

By: Clardy

H.B. No. 2893

Substitute the following for H.B. No. 2893:

By: Schofield

C.S.H.B. No. 2893

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the procedures for transferring certain cases and
3 proceedings between courts.

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

5 SECTION 1. Section 33.101, Estates Code, is amended to read
6 as follows:

7 Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS
8 PROPER. If probate proceedings involving the same estate are
9 commenced in more than one county and the court making a
10 determination of venue as provided by Section 33.053 determines
11 that venue is proper in another county, the court clerk shall
12 transmit the file for the proceeding in accordance with the
13 procedures provided by Section 33.105 [~~make and retain a copy of the~~
14 ~~entire file in the case and transmit the original file in electronic~~
15 ~~or paper form~~] to the court in the county in which venue is proper.
16 The court to which the file is transmitted shall conduct the
17 proceeding in the same manner as if the proceeding had originally
18 been commenced in that county.

19 SECTION 2. Section 33.102(a), Estates Code, is amended to
20 read as follows:

21 (a) If it appears to the court at any time before the final
22 order in a probate proceeding is rendered that the court does not
23 have priority of venue over the proceeding, the court shall, on the
24 application of an interested person, transfer the proceeding to the

1 proper county by transmitting the file for the proceeding in
2 accordance with the procedures provided by Section 33.105 to the
3 proper court in that county [~~in electronic or paper form.~~

4 [~~(1) the original file in the case; and~~
5 [~~(2) certified copies of all entries that have been~~
6 ~~made in the judge's probate docket in the proceeding].~~

7 SECTION 3. Section 33.103(b), Estates Code, is amended to
8 read as follows:

9 (b) The clerk of the court from which the probate proceeding
10 described by Subsection (a) is transferred shall transmit the file
11 for the proceeding in accordance with the procedures provided by
12 Section 33.105 to the court to which the proceeding is
13 transferred[~~+~~

14 [~~(1) the original file in the proceeding; and~~
15 [~~(2) a certified copy of the index].~~

16 SECTION 4. Subchapter C, Chapter 33, Estates Code, is
17 amended by adding Section 33.105 to read as follows:

18 Sec. 33.105. TRANSFER OF PROBATE PROCEEDING RECORD. (a) If
19 a probate proceeding is transferred to a court in another county
20 under this chapter, the clerk of the transferring court shall send
21 to the clerk of the court to which the proceeding is transferred,
22 using the electronic filing system established under Section
23 72.031, Government Code:

24 (1) a transfer certificate and index of transferred
25 documents;

26 (2) a copy of each final order;

27 (3) a copy of the order of transfer signed by the

1 transferring court;

2 (4) a copy of the original papers filed in the
3 transferring court, including a copy of any will;

4 (5) a copy of the transfer certificate and index of
5 transferred documents from each previous transfer; and

6 (6) a bill of any costs accrued in the transferring
7 court.

8 (b) The clerk of the transferring court shall use the
9 standardized transfer certificate and index of transferred
10 documents form developed by the Office of Court Administration of
11 the Texas Judicial System under Section 72.037, Government Code,
12 when transferring a proceeding under this section.

13 (c) The clerk of the transferring court shall keep a copy of
14 the documents transferred under Subsection (a).

15 (d) The clerk of the court to which the proceeding is
16 transferred shall:

17 (1) accept documents transferred under Subsection
18 (a);

19 (2) docket the proceeding; and

20 (3) notify, using the electronic filing system
21 established under Section 72.031, Government Code, all parties to
22 the proceeding, the clerk of the transferring court, and, if
23 appropriate, the transferring court's local registry that the
24 proceeding has been docketed.

25 (e) The clerk of the transferee court shall physically or
26 electronically mark or stamp the transfer certificate and index of
27 transferred documents to evidence the date and time of acceptance

1 under Subsection (d) but may not physically or electronically mark
2 or stamp any other document transferred under Subsection (a).

3 (f) The clerks of both the transferee and transferring
4 courts may each produce under Chapter 51, Government Code,
5 certified or uncertified copies of documents transferred under
6 Subsection (a) but must include a copy of the transfer certificate
7 and index of transferred documents with each document produced.

8 (g) Sections 80.001 and 80.002, Government Code, do not
9 apply to the transfer of documents under this section.

