

1-1 By: Hartnett (Senate Sponsor - Watson) H.B. No. 3086
1-2 (In the Senate - Received from the House May 18, 2009;
1-3 May 19, 2009, read first time and referred to Committee on
1-4 Jurisprudence; May 23, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to jurisdiction of probate proceedings and proceedings
1-9 regarding powers of attorney and certain trusts.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 ARTICLE 1. JURISDICTION OF CERTAIN PROCEEDINGS: TEXAS PROBATE
1-12 CODE

1-13 SECTION 1.01. Section 3(bb), Texas Probate Code, is amended
1-14 to read as follows:

1-15 (bb) "Probate proceeding" is synonymous with the terms
1-16 "Probate matter," ~~["Probate proceedings,"]~~ "Proceeding in
1-17 probate," and "Proceedings for probate." The term means a matter or
1-18 proceeding related to the estate of a decedent ~~[are synonymous]~~ and
1-19 includes:

1-20 (1) the probate of a will, with or without
1-21 administration of the estate;

1-22 (2) the issuance of letters testamentary and of
1-23 administration;

1-24 (3) an heirship determination or small estate
1-25 affidavit, community property administration, and homestead and
1-26 family allowances;

1-27 (4) an application, petition, motion, or action
1-28 regarding the probate of a will or an estate administration,
1-29 including a claim for money owed by the decedent;

1-30 (5) a claim arising from an estate administration
1-31 and any action brought on the claim;

1-32 (6) the settling of a personal representative's
1-33 account of an estate and any other matter related to the settlement,
1-34 partition, or distribution of an estate; and

1-35 (7) a will construction suit ~~[include a matter or~~
1-36 ~~proceeding relating to the estate of a decedent].~~

1-37 SECTION 1.02. Chapter I, Texas Probate Code, is amended by
1-38 adding Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H to read as
1-39 follows:

1-40 Sec. 4A. GENERAL PROBATE COURT JURISDICTION; APPEALS. (a)
1-41 All probate proceedings must be filed and heard in a court
1-42 exercising original probate jurisdiction. The court exercising
1-43 original probate jurisdiction also has jurisdiction of all matters
1-44 related to the probate proceeding as specified in Section 4B of this
1-45 code for that type of court.

1-46 (b) A probate court may exercise pendent and ancillary
1-47 jurisdiction as necessary to promote judicial efficiency and
1-48 economy.

1-49 (c) A final order issued by a probate court is appealable to
1-50 the court of appeals.

1-51 Sec. 4B. MATTERS RELATED TO PROBATE PROCEEDING. (a) For
1-52 purposes of this code, in a county in which there is no statutory
1-53 probate court or county court at law exercising original probate
1-54 jurisdiction, a matter related to a probate proceeding includes:

1-55 (1) an action against a personal representative or
1-56 former personal representative arising out of the representative's
1-57 performance of the duties of a personal representative;

1-58 (2) an action against a surety of a personal
1-59 representative or former personal representative;

1-60 (3) a claim brought by a personal representative on
1-61 behalf of an estate;

1-62 (4) an action brought against a personal
1-63 representative in the representative's capacity as personal
1-64 representative;

