

1-1 By: Clardy (Senate Sponsor - Zaffirini) H.B. No. 2893
1-2 (In the Senate - Received from the House May 3, 2023;
1-3 May 5, 2023, read first time and referred to Committee on
1-4 Jurisprudence; May 15, 2023, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 15, 2023, sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 1-9 | X | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |

1-14 COMMITTEE SUBSTITUTE FOR H.B. No. 2893 By: Hughes

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the procedures for transferring certain cases and
1-18 proceedings between courts.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 33.101, Estates Code, is amended to read
1-21 as follows:

1-22 Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS
1-23 PROPER. If probate proceedings involving the same estate are
1-24 commenced in more than one county and the court making a
1-25 determination of venue as provided by Section 33.053 determines
1-26 that venue is proper in another county, the court clerk shall
1-27 transmit the file for the proceeding in accordance with the
1-28 procedures provided by Section 33.105 ~~[make and retain a copy of the~~
1-29 ~~entire file in the case and transmit the original file in electronic~~
1-30 ~~or paper form]~~ to the court in the county in which venue is proper.
1-31 The court to which the file is transmitted shall conduct the
1-32 proceeding in the same manner as if the proceeding had originally
1-33 been commenced in that county.

1-34 SECTION 2. Section 33.102(a), Estates Code, is amended to
1-35 read as follows:

1-36 (a) If it appears to the court at any time before the final
1-37 order in a probate proceeding is rendered that the court does not
1-38 have priority of venue over the proceeding, the court shall, on the
1-39 application of an interested person, transfer the proceeding to the
1-40 proper county by transmitting the file for the proceeding in
1-41 accordance with the procedures provided by Section 33.105 to the
1-42 proper court in that county ~~[in electronic or paper form:~~

1-43 ~~[(1) the original file in the case, and~~
1-44 ~~[(2) certified copies of all entries that have been~~
1-45 ~~made in the judge's probate docket in the proceeding].~~

1-46 SECTION 3. Section 33.103(b), Estates Code, is amended to
1-47 read as follows:

1-48 (b) The clerk of the court from which the probate proceeding
1-49 described by Subsection (a) is transferred shall transmit the file
1-50 for the proceeding in accordance with the procedures provided by
1-51 Section 33.105 to the court to which the proceeding is
1-52 transferred~~[-~~

1-53 ~~[(1) the original file in the proceeding, and~~
1-54 ~~[(2) a certified copy of the index].~~

1-55 SECTION 4. Subchapter C, Chapter 33, Estates Code, is
1-56 amended by adding Section 33.105 to read as follows:

1-57 Sec. 33.105. TRANSFER OF PROBATE PROCEEDING RECORD. (a) If
1-58 a probate proceeding is transferred to a court in another county
1-59 under this chapter, the clerk of the transferring court shall send
1-60 to the clerk of the court to which the proceeding is transferred,

2-1 using the electronic filing system established under Section
 2-2 72.031, Government Code:
 2-3 (1) a transfer certificate and index of transferred
 2-4 documents;
 2-5 (2) a copy of each final order;
 2-6 (3) a copy of the order of transfer signed by the
 2-7 transferring court;
 2-8 (4) a copy of the original papers filed in the
 2-9 transferring court, including a copy of any will;
 2-10 (5) a copy of the transfer certificate and index of
 2-11 transferred documents from each previous transfer; and
 2-12 (6) a bill of any costs accrued in the transferring
 2-13 court.
 2-14 (b) The clerk of the transferring court shall use the
 2-15 standardized transfer certificate and index of transferred
 2-16 documents form developed by the Office of Court Administration of
 2-17 the Texas Judicial System under Section 72.037, Government Code,
 2-18 when transferring a proceeding under this section.
 2-19 (c) The clerk of the transferring court shall keep a copy of
 2-20 the documents transferred under Subsection (a).
 2-21 (d) The clerk of the court to which the proceeding is
 2-22 transferred shall:
 2-23 (1) accept documents transferred under Subsection
 2-24 (a);
 2-25 (2) docket the proceeding; and
 2-26 (3) notify, using the electronic filing system
 2-27 established under Section 72.031, Government Code, all parties to
 2-28 the proceeding, the clerk of the transferring court, and, if
 2-29 appropriate, the transferring court's local registry that the
 2-30 proceeding has been docketed.
 2-31 (e) The clerk of the transferee court shall physically or
 2-32 electronically mark or stamp the transfer certificate and index of
 2-33 transferred documents to evidence the date and time of acceptance
 2-34 under Subsection (d) but may not physically or electronically mark
 2-35 or stamp any other document transferred under Subsection (a).
 2-36 (f) The clerks of both the transferee and transferring
 2-37 courts may each produce under Chapter 51, Government Code,
 2-38 certified or uncertified copies of documents transferred under
 2-39 Subsection (a) but must include a copy of the transfer certificate
 2-40 and index of transferred documents with each document produced.
 2-41 (g) Sections 80.001 and 80.002, Government Code, do not
 2-42 apply to the transfer of documents under this section.
 2-43 (h) The clerk of the transferring court shall deliver the
 2-44 original will, or the copy of the will offered for probate in lieu
 2-45 of a lost original will, as applicable, to the clerk of the
 2-46 transferee court by:
 2-47 (1) registered or certified mail, return receipt
 2-48 requested;
 2-49 (2) common or contract carrier, with proof of delivery
 2-50 receipt; or
 2-51 (3) designated delivery service, as defined by 26
 2-52 U.S.C. Section 7502(f)(2), with proof of delivery receipt.
 2-53 (i) The party requesting the transfer shall pay the cost of
 2-54 delivery under Subsection (h).
 2-55 SECTION 5. Section 1023.006, Estates Code, is amended to
 2-56 read as follows:
 2-57 Sec. 1023.006. TRANSFER OF RECORD. (a) Not later than the
 2-58 10th working day after the date ~~[when]~~ an order of transfer is
 2-59 signed ~~[made]~~ under Section 1023.005, the clerk shall record any
 2-60 unrecorded papers of the guardianship required to be recorded. On
 2-61 payment of the clerk's fee, the clerk shall send, using the
 2-62 electronic filing system established under Section 72.031,
 2-63 Government Code, ~~[transmit in electronic or paper form]~~ to the
 2-64 county clerk of the county to which the guardianship was ordered
 2-65 transferred:
 2-66 (1) a transfer certificate and index of transferred
 2-67 documents ~~[the case file of the guardianship proceedings]; [and]~~
 2-68 (2) a copy of each final order;
 2-69 (3) a copy of the order of transfer signed by the