10 (h) The clerk of the transferring court shall deliver the
11 original will to the clerk of the transferee court by:

12 (1) registered or certified mail, return receipt
13 requested;

14 (2) common or contract carrier, with proof of delivery
15 receipt; or

16 (3) designated delivery service, as defined by 26
17 U.S.C. Section 7502(f)(2), with proof of delivery receipt.

18 (i) The party requesting the transfer shall pay the cost of
19 delivery under Subsection (h).

20 SECTION 5. Section 1023.006, Estates Code, is amended to
21 read as follows:

22 Sec. 1023.006. TRANSFER OF RECORD. (a) Not later than the
23 10th working day after the date [When] an order of transfer is
24 signed [made] under Section 1023.005, the clerk shall record any
25 unrecorded papers of the guardianship required to be recorded. On
26 payment of the clerk's fee, the clerk shall send, using the
27 electronic filing system established under Section 72.031,

1 Government Code, [~~transmit in electronic or paper form~~] to the
2 county clerk of the county to which the guardianship was ordered
3 transferred:

4 (1) a transfer certificate and index of transferred
5 documents [~~the case file of the guardianship proceedings~~]; [~~and~~]

6 (2) a copy of each final order;

7 (3) a copy of the order of transfer signed by the
8 transferring court;

9 (4) a copy of the original papers filed in the
10 transferring court;

11 (5) a copy of the transfer certificate and index of
12 transferred documents from each previous transfer; and

13 (6) a bill of any costs accrued in the transferring
14 court [~~a certified copy of the index of the guardianship records~~].

15 (b) The clerk of the transferring court shall use the
16 standardized transfer certificate and index of transferred
17 documents form developed by the Office of Court Administration of
18 the Texas Judicial System under Section 72.037, Government Code,
19 when transferring a proceeding under this section.

20 (c) The clerk of the transferring court shall keep a copy of
21 the documents transferred under Subsection (a).

22 (d) The clerk of the court to which the proceeding is
23 transferred shall:

24 (1) accept documents transferred under Subsection
25 (a);

26 (2) docket the suit; and

27 (3) notify, using the electronic filing system

1 established under Section 72.031, Government Code, all parties, the
2 clerk of the transferring court, and, if appropriate, the
3 transferring court's local registry that the suit has been
4 docketed.

5 (e) The clerk of the transferee court shall physically or
6 electronically mark or stamp the transfer certificate and index of
7 transferred documents to evidence the date and time of acceptance
8 under Subsection (d), but may not physically or electronically mark
9 or stamp any other document transferred under Subsection (a).

10 (f) The clerk of the transferring court shall send a
11 certified copy of the order directing payments to the transferee
12 court to:

13 (1) any party affected by the order and, if
14 appropriate, to the local registry of the transferee court using
15 the electronic filing system established under Section 72.031,
16 Government Code; and

17 (2) an employer affected by the order electronically
18 or by first class mail.

19 (g) The clerks of both the transferee and transferring
20 courts may each produce under Chapter 51, Government Code,
21 certified or uncertified copies of documents transferred under
22 Subsection (a) but must include a copy of the transfer certificate
23 and index of transferred documents with each document produced.

24 (h) Sections 80.001 and 80.002, Government Code, do not
25 apply to the transfer of documents under this section.

26 SECTION 6. Section 1023.007, Estates Code, is amended to
27 read as follows:

1 Sec. 1023.007. TRANSFER EFFECTIVE. The order transferring
2 a guardianship does not take effect until the clerk of the court to
3 which the proceeding is transferred accepts and docket the case
4 record under Section 1023.006[+]

5 ~~[(1) the case file and a certified copy of the index~~
6 ~~required by Section 1023.006 are filed in electronic or paper form~~
7 ~~in the office of the county clerk of the county to which the~~
8 ~~guardianship was ordered transferred; and~~

9 ~~[(2) a certificate under the clerk's official seal and~~
10 ~~reporting the filing of the case file and a certified copy of the~~
11 ~~index is filed in electronic or paper form in the court ordering the~~
12 ~~transfer by the county clerk of the county to which the guardianship~~
13 ~~was ordered transferred].~~