2-1 (5) an action for trial of title to real property that
 2-2 is estate property, including the enforcement of a lien against the
 2-3 property; and
 2-4 (6) an action for trial of the right of property that
 2-5 is estate property.
 2-6 (b) For purposes of this code, in a county in which there is
 2-7 no statutory probate court, but in which there is a county court at
 2-8 law exercising original probate jurisdiction, a matter related to a
 2-9 probate proceeding includes:
 2-10 (1) all matters and actions described in Subsection
 2-11 (a) of this section;
 2-12 (2) the interpretation and administration of a
 2-13 testamentary trust if the will creating the trust has been admitted
 2-14 to probate in the court; and
 2-15 (3) the interpretation and administration of an inter
 2-16 vivos trust created by a decedent whose will has been admitted to
 2-17 probate in the court.
 2-18 (c) For purposes of this code, in a county in which there is
 2-19 a statutory probate court, a matter related to a probate proceeding
 2-20 includes:
 2-21 (1) all matters and actions described in Subsections
 2-22 (a) and (b) of this section; and
 2-23 (2) any cause of action in which a personal
 2-24 representative of an estate pending in the statutory probate court
 2-25 is a party in the representative's capacity as personal
 2-26 representative.
 2-27 Sec. 4C. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS.
 2-28 (a) In a county in which there is no statutory probate court or
 2-29 county court at law exercising original probate jurisdiction, the
 2-30 county court has original jurisdiction of probate proceedings.
 2-31 (b) In a county in which there is no statutory probate
 2-32 court, but in which there is a county court at law exercising
 2-33 original probate jurisdiction, the county court at law exercising
 2-34 original probate jurisdiction and the county court have concurrent
 2-35 original jurisdiction of probate proceedings, unless otherwise
 2-36 provided by law. The judge of a county court may hear probate
 2-37 proceedings while sitting for the judge of any other county court.
 2-38 (c) In a county in which there is a statutory probate court,
 2-39 the statutory probate court has original jurisdiction of probate
 2-40 proceedings.
 2-41 Sec. 4D. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN
 2-42 COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT.
 2-43 (a) In a county in which there is no statutory probate court or
 2-44 county court at law exercising original probate jurisdiction, when
 2-45 a matter in a probate proceeding is contested, the judge of the
 2-46 county court may, on the judge's own motion, or shall, on the motion
 2-47 of any party to the proceeding, according to the motion:
 2-48 (1) request the assignment of a statutory probate
 2-49 court judge to hear the contested matter, as provided by Section
 2-50 25.0022, Government Code; or
 2-51 (2) transfer the contested matter to the district
 2-52 court, which may then hear the contested matter as if originally
 2-53 filed in the district court.
 2-54 (b) If a party to a probate proceeding files a motion for the
 2-55 assignment of a statutory probate court judge to hear a contested
 2-56 matter in the proceeding before the judge of the county court
 2-57 transfers the contested matter to a district court under this
 2-58 section, the county judge shall grant the motion for the assignment
 2-59 of a statutory probate court judge and may not transfer the matter
 2-60 to the district court unless the party withdraws the motion.
 2-61 (c) A party to a probate proceeding may file a motion for the
 2-62 assignment of a statutory probate court judge under this section
 2-63 before a matter in the proceeding becomes contested, and the motion
 2-64 is given effect as a motion for assignment of a statutory probate
 2-65 court judge under Subsection (a) of this section if the matter later
 2-66 becomes contested.
 2-67 (d) Notwithstanding any other law, a transfer of a contested
 2-68 matter in a probate proceeding to a district court under any
 2-69 authority other than the authority provided by this section:

3-1 (1) is disregarded for purposes of this section; and
 3-2 (2) does not defeat the right of a party to the
 3-3 proceeding to have the matter assigned to a statutory probate court
 3-4 judge in accordance with this section.

3-5 (e) A statutory probate court judge assigned to a contested
 3-6 matter under this section has the jurisdiction and authority
 3-7 granted to a statutory probate court by this code. On resolution of
 3-8 a contested matter for which a statutory probate court judge is
 3-9 assigned under this section, including any appeal of the matter,
 3-10 the statutory probate court judge shall return the matter to the
 3-11 county court for further proceedings not inconsistent with the
 3-12 orders of the statutory probate court or court of appeals, as
 3-13 applicable.

3-14 (f) A district court to which a contested matter is
 3-15 transferred under this section has the jurisdiction and authority
 3-16 granted to a statutory probate court by this code. On resolution of
 3-17 a contested matter transferred to the district court under this
 3-18 section, including any appeal of the matter, the district court
 3-19 shall return the matter to the county court for further proceedings
 3-20 not inconsistent with the orders of the district court or court of
 3-21 appeals, as applicable.

3-22 (g) The county court shall continue to exercise
 3-23 jurisdiction over the management of the estate, other than a
 3-24 contested matter, until final disposition of the contested matter
 3-25 is made in accordance with this section. After a contested matter
 3-26 is transferred to a district court, any matter related to the
 3-27 probate proceeding may be brought in the district court. The
 3-28 district court in which a matter related to the probate proceeding
 3-29 is filed may, on its own motion or on the motion of any party, find
 3-30 that the matter is not a contested matter and transfer the matter to
 3-31 the county court with jurisdiction of the management of the estate.

