

BILL ANALYSIS

Senate Research Center
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S.B. 192
By: Perry
State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires the administrator of a will to travel to the county where the decedent resided or passed away, even if the decedent had no family in that county and the will is uncontested.

Texas covers approximately 268,000 square miles. When a family member passes away who lives far away, a family member may be required to travel long distances, maybe even multiple times, to attend hearings on cases involving the death of an immediate family member. These travel requirements can place a significant burden on these family members at high costs during a difficult time of grief.

This bill changes current law for the administrator or executor to be able to transfer the case to the county where the executor or administrator resides, if the decedent had no immediate family members located in the county where the decedent is domiciled. This bill amends the probate transfer for convenience statute.

The purpose of the bill is to allow an executor or administrator to change the venue of a probate proceeding when the decedent has no immediate family members located in the county where the decedent is domiciled. This change also makes the process easier on creditors.

This change comes at the request of probate attorneys who represent creditors. If a person is able to file a probate case in any county where the executor or administrator resides, a creditor may have to check all 254 counties to find the case. However, if the person is able to transfer the case, the creditor would be able to check the county where the decedent resided, find the motion to transfer, and then is able to find that county, which is a much easier process and more feasible for creditors and interested parties.

As proposed, S.B. 192 amends current law relating to the transfer of certain probate proceedings to the county in which the executor or administrator of a decedent's estate resides.

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 Subchapter C, Chapter 33, Estates Code, by adding Section 33.1011, as follows:

Sec. 33.1011. TRANSFER TO COUNTY IN WHICH EXECUTOR OR ADMINISTRATOR RESIDES. (a) Defines "immediate family member."

(b) Authorizes the court to order, after the issuance in a probate proceeding of letters testamentary or of administration to the executor or administrator of an estate, on motion of the executor or administrator, that the proceeding be transferred to another county in this state in which the executor or administrator resides if no immediate family member of the decedent resides in the same county in which the decedent resided.

(c) Requires the clerk of the court from which the probate proceeding described by Subsection (b) is transferred to transmit the original file in the proceeding and a certified copy of the index to the court to which the proceeding is transferred.

(d) Requires the executor or administrator to provide the notice required by Section 308.051 (Required Notice Regarding Presentment of Claims in General) in the county of the court that originally issued the letters testamentary or of administration, notwithstanding the date of any transfer under this section.

SECTION 2. Makes application of Section 33.1011, Estates Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2019.