

By: Hartnett

H.B. No. 2431

A BILL TO BE ENTITLED

AN ACT

relating to jurisdiction of courts with respect to guardianship proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Section 606, Texas Probate Code, is amended to read as follows:

Sec. 606. [~~DISTRICT COURT AND OTHER COURT OF RECORD~~] JURISDICTION WITH RESPECT TO GUARDIANSHIP PROCEEDINGS.

SECTION 2. Section 606, Texas Probate Code, is amended by amending Subsections (b), (c), and (d) and adding Subsections (b-1), (b-2), (b-3), (b-4), (b-5), (h), and (i) to read as follows:

(b) In those counties in which there is no statutory probate court, county court at law, or other statutory court exercising the jurisdiction of a probate court, all applications, petitions, and motions regarding guardianships, mental health matters, and other matters covered by this chapter shall be filed and heard in the county court. In [~~except that in~~] contested guardianship matters, the judge of the county court may on the judge's own motion~~]~~ or shall on the motion of any party to the proceeding, according to the motion:

(1) [~~]~~ request [~~as provided by Section 25.0022, Government Code,~~] the assignment of a statutory probate court judge to hear the contested portion of the proceeding, as provided by Section 25.0022, Government Code; or

1 (2) transfer the contested portion of the proceeding
2 to the district court, which may hear the transferred contested
3 matter [~~matters~~] as if originally filed in the district court.

4 (b-1) If the judge of the county court has not transferred a
5 contested guardianship matter to the district court at the time a
6 party files a motion for assignment of a statutory probate court
7 judge, the county judge shall grant the motion and may not transfer
8 the matter to the district court unless the party withdraws the
9 motion.

10 (b-2) A statutory probate court judge assigned to a
11 contested guardianship [~~probate~~] matter as provided by Subsection
12 (b) of this section [~~subsection~~] has for that matter the
13 jurisdiction and authority granted to a statutory probate court by
14 Sections 607 and 608 of this code. On resolution of a contested
15 matter to which a statutory probate court judge has been assigned,
16 the statutory probate court judge shall transfer the resolved
17 portion of the case to the county court for further proceedings not
18 inconsistent with the orders of the statutory probate court judge
19 [~~The county court continues to exercise jurisdiction over the~~
20 ~~management of the guardianship with the exception of the contested~~
21 ~~matter until final disposition of the contested matter is made by~~
22 ~~the assigned judge or the district court].~~

23 (b-3) In contested matters transferred to the district
24 court [~~as provided by this subsection~~], the district court[~~7~~
25 ~~concurrently with the county court,~~] has the general jurisdiction
26 of a probate court. On resolution of any [~~all~~] pending contested
27 matter [~~matters~~], the district court shall transfer the resolved

1 ~~[contested]~~ portion of the guardianship proceeding to the county
2 court for further proceedings not inconsistent with the orders of
3 the district court.

4 (b-4) The county court shall continue to exercise
5 jurisdiction over the management of the guardianship with the
6 exception of the contested matter until final disposition of the
7 contested matter is made by the assigned judge or the district
8 court.

9 (b-5) If a contested portion of the proceeding is
10 transferred to a district court under Subsection (b-3) of this
11 section ~~[subsection]~~, the clerk of the district court may perform
12 in relation to the transferred portion of the proceeding any
13 function a county clerk may perform in that type of contested
14 proceeding.

15 (c) In those counties in which there is no statutory probate
16 court, but in which there is a county court at law or other
17 statutory court exercising the jurisdiction of a probate court, all
18 applications, petitions, and motions regarding guardianships,
19 mental health matters, or other matters addressed by this chapter
20 shall be filed and heard in those courts and the constitutional
21 county court, ~~[rather than in the district courts,]~~ unless
22 otherwise provided by law. The judge of a county court may hear any
23 of those matters sitting for the judge of any other county court.
24 Except as provided by Section 608 of this code, in contested
25 guardianship matters, the judge of the constitutional county court
26 may on the judge's own motion, and shall on the motion of a party to
27 the proceeding, transfer the proceeding to the county court at law

1 or a statutory court exercising the jurisdiction of a probate court
2 other than a statutory probate court. The court to which the
3 proceeding is transferred may hear the proceeding as if originally
4 filed in the court.

5 (d) In those counties in which there is a statutory probate
6 court, all applications, petitions, and motions regarding
7 guardianships, mental illness matters, or other matters addressed
8 by this chapter shall be filed and heard in the statutory probate
9 court [~~, unless otherwise provided by law~~].

10 (h) A statutory probate court has jurisdiction over any
11 matter appertaining to an estate or incident to an estate and has
12 jurisdiction over any cause of action in which a guardian in a
13 guardianship proceeding pending in the statutory probate court is a
14 party.

15 (i) A statutory probate court may exercise the pendent and
16 ancillary jurisdiction necessary to promote judicial efficiency
17 and economy.

18 SECTION 3. Section 607(b), Texas Probate Code, is amended
19 to read as follows:

20 (b) In a proceeding in a statutory probate court or district
21 court, the phrases "appertaining to estates" and "incident to an
22 estate" in this chapter include the appointment of guardians, the
23 issuance of letters of guardianship, all claims by or against a
24 guardianship estate, all actions for trial of title to land and for
25 the enforcement of liens on the land, all actions for trial of the
26 right of property, and generally all matters relating to the
27 settlement, partition, and distribution of a guardianship estate.

1 A statutory probate court, in the exercise of its jurisdiction and
2 notwithstanding any other provision of this chapter, may hear all
3 suits, actions, and applications filed against or on behalf of any
4 guardianship; all such suits, actions, and applications are
5 appertaining to and incident to an estate. Except for situations
6 ~~[In a situation]~~ in which the jurisdiction of a statutory probate
7 court is concurrent with that of a district court or any other
8 court, any~~[, a]~~ cause of action appertaining to or incident to a
9 guardianship estate shall be brought in a statutory probate court
10 ~~[rather than in the district court]~~.

11 SECTION 4. Sections 606(a) and 607(c), (d), and (e), Texas
12 Probate Code, are repealed.

13 SECTION 5. The changes in law made by this Act apply only to
14 a proceeding that is instituted on or after the effective date of
15 this Act. A proceeding that is instituted before the effective date
16 of this Act is governed by the law in effect on the date the
17 proceeding was instituted, and the former law is continued in
18 effect for that purpose.

19 SECTION 6. This Act takes effect September 1, 2003.