3-32 (h) If a contested matter in a probate proceeding is
 3-33 transferred to a district court under this section, the district
 3-34 court has jurisdiction of any contested matter in the proceeding
 3-35 that is subsequently filed, and the county court shall transfer
 3-36 those contested matters to the district court. If a statutory
 3-37 probate court judge is assigned under this section to hear a
 3-38 contested matter in a probate proceeding, the statutory probate
 3-39 court judge shall be assigned to hear any contested matter in the
 3-40 proceeding that is subsequently filed.

3-41 (i) The clerk of a district court to which a contested
 3-42 matter in a probate proceeding is transferred under this section
 3-43 may perform in relation to the contested matter any function a
 3-44 county clerk may perform with respect to that type of matter.

3-45 Sec. 4E. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN
 3-46 COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which
 3-47 there is no statutory probate court, but in which there is a county
 3-48 court at law exercising original probate jurisdiction, when a
 3-49 matter in a probate proceeding is contested, the judge of the county
 3-50 court may, on the judge's own motion, or shall, on the motion of any
 3-51 party to the proceeding, transfer the contested matter to the
 3-52 county court at law. In addition, the judge of the county court, on
 3-53 the judge's own motion or on the motion of a party to the
 3-54 proceeding, may transfer the entire proceeding to the county court
 3-55 at law.

3-56 (b) A county court at law to which a proceeding is
 3-57 transferred under this section may hear the proceeding as if
 3-58 originally filed in that court. If only a contested matter in the
 3-59 proceeding is transferred, on the resolution of the matter, the
 3-60 matter shall be returned to the county court for further
 3-61 proceedings not inconsistent with the orders of the county court at
 3-62 law.

3-63 Sec. 4F. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN
 3-64 COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which
 3-65 there is a statutory probate court, the statutory probate court has
 3-66 exclusive jurisdiction of all probate proceedings, regardless of
 3-67 whether contested or uncontested. A cause of action related to the
 3-68 probate proceeding must be brought in a statutory probate court
 3-69 unless the jurisdiction of the statutory probate court is

4-1 concurrent with the jurisdiction of a district court as provided by
 4-2 Section 4H of this code or with the jurisdiction of any other court.

4-3 (b) This section shall be construed in conjunction and in
 4-4 harmony with Section 145 of this code and all other sections of this
 4-5 code relating to independent executors, but may not be construed to
 4-6 expand the court's control over an independent executor.

4-7 Sec. 4G. JURISDICTION OF STATUTORY PROBATE COURT WITH
 4-8 RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which
 4-9 there is a statutory probate court, the statutory probate court has
 4-10 jurisdiction of:

4-11 (1) an action by or against a trustee;

4-12 (2) an action involving an inter vivos trust,
 4-13 testamentary trust, or charitable trust;

4-14 (3) an action against an agent or former agent under a
 4-15 power of attorney arising out of the agent's performance of the
 4-16 duties of an agent; and

4-17 (4) an action to determine the validity of a power of
 4-18 attorney or to determine an agent's rights, powers, or duties under
 4-19 a power of attorney.

4-20 Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. A
 4-21 statutory probate court has concurrent jurisdiction with the
 4-22 district court in:

4-23 (1) a personal injury, survival, or wrongful death
 4-24 action by or against a person in the person's capacity as a personal
 4-25 representative;

4-26 (2) an action by or against a trustee;

4-27 (3) an action involving an inter vivos trust,
 4-28 testamentary trust, or charitable trust;

4-29 (4) an action involving a personal representative of
 4-30 an estate in which each other party aligned with the personal
 4-31 representative is not an interested person in that estate;

4-32 (5) an action against an agent or former agent under a
 4-33 power of attorney arising out of the agent's performance of the
 4-34 duties of an agent; and

4-35 (6) an action to determine the validity of a power of
 4-36 attorney or to determine an agent's rights, powers, or duties under
 4-37 a power of attorney.

