

## **BILL ANALYSIS**

Senate Research Center  
81R393 KLA-D

H.B. 585  
By: Naishtat (Watson)  
Jurisprudence  
5/18/2009  
Engrossed

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

Texas Probate Code makes reference to minutes kept by judges concerning the cases before a probate court. The minutes are the notes kept by the judge regarding each case. In practice, however, the probate judges no longer keep minutes, but rather maintain records of the cases through entries in the judge's probate docket or guardianship docket.

H.B. 585 strikes references to "minutes" and replaces the references with "Judge's Probate Docket" or "Judge's Guardianship Docket."

### **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 8(c)(1), Texas Probate Code, to require the court, if it appears to the court at any time before the final decree that the proceeding was commenced in a court which did not have priority of venue over such proceeding, to, on the application of any interested person, transfer the proceeding to the proper county by transmitting to the proper court in such county the original file in such case, together with certified copies of all entries in the judge's probate docket, rather than minutes, theretofore made, and requires the probate of the will, determination of heirship, or administration of the estate in such county to be completed in the same manner as if the proceeding had originally been instituted therein; but, if the question as to priority of venue is not raised before final decree in the proceedings is announced, the finality of such decree is prohibited from being affected by any error in venue.

SECTION 2. Amends Section 13, Texas Probate Code, as follows:

Sec. 13. JUDGE'S PROBATE DOCKET. Requires the county clerk (clerk) to keep a record book to be styled "Judge's Probate Docket," and requires certain information to be entered therein, including a notation, rather than minute, of each order, judgment, decree, and preceding had in each estate, with the date thereof.

SECTION 3. Amends Section 23, Texas Probate Code, as follows:

Sec. 23. New heading: DECREES. Deletes existing text requiring the probate minutes to be approved and signed by the judge on the first day of each month, except, however, that if the first day of the month falls on a Sunday, such approval is required to be entered on the preceding or succeeding day.

SECTION 4. Amends Section 51, Texas Probate Code, as follows:

Sec. 51. TRANSFER OF PROCEEDING WHEN WILL PROBATED OR ADMINISTRATION GRANTED. Requires the court in which a proceeding to declare heirship is pending, if an administration upon the estate of any such decedent is required to be granted in the state, or if the will of such decedent is required to be admitted to probate in this state, after the institution of a proceeding to declare heirship, to, by an order entered of record therein, transfer the cause to the court of the county in which such administration is required to have been granted, or such will is required to have been

probated, and thereupon the clerk of the court in which such proceeding was originally filed is required to send to the clerk of the court named in such order, a certified transcript of all pleadings, entries in the judge's probate docket, rather than docket entries, and orders of the court in such cause. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Section 53(a), Texas Probate Code, to make a conforming change.

SECTION 6. Amends Section 95(d), Texas Probate Code, to make conforming changes.

SECTION 7. Amends Section 101, Texas Probate Code, to make a conforming change.

SECTION 8. Amends Section 190(d), Texas Probate Code, to make a conforming change.

SECTION 9. Amends Section 369(b), Texas Probate Code, to make a conforming change.

SECTION 10. Amends Section 409, Texas Probate Code, to make a conforming change.

SECTION 11. Amends Section 430, Texas Probate Code, to make a conforming change.

SECTION 12. Amends Section 609(b), Texas Probate Code, to make a conforming change.

SECTION 13. Amends Section 623(a), Texas Probate Code, to require the clerk to keep a record book to be styled "Judge's Guardianship Docket," and requires the clerk to enter in the record book certain information, including a notation, rather than minute, including the date, of each order, judgment, decree, and proceeding in each estate.

SECTION 14. Amends Sections 631(b) and (c), Texas Probate Code, to make conforming changes.

SECTION 15. Amends Section 650, Texas Probate Code, as follows:

Sec. 650. New heading: DECREES. Deletes existing text requiring the judge to approve and sign the guardianship minutes on the first day of each month and requiring the judge's approval, if the first day of the month falls on a Saturday, Sunday, or legal holiday, to be entered on the preceding or succeeding day.

SECTION 16. Amends Section 753, Texas Probate Code, to make a conforming change.

SECTION 17. Amends Section 849(c), Texas Probate Code, to make a conforming change.

SECTION 18. Amends Sections 885(a), (b), and (g), Texas Probate Code, to make conforming changes.

SECTION 19. Repealer: Section 26.004(c) (relating to a requirement of the presiding judge to approve and sign the probate minutes of the court on a certain day), Government Code.

Repealer: Section 3(u) (relating to the definition of "minutes"), Texas Probate Code.

Repealer: Section 601(17) (relating to the definition of "minutes"), Texas Probate Code.

SECTION 20. Effective date: upon passage or September 1, 2009.