3-1 transferring court;
3-2 (4) a copy of the original papers filed in the
3-3 transferring court;
3-4 (5) a copy of the transfer certificate and index of
3-5 transferred documents from each previous transfer; and
3-6 (6) a bill of any costs accrued in the transferring
3-7 court [a certified copy of the index of the guardianship records].
3-8 (b) The clerk of the transferring court shall use the
3-9 standardized transfer certificate and index of transferred
3-10 documents form developed by the Office of Court Administration of
3-11 the Texas Judicial System under Section 72.037, Government Code,
3-12 when transferring a proceeding under this section.
3-13 (c) The clerk of the transferring court shall keep a copy of
3-14 the documents transferred under Subsection (a).
3-15 (d) Subject to Section 1023.005(c), the clerk of the court
3-16 to which the proceeding is transferred shall:
3-17 (1) accept documents transferred under Subsection
3-18 (a);
3-19 (2) docket the case; and
3-20 (3) notify, using the electronic filing system
3-21 established under Section 72.031, Government Code, all parties, the
3-22 clerk of the transferring court, and, if appropriate, the
3-23 transferring court's local registry that the case has been
3-24 docketed.
3-25 (e) The clerk of the transferee court shall physically or
3-26 electronically mark or stamp the transfer certificate and index of
3-27 transferred documents to evidence the date and time of acceptance
3-28 under Subsection (d), but may not physically or electronically mark
3-29 or stamp any other document transferred under Subsection (a).
3-30 (f) The clerks of both the transferee and transferring
3-31 courts may each produce under Chapter 51, Government Code,
3-32 certified or uncertified copies of documents transferred under
3-33 Subsection (a) but must include a copy of the transfer certificate
3-34 and index of transferred documents with each document produced.
3-35 (g) Sections 80.001 and 80.002, Government Code, do not
3-36 apply to the transfer of documents under this section.
3-37 SECTION 6. Section 1023.007, Estates Code, is amended to
3-38 read as follows:
3-39 Sec. 1023.007. TRANSFER EFFECTIVE. The order transferring
3-40 a guardianship does not take effect until the clerk of the court to
3-41 which the proceeding is transferred accepts and docketed the case
3-42 record under Section 1023.006[+]
3-43 [~~(1) the case file and a certified copy of the index~~
3-44 ~~required by Section 1023.006 are filed in electronic or paper form~~
3-45 ~~in the office of the county clerk of the county to which the~~
3-46 ~~guardianship was ordered transferred; and~~
3-47 ~~(2) a certificate under the clerk's official seal and~~
3-48 ~~reporting the filing of the case file and a certified copy of the~~
3-49 ~~index is filed in electronic or paper form in the court ordering the~~
3-50 ~~transfer by the county clerk of the county to which the guardianship~~
3-51 ~~was ordered transferred].~~
3-52 SECTION 7. Sections 155.207(a), (b), and (e), Family Code,
3-53 are amended to read as follows:
3-54 (a) Not later than the 10th working day after the date an
3-55 order of transfer is signed, the clerk of the court transferring a
3-56 proceeding shall send, using the electronic filing system
3-57 established under Section 72.031, Government Code, to the proper
3-58 court [~~in the county~~] to which transfer is being made:
3-59 (1) a transfer certificate and index of transferred
3-60 documents;
3-61 (2) a copy of each final order;
3-62 (3) a copy of the order of transfer signed by the
3-63 transferring court;
3-64 (4) a copy of the original papers filed in the
3-65 transferring court;
3-66 (5) a copy of the transfer certificate and index of
3-67 transferred documents from each previous transfer; and
3-68 (6) a bill of any costs that have accrued in the
3-69 transferring court.