4-38 SECTION 1.03. Section 5B(a), Texas Probate Code, is amended
 4-39 to read as follows:

4-40 (a) A judge of a statutory probate court, on the motion of a
 4-41 party to the action or on the motion of a person interested in an
 4-42 estate, may transfer to the judge's ~~his~~ court from a district,
 4-43 county, or statutory court a cause of action related to a probate
 4-44 proceeding ~~[appertaining to or incident to an estate]~~ pending in
 4-45 the statutory probate court or a cause of action in which a personal
 4-46 representative of an estate pending in the statutory probate court
 4-47 is a party and may consolidate the transferred cause of action with
 4-48 the other proceedings in the statutory probate court relating to
 4-49 that estate.

4-50 SECTION 1.04. Section 25.0022(i), Government Code, is
 4-51 amended to read as follows:

4-52 (i) A judge assigned under this section has the
 4-53 jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G,
 4-54 4H [5, 5A], 5B, 606, 607, and 608, Texas Probate Code, to statutory
 4-55 probate court judges by general law.

4-56 SECTION 1.05. Section 25.1132(c), Government Code, is
 4-57 amended to read as follows:

4-58 (c) A county court at law in Hood County has concurrent
 4-59 jurisdiction with the district court in:

4-60 (1) civil cases in which the matter in controversy
 4-61 exceeds \$500 but does not exceed \$250,000, excluding interest;

4-62 (2) family law cases and related proceedings;

4-63 (3) contested probate matters under Section 4D(a)
 4-64 ~~[5(b)]~~, Texas Probate Code; and

4-65 (4) contested guardianship matters under Section
 4-66 606(b), Texas Probate Code.

4-67 SECTION 1.06. Section 25.1863(b), Government Code, is
 4-68 amended to read as follows:

4-69 (b) A county court at law has concurrent jurisdiction with

5-1 the district court over contested probate
 5-2 matters. Notwithstanding the requirement in [~~Subsection (b),~~]
 5-3 Section 4D(a) [~~5~~], Texas Probate Code, that the judge of the
 5-4 constitutional county court transfer a contested probate
 5-5 proceeding to the district court, the judge of the constitutional
 5-6 county court shall transfer the proceeding under that section to
 5-7 either a county court at law in Parker County or a district court in
 5-8 Parker County. A county court at law has the jurisdiction, powers,
 5-9 and duties that a district court has under [~~Subsection (b),~~]
 5-10 Section 4D(a) [~~5~~], Texas Probate Code, for the transferred
 5-11 proceeding, and the county clerk acts as clerk for the proceeding.
 5-12 The contested proceeding may be transferred between a county court
 5-13 at law in Parker County and a district court in Parker County as
 5-14 provided by local rules of administration.

5-15 SECTION 1.07. Section 123.005(a), Property Code, is amended
 5-16 to read as follows:

5-17 (a) Venue in a proceeding brought by the attorney general
 5-18 alleging breach of a fiduciary duty by a fiduciary or managerial
 5-19 agent of a charitable trust shall be a court of competent
 5-20 jurisdiction in Travis County or in the county where the defendant
 5-21 resides or has its principal office. To the extent of a conflict
 5-22 between this subsection and any provision of the Texas Probate Code
 5-23 providing for venue of a proceeding brought with respect to a
 5-24 charitable trust created by a will that has been admitted to
 5-25 probate, this subsection controls.

5-26 SECTION 1.08. Sections 4, 5, and 5A, Texas Probate Code, are
 5-27 repealed.

5-28 SECTION 1.09. The changes in law made by this article apply
 5-29 only to an action filed or a proceeding commenced on or after the
 5-30 effective date of this Act. An action filed or proceeding commenced
 5-31 before the effective date of this Act is governed by the law in
 5-32 effect on the date the action was filed or the proceeding was
 5-33 commenced, and the former law is continued in effect for that
 5-34 purpose.

