect to that type of matter.

**Sec. 4E. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT.** (a) Provides that in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court is authorized to, on the judge's own motion, or is required to, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. Authorizes the judge of the county court, on the judge's own motion or on the motion of a party to the proceeding, in addition, to transfer the entire proceeding to the county court at law.

(b) Authorizes a county court at law to which a proceeding is transferred under this section to hear the proceeding as if originally filed in that court. Requires that the matter, if only a contested matter in the proceeding is transferred, on the resolution of the matter, be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

**Sec. 4F. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT.** (a) Provides that in a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested or uncontested. Requires that a cause of action related to the probate proceeding be brought in a statutory probate court unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 4H of this code or with the jurisdiction of any other court.

(b) Requires that this section be construed in conjunction and in harmony with Section 145 (Independent Administration) of this code and all other sections of this code relating to independent executors, but prohibits this section from being construed to expand the court's control over an independent executor.

**Sec. 4G. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY.** Provides that in a county in which there is a statutory probate court, the statutory probate court has jurisdiction of an action by or against a trustee; an action involving an inter vivos trust, testamentary trust, or charitable trust; an action against an agent or former agent under a power of attorney arising out of the agent's performance of the

duties of an agent; and an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. Provides that a statutory probate court has concurrent jurisdiction with the district court in a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative; an action by or against a trustee; an action involving an inter vivos trust, testamentary trust, or charitable trust; an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate; an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(c) Amends Section 5B(a), Texas Probate Code, to authorize a judge of a statutory probate court, on the motion of a party to the action or on the motion of a person interested in an estate, to transfer to the judge's court, rather than his court, from a district, county, or statutory court a cause of action related to a probate proceeding, rather than appertaining to or incident to an estate, pending in the statutory probate court or a cause of action in which a personal representative of an estate pending in the statutory probate court is a party and is authorized to consolidate the transferred cause of action with the other proceedings in the statutory probate court relating to the estate.

(d) Amends Section 25.0022(i), Government Code, to provide that a judge assigned under this section has the jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G, 4H, 5B (Transfer of Proceeding), 606 (Jurisdiction with Respect to Guardianship Proceedings), 607 (Matters Appertaining and Incident to an Estate), and 608 (Transfer of Guardianship Proceeding), rather than 5 (Jurisdiction with Respect to Probate Proceedings), 5A (Matters Appertaining and Incident to an Estate), 5B, 606, 607, and 608, Texas Probate Code, to statutory probate court judges by general law.

(e) Amends Section 25.1132(c), Government Code, to provide that a county court at law in Hood County has concurrent jurisdiction with the district court in certain matters, including contested probate matters under Section 4D(a), rather than 5(b) (relating to requirements of filing applications, petitions, and motions regarding probate and administrations), Texas Probate Code.

(f) Amends Section 25.1863(b), Government Code, to require the judge of the constitutional county court, notwithstanding the requirement in Section 4D(a), rather than in Subsection (b), Section 5, Texas Probate Code, to transfer the proceeding under that section to either a county court at law in Parker County or a district court in Parker County. Makes conforming changes.

(g) Amends Section 123.005(a), Property Code, to provide that to the extent of a conflict between this subsection and any provision of the Texas Probate Code providing for venue of a proceeding brought with respect to a charitable trust created by a will that has been admitted to probate, this subsection controls.

(h) Repealer: Sections 4 (Jurisdiction of County Court with Respect to Probate Proceedings), 5 (Jurisdiction with Respect to Probate Proceedings), and 5A (Matters Appertaining and Incident to an Estate), Texas Probate Code.

(i) Makes application of the changes in law made by this section prospective.

SECTION 13. (a) Provides that effective January 1, 2014, Subtitle A, Title 2, Estates Code, as adopted by H.B. No. 2502, Acts of the 81st Legislature, Regular Session, 2009, if that act is enacted and becomes law, is amended by adding Chapters 31 and 32, as follows:

#### CHAPTER 31. GENERAL PROVISIONS

Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF CODE. Defines "probate proceeding."