14 SECTION 7. Sections 155.207(a), (b), and (e), Family Code,
15 are amended to read as follows:

16 (a) Not later than the 10th working day after the date an
17 order of transfer is signed, the clerk of the court transferring a
18 proceeding shall send, using the electronic filing system
19 established under Section 72.031, Government Code, to the proper
20 court [~~in the county~~] to which transfer is being made:

21 (1) a transfer certificate and index of transferred
22 documents;

23 (2) a copy of each final order;

24 (3) a copy of the order of transfer signed by the
25 transferring court;

26 (4) a copy of the original papers filed in the
27 transferring court;

1 (5) a copy of the transfer certificate and index of
2 transferred documents from each previous transfer; and

3 (6) a bill of any costs that have accrued in the
4 transferring court.

5 (b) The clerk of the transferring court shall keep a copy of
6 the documents transferred under Subsection (a) [~~transferred~~
7 ~~pleadings~~].

8 (e) The clerks of both the transferee and transferring
9 courts may each produce under Chapter 51, Government Code,
10 certified or uncertified copies of documents transferred under
11 Subsection (a) and must [~~filed in a case transferred under this~~
12 ~~section, but shall also~~] include a copy of the transfer certificate
13 and index of transferred documents with each document produced.

14 SECTION 8. Section 51.3071, Government Code, is amended by
15 amending Subsection (a) and adding Subsections (f) and (g) to read
16 as follows:

17 (a) If a case is transferred from a district court to a
18 constitutional or statutory county court or another district court,
19 the clerk of the transferring [~~district~~] court shall send to the
20 [~~county~~] clerk of the court to which the case is transferred, using
21 the electronic filing system established under Section 72.031:

22 (1) a transfer certificate and index of transferred
23 documents;

24 (2) a copy of the original papers filed in the
25 transferring court;

26 (3) a copy of the order of transfer signed by the
27 transferring court;

1 (4) a copy of each final order;

2 (5) a copy of the transfer certificate and index of
3 transferred documents from each previous transfer; and

4 (6) a bill of any costs that have accrued in the
5 transferring court.

6 (f) The clerks of both the transferee and transferring
7 courts may each produce, under this chapter, certified or
8 uncertified copies of documents transferred under Subsection (a)
9 and must include a copy of the transfer certificate and index of
10 transferred documents with each document produced.

11 (g) This section applies regardless of whether the
12 transferee court and the transferring court are in the same or
13 different counties.

14 SECTION 9. Section 51.403, Government Code, is amended by
15 amending Subsection (a) and adding Subsections (d) and (e) to read
16 as follows:

17 (a) If a case is transferred from a county court to a
18 district court or a statutory county court or a county court of
19 another county, the clerk of the transferring [~~county~~] court shall
20 send to the [~~district~~] clerk of the court to which the case is
21 transferred, using the electronic filing system established under
22 Section 72.031:

23 (1) a transfer certificate and index of transferred
24 documents;

25 (2) a copy of the original papers filed in the
26 transferring court;

27 (3) a copy of the order of transfer signed by the

1 transferring court;

2 (4) a copy of each final order;

3 (5) a copy of the transfer certificate and index of
4 transferred documents from each previous transfer; and

5 (6) a bill of any costs that have accrued in the
6 transferring court.

7 (d) The clerks of both the transferee and transferring
8 courts may each produce, under this chapter, certified or
9 uncertified copies of documents transferred under Subsection (a)
10 and must include a copy of the transfer certificate and index of
11 transferred documents with each document produced.

12 (e) This section applies regardless of whether the
13 transferee court and the transferring court are in the same or
14 different counties.

15 SECTION 10. Section 72.037(a), Government Code, is amended
16 to read as follows:

17 (a) The office shall develop and make available a
18 standardized transfer certificate and an index of transferred
19 documents form to be used for the transfer of cases and proceedings
20 under Sections 33.105 and 1023.006, Estates Code, Section 155.207,
21 Family Code, and Sections 51.3071 and 51.403 of this code.

22 SECTION 11. Section 33.103(c), Estates Code, is repealed.

23 SECTION 12. As soon as practicable after the effective date
24 of this Act, the Office of Court Administration of the Texas
25 Judicial System shall adopt rules and develop and make available
26 all forms and materials required by Section 72.037, Government
27 Code, as amended by this Act.

1 SECTION 13. This Act takes effect September 1, 2023.