5-35 ARTICLE 2. JURISDICTION OF CERTAIN PROCEEDINGS: TEXAS PROBATE CODE
 5-36 RECODIFICATION

5-37 SECTION 2.01. Effective January 1, 2014, Subtitle A, Title
 5-38 2, Estates Code, as adopted by H.B. No. 2502, Acts of the 81st
 5-39 Legislature, Regular Session, 2009, if that Act is enacted and
 5-40 becomes law, and Subtitle A, Title 2, Estates and Guardianships
 5-41 Code, as adopted by S.B. No. 2071, Acts of the 81st Legislature,
 5-42 Regular Session, 2009, if that Act is enacted and becomes law, are
 5-43 amended by adding Chapters 31 and 32 to read as follows:

5-44 CHAPTER 31. GENERAL PROVISIONS

5-45 Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF
 5-46 CODE. The term "probate proceeding," as used in this code,
 5-47 includes:

- 5-48 (1) the probate of a will, with or without
 5-49 administration of the estate;
- 5-50 (2) the issuance of letters testamentary and of
 5-51 administration;
- 5-52 (3) an heirship determination or small estate
 5-53 affidavit, community property administration, and homestead and
 5-54 family allowances;
- 5-55 (4) an application, petition, motion, or action
 5-56 regarding the probate of a will or an estate administration,
 5-57 including a claim for money owed by the decedent;
- 5-58 (5) a claim arising from an estate administration and
 5-59 any action brought on the claim;
- 5-60 (6) the settling of a personal representative's
 5-61 account of an estate and any other matter related to the settlement,
 5-62 partition, or distribution of an estate; and
- 5-63 (7) a will construction suit.

5-64 Sec. 31.002. MATTERS RELATED TO PROBATE PROCEEDING. (a)
 5-65 For purposes of this code, in a county in which there is no
 5-66 statutory probate court or county court at law exercising original
 5-67 probate jurisdiction, a matter related to a probate proceeding
 5-68 includes:

- 5-69 (1) an action against a personal representative or

- 6-1 former personal representative arising out of the representative's
- 6-2 performance of the duties of a personal representative;
- 6-3 (2) an action against a surety of a personal
- 6-4 representative or former personal representative;
- 6-5 (3) a claim brought by a personal representative on
- 6-6 behalf of an estate;
- 6-7 (4) an action brought against a personal
- 6-8 representative in the representative's capacity as personal
- 6-9 representative;
- 6-10 (5) an action for trial of title to real property that
- 6-11 is estate property, including the enforcement of a lien against the
- 6-12 property; and
- 6-13 (6) an action for trial of the right of property that
- 6-14 is estate property.

6-15 (b) For purposes of this code, in a county in which there is
 6-16 no statutory probate court, but in which there is a county court at
 6-17 law exercising original probate jurisdiction, a matter related to a
 6-18 probate proceeding includes:

- 6-19 (1) all matters and actions described in Subsection
- 6-20 (a);
- 6-21 (2) the interpretation and administration of a
- 6-22 testamentary trust if the will creating the trust has been admitted
- 6-23 to probate in the court; and
- 6-24 (3) the interpretation and administration of an inter
- 6-25 vivos trust created by a decedent whose will has been admitted to
- 6-26 probate in the court.

6-27 (c) For purposes of this code, in a county in which there is
 6-28 a statutory probate court, a matter related to a probate proceeding
 6-29 includes:

- 6-30 (1) all matters and actions described in Subsections
- 6-31 (a) and (b); and
- 6-32 (2) any cause of action in which a personal
- 6-33 representative of an estate pending in the statutory probate court
- 6-34 is a party in the representative's capacity as personal
- 6-35 representative.

6-36 CHAPTER 32. JURISDICTION

6-37 Sec. 32.001. GENERAL PROBATE COURT JURISDICTION; APPEALS.

6-38 (a) All probate proceedings must be filed and heard in a court
 6-39 exercising original probate jurisdiction. The court exercising
 6-40 original probate jurisdiction also has jurisdiction of all matters
 6-41 related to the probate proceeding as specified in Section 31.002
 6-42 for that type of court.

6-43 (b) A probate court may exercise pendent and ancillary
 6-44 jurisdiction as necessary to promote judicial efficiency and
 6-45 economy.

6-46 (c) A final order issued by a probate court is appealable to
 6-47 the court of appeals.

6-48 Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE

6-49 PROCEEDINGS. (a) In a county in which there is no statutory
 6-50 probate court or county court at law exercising original probate
 6-51 jurisdiction, the county court has original jurisdiction of probate
 6-52 proceedings.