4-1 (b) The clerk of the transferring court shall keep a copy of
 4-2 the documents transferred under Subsection (a) [~~transferred~~
 4-3 ~~pleadings~~].

4-4 (e) The clerks of both the transferee and transferring
 4-5 courts may each produce under Chapter 51, Government Code,
 4-6 certified or uncertified copies of documents transferred under
 4-7 Subsection (a) and must [~~filed in a case transferred under this~~
 4-8 ~~section, but shall also~~] include a copy of the transfer certificate
 4-9 and index of transferred documents with each document produced.

4-10 SECTION 8. Section 51.3071, Government Code, is amended by
 4-11 amending Subsection (a) and adding Subsections (f) and (g) to read
 4-12 as follows:

4-13 (a) If a case is transferred from a district court to a
 4-14 constitutional or statutory county court or another district court,
 4-15 the clerk of the transferring [~~district~~] court shall send to the
 4-16 [~~county~~] clerk of the court to which the case is transferred, using
 4-17 the electronic filing system established under Section 72.031:

4-18 (1) a transfer certificate and index of transferred
 4-19 documents;

4-20 (2) a copy of the original papers filed in the
 4-21 transferring court;

4-22 (3) a copy of the order of transfer signed by the
 4-23 transferring court;

4-24 (4) a copy of each final order;

4-25 (5) a copy of the transfer certificate and index of
 4-26 transferred documents from each previous transfer; and

4-27 (6) a bill of any costs that have accrued in the
 4-28 transferring court.

4-29 (f) The clerks of both the transferee and transferring
 4-30 courts may each produce, under this chapter, certified or
 4-31 uncertified copies of documents transferred under Subsection (a)
 4-32 and must include a copy of the transfer certificate and index of
 4-33 transferred documents with each document produced.

4-34 (g) This section applies regardless of whether the
 4-35 transferee court and the transferring court are in the same or
 4-36 different counties.

4-37 SECTION 9. Section 51.403, Government Code, is amended by
 4-38 amending Subsection (a) and adding Subsections (d) and (e) to read
 4-39 as follows:

4-40 (a) If a case is transferred from a county court to a
 4-41 district court or to a statutory county court or county court of
 4-42 another county, the clerk of the transferring [~~county~~] court shall
 4-43 send to the [~~district~~] clerk of the court to which the case is
 4-44 transferred, using the electronic filing system established under
 4-45 Section 72.031:

4-46 (1) a transfer certificate and index of transferred
 4-47 documents;

4-48 (2) a copy of the original papers filed in the
 4-49 transferring court;

4-50 (3) a copy of the order of transfer signed by the
 4-51 transferring court;

4-52 (4) a copy of each final order;

4-53 (5) a copy of the transfer certificate and index of
 4-54 transferred documents from each previous transfer; and

4-55 (6) a bill of any costs that have accrued in the
 4-56 transferring court.

4-57 (d) The clerks of both the transferee and transferring
 4-58 courts may each produce, under this chapter, certified or
 4-59 uncertified copies of documents transferred under Subsection (a)
 4-60 and must include a copy of the transfer certificate and index of
 4-61 transferred documents with each document produced.

4-62 (e) This section applies to a case transferred between a
 4-63 district court and a county court regardless of whether the
 4-64 transferee court and the transferring court are in the same or
 4-65 different counties. A case transferred between two county courts
 4-66 in the same county is not subject to the requirements of this
 4-67 section. The clerk serving the county courts shall reassign the
 4-68 case on receipt of an order of transfer.

4-69 SECTION 10. Section 72.037(a), Government Code, is amended

5-1 to read as follows:

5-2 (a) The office shall develop and make available a
5-3 standardized transfer certificate and an index of transferred
5-4 documents form to be used for the transfer of cases and proceedings
5-5 under Sections 33.105 and 1023.006, Estates Code, Section 155.207,
5-6 Family Code, and Sections 51.3071 and 51.403 of this code.

5-7 SECTION 11. Section 33.103(c), Estates Code, is repealed.

5-8 SECTION 12. As soon as practicable after the effective date
5-9 of this Act, the Office of Court Administration of the Texas
5-10 Judicial System shall adopt rules and develop and make available
5-11 all forms and materials required by Section 72.037, Government
5-12 Code, as amended by this Act.

5-13 SECTION 13. This Act takes effect September 1, 2023.

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