

By: Clardy

H.B. No. 2893

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

1 proper county by transmitting the file in the case in accordance  
2 with the procedures provided by Section 33.105 to the proper court  
3 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 made in~~  
6 ~~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 in the case in accordance with the procedures provided by Section  
12 33.105 to the court to which the proceeding is transferred[~~+~~

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

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

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

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

24               (2) a copy of each final order;

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

27               (4) a copy of the original papers filed in the

1 transferring court, including a copy of any will;

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 accrued in the transferring  
5 court.

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

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

13 (d) The clerk of the court to which the proceeding is  
14 transferred shall:

15 (1) accept documents transferred under Subsection  
16 (a);

17 (2) docket the proceeding; and

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

23 (e) The clerk of the transferee court shall physically or  
24 electronically mark or stamp the transfer certificate and index of  
25 transferred documents to evidence the date and time of acceptance  
26 under Subsection (d), but may not physically or electronically mark  
27 or stamp any other document transferred under Subsection (a).

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

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

8       SECTION 5. Section 1023.006, Estates Code, is amended to  
9 read as follows:

10       Sec. 1023.006. TRANSFER OF RECORD. (a) Not later than the  
11 10th working day after the date [When] an order of transfer is  
12 signed [made] under Section 1023.005, the clerk shall record any  
13 unrecorded papers of the guardianship required to be recorded. On  
14 payment of the clerk's fee, the clerk shall send, using the  
15 electronic filing system established under Section 72.031,  
16 Government Code, [transmit in electronic or paper form] to the  
17 county clerk of the county to which the guardianship was ordered  
18 transferred:

19               (1) a transfer certificate and index of transferred  
20 documents [the case file of the guardianship proceedings]; [and]

21               (2) a copy of each final order;

22               (3) a copy of the order of transfer signed by the  
23 transferring court;

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

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

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

3           (b) The clerk of the transferring court shall use the  
4 standardized transfer certificate and index of transferred  
5 documents form developed by the Office of Court Administration of  
6 the Texas Judicial System under Section 72.037, Government Code,  
7 when transferring a proceeding under this section.

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

10          (d) The clerk of the court to which the proceeding is  
11 transferred shall:

12                 (1) accept documents transferred under Subsection  
13 (a);

14                 (2) docket the suit; and

15                 (3) notify, using the electronic filing system  
16 established under Section 72.031, Government Code, all parties, the  
17 clerk of the transferring court, and, if appropriate, the  
18 transferring court's local registry that the suit has been  
19 docketed.

20          (e) The clerk of the transferee court shall physically or  
21 electronically mark or stamp the transfer certificate and index of  
22 transferred documents to evidence the date and time of acceptance  
23 under Subsection (d), but may not physically or electronically mark  
24 or stamp any other document transferred under Subsection (a).

25          (f) The clerk of the transferring court shall send a  
26 certified copy of the order directing payments to the transferee  
27 court to:

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

5           (2) an employer affected by the order electronically  
6 or by first class mail.

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

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

14           SECTION 6. Section 1023.007, Estates Code, is amended to  
15 read as follows:

16           Sec. 1023.007. TRANSFER EFFECTIVE. The order transferring  
17 a guardianship does not take effect until the clerk of the court to  
18 which the proceeding is transferred accepts and docketes the case  
19 file under Section 1023.006[+]

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

24           ~~[(2) a certificate under the clerk's official seal and~~  
25 ~~reporting the filing of the case file and a certified copy of the~~  
26 ~~index is filed in electronic or paper form in the court ordering the~~  
27 ~~transfer by the county clerk of the county to which the guardianship~~

1 ~~was ordered transferred~~].

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

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

9 (1) a transfer certificate and index of transferred  
10 documents;

11 (2) a copy of each final order;

12 (3) a copy of the order of transfer signed by the  
13 transferring court;

14 (4) a copy of the original papers filed in the  
15 transferring court;

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

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

20 (b) The clerk of the transferring court shall keep a copy of  
21 the documents transferred under Subsection (a) [~~transferred~~  
22 ~~pleadings~~].

23 (e) The clerks of both the transferee and transferring  
24 courts may each produce under Chapter 51, Government Code,  
25 certified or uncertified copies of documents transferred under  
26 Subsection (a) and must [~~filed in a case transferred under this~~  
27 ~~section, but shall also~~] include a copy of the transfer certificate

1 and index of transferred documents with each document produced.

2 SECTION 8. Section [51.3071](#), Government Code, is amended by  
3 amending Subsection (a) and adding Subsections (f) and (g) to read  
4 as follows:

5 (a) If a case is transferred from a district court to a  
6 constitutional or statutory county court or another district court,  
7 the clerk of the transferring [~~district~~] court shall send to the  
8 [~~county~~] clerk of the court to which the case is transferred, using  
9 the electronic filing system established under Section [72.031](#):

10 (1) a transfer certificate and index of transferred  
11 documents;

12 (2) a copy of the original papers filed in the  
13 transferring court;

14 (3) a copy of the order of transfer signed by the  
15 transferring court;

16 (4) a copy of each final order;

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

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

21 (f) The clerks of both the transferee and transferring  
22 courts may each produce, under this chapter, certified or  
23 uncertified copies of documents transferred under Subsection (a)  
24 and must include a copy of the transfer certificate and index of  
25 transferred documents with each document produced.

26 (g) This section applies regardless of whether the  
27 transferee court and the transferring court are in the same or



1 different counties.

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

5 (a) If a case is transferred from a county court to a  
6 district court or statutory or constitutional county court, the  
7 clerk of the transferring [~~county~~] court shall send to the  
8 [~~district~~] clerk of the court to which the case is transferred,  
9 using the electronic filing system established under Section  
10 72.031:

11 (1) a transfer certificate and index of transferred  
12 documents;

13 (2) a copy of the original papers filed in the  
14 transferring court;

15 (3) a copy of the order of transfer signed by the  
16 transferring court;

17 (4) a copy of each final order;

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

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

22 (d) The clerks of both the transferee and transferring  
23 courts may each produce, under this chapter, certified or  
24 uncertified copies of documents transferred under Subsection (a)  
25 and must include a copy of the transfer certificate and index of  
26 transferred documents with each document produced.

27 (e) This section applies regardless of whether the

1 transferee court and the transferring court are in the same or  
2 different counties.

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

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

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

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

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