

BILL ANALYSIS

C.S.H.B. 2875

By: Solis

Judiciary

Committee Report (Substituted)

BACKGROUND AND PURPOSE

The legislature created statutory probate courts for the efficient administration of estates. While the legislature has granted the judge of a statutory probate court the authority to consolidate affairs of an estate, there are instances in which a suit may be pending in another court, such as a wrongful death or survival action which forces the judge of the statutory probate court to delay settling the estate until the proceeding in the other court is complete.

In other instances, a decedent's estate may be the defendant in a county other than where the estate is pending because of Texas venue provisions. The other creditors of the estate must file their claims in the probate court and subject themselves to the priority system of the claims payment system for estates. A claimant's priority position can be seriously compromised by the result of the case in the other jurisdiction. This is unfair to those claimants and interferes with the efficient administration of estates.

As proposed, H.B. 2875 authorizes a judge of a statutory probate court to transfer and consolidate certain actions relating to an estate in the statutory probate court for the efficient administration of an estate, even if venue for the action is proper or mandatory in the county of the court from which the action is to be transferred.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill amends Sections 5A(f), 5B and 607(e), Probate Code, to limit the application of Section 15.007, with respect to property damages claims against personal representative or guardian, to damages related to personal injury or death claims.

The bill amends Section 5B, Texas Probate Code, by adding Subsection (c), to authorize a judge of a statutory probate court, except for actions described by Section 15.007, Civil Practice and Remedies Code, to transfer certain causes of action relating to an estate for consolidation from a court to the statutory probate court even if venue for the action is proper or mandatory in the county of the court from which the action is transferred.

The bill amends Section 608, Texas Probate Code, to authorize a judge of a statutory probate court, except for actions described by Section 15.007, Civil Practice and Remedies Code, to transfer certain causes of action relation to a guardianship estate for consolidation form a court to the statutory probate court even if venue for the action is proper or mandatory in the county of the court from which the action is to be transferred.

The bill amends Section 15.007, Civil Practice and Remedies Code, to add the words "related to personal injury or death claims" after the words "property damage".

Makes application of this Act prospective to all action commenced on or after the effective date of this Act and to all actions pending on the effective date of this Act and in which the trial, or any new trial or retrial following motion, appeal. or otherwise, begins on or after the effective date.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds amendments to Section 5A(f) and Section 5B, Probate Code, in each case providing that venue for property damage claims against a personal representative determined under 15.007, Civil Practice and Remedies Code, is limited to property damage claims related to personal injury or death claims. The substitute also adds an amendment to Section 607(e), Probate Code limiting the scope of application of Section 15.007, Civil Practice and Remedies Code, to claims against a guardian for damages related to personal injury or death claims insofar as it applies to property damages.

The substitute also reverses the language of the original bill's amendments to Sections 5B and 608, Probate Code, by removing the provision stating "notwithstanding" any provision of Chapter 15, Civil Practice and Remedies Code, and inserting "except with respect to a cause of action described by Section 15.007, Civil Practice and Remedies Code,".

The substitute amends Section 15.007, Civil Practice and Remedies Code, to add the modification of "related to personal injury or death claims" to the statute.