6-53 (b) In a county in which there is no statutory probate
 6-54 court, but in which there is a county court at law exercising
 6-55 original probate jurisdiction, the county court at law exercising
 6-56 original probate jurisdiction and the county court have concurrent
 6-57 original jurisdiction of probate proceedings, unless otherwise
 6-58 provided by law. The judge of a county court may hear probate
 6-59 proceedings while sitting for the judge of any other county court.

6-60 (c) In a county in which there is a statutory probate court,
 6-61 the statutory probate court has original jurisdiction of probate
 6-62 proceedings.

6-63 Sec. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING

6-64 IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY
 6-65 COURT. (a) In a county in which there is no statutory probate court
 6-66 or county court at law exercising original probate jurisdiction,
 6-67 when a matter in a probate proceeding is contested, the judge of the
 6-68 county court may, on the judge's own motion, or shall, on the motion
 6-69 of any party to the proceeding, according to the motion:

7-1 (1) request the assignment of a statutory probate
 7-2 court judge to hear the contested matter, as provided by Section
 7-3 25.0022, Government Code; or

7-4 (2) transfer the contested matter to the district
 7-5 court, which may then hear the contested matter as if originally
 7-6 filed in the district court.

7-7 (b) If a party to a probate proceeding files a motion for the
 7-8 assignment of a statutory probate court judge to hear a contested
 7-9 matter in the proceeding before the judge of the county court
 7-10 transfers the contested matter to a district court under this
 7-11 section, the county judge shall grant the motion for the assignment
 7-12 of a statutory probate court judge and may not transfer the matter
 7-13 to the district court unless the party withdraws the motion.

7-14 (c) A party to a probate proceeding may file a motion for the
 7-15 assignment of a statutory probate court judge under this section
 7-16 before a matter in the proceeding becomes contested, and the motion
 7-17 is given effect as a motion for assignment of a statutory probate
 7-18 court judge under Subsection (a) if the matter later becomes
 7-19 contested.

7-20 (d) Notwithstanding any other law, a transfer of a contested
 7-21 matter in a probate proceeding to a district court under any
 7-22 authority other than the authority provided by this section:

7-23 (1) is disregarded for purposes of this section; and

7-24 (2) does not defeat the right of a party to the
 7-25 proceeding to have the matter assigned to a statutory probate court
 7-26 judge in accordance with this section.

7-27 (e) A statutory probate court judge assigned to a contested
 7-28 matter under this section has the jurisdiction and authority
 7-29 granted to a statutory probate court by this subtitle. On
 7-30 resolution of a contested matter for which a statutory probate
 7-31 court judge is assigned under this section, including any appeal of
 7-32 the matter, the statutory probate court judge shall return the
 7-33 matter to the county court for further proceedings not inconsistent
 7-34 with the orders of the statutory probate court or court of appeals,
 7-35 as applicable.

7-36 (f) A district court to which a contested matter is
 7-37 transferred under this section has the jurisdiction and authority
 7-38 granted to a statutory probate court by this subtitle. On
 7-39 resolution of a contested matter transferred to the district court
 7-40 under this section, including any appeal of the matter, the
 7-41 district court shall return the matter to the county court for
 7-42 further proceedings not inconsistent with the orders of the
 7-43 district court or court of appeals, as applicable.

7-44 (g) The county court shall continue to exercise
 7-45 jurisdiction over the management of the estate, other than a
 7-46 contested matter, until final disposition of the contested matter
 7-47 is made in accordance with this section. After a contested matter
 7-48 is transferred to a district court, any matter related to the
 7-49 probate proceeding may be brought in the district court. The
 7-50 district court in which a matter related to the probate proceeding
 7-51 is filed may, on its own motion or on the motion of any party, find
 7-52 that the matter is not a contested matter and transfer the matter to
 7-53 the county court with jurisdiction of the management of the estate.

7-54 (h) If a contested matter in a probate proceeding is
 7-55 transferred to a district court under this section, the district
 7-56 court has jurisdiction of any contested matter in the proceeding
 7-57 that is subsequently filed, and the county court shall transfer
 7-58 those contested matters to the district court. If a statutory
 7-59 probate court judge is assigned under this section to hear a
 7-60 contested matter in a probate proceeding, the statutory probate
 7-61 court judge shall be assigned to hear any contested matter in the
 7-62 proceeding that is subsequently filed.