Sec. 31.002. MATTERS RELATED TO PROBATE PROCEEDING. (a) Provides that for purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative; an action against a surety of a personal representative or former personal representative; a claim brought by a personal representative on behalf of an estate; an action brought against a personal representative in the representative's capacity as personal representative; an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and an action for trial of the right of property that is estate property.

(b) Provides that for purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes all matters and actions described in Subsection (a), the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court, and the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) Provides that for purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes all matters and actions described in Subsections (a) and (b) and any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

## CHAPTER 32. JURISDICTION

Sec. 32.001. GENERAL PROBATE COURT JURISDICTION; APPEALS. (a) Requires that all probate proceedings be filed and heard in a court exercising original probate jurisdiction. Provides that the court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 31.002 for that type of court.

(b) Authorizes a probate court to exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) Provides that a final order issued by a probate court is appealable to the court of appeals.

Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS. (a) Provides that in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) Provides that in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. Authorizes the judge of a county court to hear probate proceedings while sitting for the judge of any other county court.

(c) Provides that in a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

Sec. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT. (a) Provides that in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court is authorized to, on the judge's own motion, or is required to, on the motion of any party to the proceeding, according to the motion request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022, Government Code; or transfer the contested matter to the district court, which may then hear the contested matter as if originally filed in the district court.

(b) Requires a county judge, if a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this section, to grant the motion for the assignment of a statutory probate court judge and prohibits the county judge from transferring the matter to the district court unless the party withdraws the motion.

(c) Authorizes a party to a probate proceeding to file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) if the matter later becomes contested.

(d) Provides that notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section is disregarded for purposes of this section and does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) Provides that a statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. Requires a statutory probate court judge, on resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, to return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) Provides that a district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. Requires a district court, on resolution of a contested matter transferred to the district court under this section, including any appeal of the matter, to return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) Requires the county court to continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section. Authorizes any matter related to the probate proceeding, after a contested matter is transferred to a district court, to be brought in the district court. Authorizes the district court in which a matter related to the probate proceeding is filed to, on its own motion or on the motion of any party, find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) Provides that if a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and requires the county court to transfer those contested matters to the district court. Requires a statutory probate court judge, if a statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, to be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) Authorizes the clerk of a district court to which a contested matter in a probate proceeding is transferred under this section to perform in relation to the contested matter any function a county clerk is authorized to perform with respect to that type of matter.

**Sec. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT.** (a) Provides that in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court is authorized to, on the judge's own motion, or is required to, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. Authorizes the judge of the county court, in addition, on the judge's own motion or on the motion of a party to the proceeding, to transfer the entire proceeding to the county court at law.

(b) Authorizes a county court at law to which a proceeding is transferred under this section to hear the proceeding as if originally filed in that court. Requires that the matter, if only a contested matter in the proceeding is transferred, on the resolution of the matter, be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

**Sec. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT.** (a) Provides that in a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested or uncontested. Requires that a cause of action related to the probate proceeding be brought in a statutory probate court unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 32.007 or with the jurisdiction of any other court.

(b) Requires that this section be construed in conjunction and in harmony with Section 145 and all other sections of this title relating to independent executors, but prohibits this section from being construed to expand the court's control over an independent executor.

**Sec. 32.006. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY.** Provides that in a county in which there is a statutory probate court, the statutory probate court has jurisdiction of an action by or against a trustee; an action involving an inter vivos trust, testamentary trust, or charitable trust; an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

**Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT.** Provides that a statutory probate court has concurrent jurisdiction with the district court in a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative; an action by or against a trustee; an action involving an inter vivos trust, testamentary trust, or charitable trust; an action involving a personal representative of an estate in which

each other party aligned with the personal representative is not an interested person in that estate; an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(b) Repealers: Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H, Texas Probate Code, as added by Article 1 of this Act.

(c) Effective date, this section, except as otherwise provided by this subsection: January 1, 2014. Makes application of the changes in law made by this section contingent upon passage of H.B. 2502, Acts of the 81st Legislature, Regular Session, 2009.

SECTION 14. Makes application of this Act prospective.

SECTION 15. Effective date, except as otherwise provided by this Act: September 1, 2009.