

By: Duncan

S.B. No. 392

A BILL TO BE ENTITLED

AN ACT

relating to venue or transfer of certain probate matters and guardianship matters.

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

SECTION 1. Section 15.007, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 15.007. CONFLICT WITH CERTAIN PROVISIONS. Notwithstanding Sections 15.004, 15.005, and 15.031, 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, this chapter controls.

SECTION 2. Section 5B(b), Texas Probate Code, is amended to read as follows:

(b) Except with respect to a cause of action described by Section 15.007, Civil Practice and Remedies Code, venue of a cause of action described by Subsection (a) of this section is proper, as provided by Section 7(a) or (b) of this code, in the statutory probate court in which the estate is pending, and the judge of the statutory probate court may 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

1 transferred. [~~Notwithstanding any other provision of this chapter,~~
2 ~~the proper venue for an action by or against a personal~~
3 ~~representative for personal injury, death, or property damages is~~
4 ~~determined under Section 15.007, Civil Practice and Remedies Code.]~~

5 SECTION 3. Chapter I, Texas Probate Code, is amended by
6 adding Section 7 to read as follows:

7 Sec. 7. VENUE FOR CERTAIN ACTIONS APPERTAINING TO OR
8 INCIDENT TO AN ESTATE OR IN WHICH PERSONAL REPRESENTATIVE IS PARTY.

9 (a) Except with respect to a cause of action described by Section
10 15.007, Civil Practice and Remedies Code, venue for a cause of
11 action appertaining to or incident to a decedent's estate is proper
12 in the court in which the estate is pending.

13 (b) Except with respect to a cause of action described by
14 Section 15.007, Civil Practice and Remedies Code, venue for a cause
15 of action in which the personal representative of a decedent's
16 estate is a party is proper in the court in which the estate is
17 pending.

18 (c) Except with respect to a cause of action described by
19 Section 15.007, Civil Practice and Remedies Code, venue for a cause
20 of action against a former personal representative of a decedent's
21 estate is proper in the court in which the estate is pending or was
22 last pending.

23 (d) Notwithstanding any other provision of this chapter,
24 the proper venue for an action by or against a personal
25 representative for personal injury, death, or any property damages
26 related to the personal injury or death action is determined under
27 Section 15.007, Civil Practice and Remedies Code.

1 SECTION 4. Section 608, Texas Probate Code, is amended to
2 read as follows:

3 Sec. 608. TRANSFER OF GUARDIANSHIP PROCEEDING. (a) A judge
4 of a statutory probate court, on the motion of a party to the action
5 or of a person interested in a guardianship, may transfer to the
6 judge's court from a district, county, or statutory court a cause of
7 action appertaining to or incident to a guardianship estate that is
8 pending in the statutory probate court or a cause of action relating
9 to a guardianship in which a guardian, ward, or proposed ward in a
10 guardianship pending in the statutory probate court is a party and
11 may consolidate the transferred cause of action with the other
12 proceedings in the statutory probate court relating to the
13 guardianship estate.

14 (b) Except with respect to a cause of action described by
15 Section 15.007, Civil Practice and Remedies Code, venue of a cause
16 of action described by Subsection (a) of this section is proper, as
17 provided by Section 610A(a) or (b) of this code, in the statutory
18 probate court in which the guardianship is pending, and the judge of
19 the statutory probate court may transfer the cause of action as
20 provided by Subsection (a) of this section to the statutory probate
21 court, regardless of whether venue would otherwise be proper or
22 mandatory in the county of the court from which the action will be
23 transferred.

24 SECTION 5. Subpart B, Part 2, Chapter XIII, Texas Probate
25 Code, is amended by adding Section 610A to read as follows:

26 Sec. 610A. VENUE FOR CERTAIN ACTIONS APPERTAINING TO OR
27 INCIDENT TO AN ESTATE OR IN WHICH GUARDIAN, WARD, OR PROPOSED WARD

1 IS PARTY. (a) Except with respect to a cause of action described by
2 Section 15.007, Civil Practice and Remedies Code, venue for a cause
3 of action appertaining to or incident to a guardianship estate is
4 proper in the court in which the guardianship estate is pending.

5 (b) Except with respect to a cause of action described by
6 Section 15.007, Civil Practice and Remedies Code, venue for a cause
7 of action related to a guardianship in which a guardian, ward, or
8 proposed ward is a party is proper in the court in which the
9 guardianship is pending.

10 (c) Except with respect to a cause of action described by
11 Section 15.007, Civil Practice and Remedies Code, venue for a cause
12 of action against a former guardian of a ward is proper in the court
13 in which the ward's guardianship is pending or was last pending.

14 (d) Notwithstanding any other provision of this chapter,
15 the proper venue for an action by or against a guardian for personal
16 injury, death, or any property damages related to the personal
17 injury or death action is determined under Section 15.007, Civil
18 Practice and Remedies Code.

19 SECTION 6. Sections 5A(f) and 607(e), Texas Probate Code,
20 are repealed.

21 SECTION 7. The changes in law made by this Act apply only to
22 actions commenced on or after the effective date of this Act. An
23 action that is commenced before the effective date of this Act is
24 governed by the law applicable to the action immediately before the
25 effective date of this Act, and that law is continued in effect for
26 that purpose.

27 SECTION 8. This Act takes effect September 1, 2007.