7-63 (i) The clerk of a district court to which a contested
 7-64 matter in a probate proceeding is transferred under this section
 7-65 may perform in relation to the contested matter any function a
 7-66 county clerk may perform with respect to that type of matter.

7-67 Sec. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING
 7-68 IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which
 7-69 there is no statutory probate court, but in which there is a county

8-1 court at law exercising original probate jurisdiction, when a
 8-2 matter in a probate proceeding is contested, the judge of the county
 8-3 court may, on the judge's own motion, or shall, on the motion of any
 8-4 party to the proceeding, transfer the contested matter to the
 8-5 county court at law. In addition, the judge of the county court, on
 8-6 the judge's own motion or on the motion of a party to the
 8-7 proceeding, may transfer the entire proceeding to the county court
 8-8 at law.

8-9 (b) A county court at law to which a proceeding is
 8-10 transferred under this section may hear the proceeding as if
 8-11 originally filed in that court. If only a contested matter in the
 8-12 proceeding is transferred, on the resolution of the matter, the
 8-13 matter shall be returned to the county court for further
 8-14 proceedings not inconsistent with the orders of the county court at
 8-15 law.

8-16 Sec. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING
 8-17 IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which
 8-18 there is a statutory probate court, the statutory probate court has
 8-19 exclusive jurisdiction of all probate proceedings, regardless of
 8-20 whether contested or uncontested. A cause of action related to the
 8-21 probate proceeding must be brought in a statutory probate court
 8-22 unless the jurisdiction of the statutory probate court is
 8-23 concurrent with the jurisdiction of a district court as provided by
 8-24 Section 32.007 or with the jurisdiction of any other court.

8-25 (b) This section shall be construed in conjunction and in
 8-26 harmony with Section 145 and all other sections of this title
 8-27 relating to independent executors, but may not be construed to
 8-28 expand the court's control over an independent executor.

8-29 Sec. 32.006. JURISDICTION OF STATUTORY PROBATE COURT WITH
 8-30 RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which
 8-31 there is a statutory probate court, the statutory probate court has
 8-32 jurisdiction of:

- 8-33 (1) an action by or against a trustee;
- 8-34 (2) an action involving an inter vivos trust,
 8-35 testamentary trust, or charitable trust;
- 8-36 (3) an action against an agent or former agent under a
 8-37 power of attorney arising out of the agent's performance of the
 8-38 duties of an agent; and
- 8-39 (4) an action to determine the validity of a power of
 8-40 attorney or to determine an agent's rights, powers, or duties under
 8-41 a power of attorney.

8-42 Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT.
 8-43 A statutory probate court has concurrent jurisdiction with the
 8-44 district court in:

- 8-45 (1) a personal injury, survival, or wrongful death
 8-46 action by or against a person in the person's capacity as a personal
 8-47 representative;
- 8-48 (2) an action by or against a trustee;
- 8-49 (3) an action involving an inter vivos trust,
 8-50 testamentary trust, or charitable trust;
- 8-51 (4) an action involving a personal representative of
 8-52 an estate in which each other party aligned with the personal
 8-53 representative is not an interested person in that estate;
- 8-54 (5) an action against an agent or former agent under a
 8-55 power of attorney arising out of the agent's performance of the
 8-56 duties of an agent; and
- 8-57 (6) an action to determine the validity of a power of
 8-58 attorney or to determine an agent's rights, powers, or duties under
 8-59 a power of attorney.

8-60 SECTION 2.02. Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H,
 8-61 Texas Probate Code, as added by Article 1 of this Act, are repealed.

8-62 SECTION 2.03. (a) Except as provided by Subsection (b) of
 8-63 this section, this article takes effect January 1, 2014.

8-64 (b) The changes in law made by this article take effect only
 8-65 if H.B. No. 2502 or S.B. No. 2071, Acts of the 81st Legislature,
 8-66 Regular Session, 2009, is enacted and becomes law. If neither bill
 8-67 becomes law, this article has no effect.

8-68 ARTICLE 3. EFFECTIVE DATE

8-69 SECTION 3.01. Except as otherwise provided by this Act,

9-1 this Act takes effect September 1, 2009.

9-2

* * * * *