

AN ACT

relating to jurisdiction, venue, and appeals in certain matters, including the jurisdiction of and appeals from certain courts and administrative decisions and the appointment of counsel in certain appeals.

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

SECTION 1. Section 51.012, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 51.012. APPEAL OR WRIT OF ERROR TO COURT OF APPEALS. In a civil case in which the judgment or amount in controversy exceeds \$250 [~~\$100~~], exclusive of interest and costs, a person may take an appeal or writ of error to the court of appeals from a final judgment of the district or county court.

SECTION 2. (a) Section 82.003, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) If after service on a nonresident manufacturer through the secretary of state in the manner prescribed by Subchapter C, Chapter 17, the manufacturer fails to answer or otherwise make an appearance in the time required by law, it is conclusively presumed for the purposes of Subsection (a)(7)(B) that the manufacturer is not subject to the jurisdiction of the court unless the seller is able to secure personal jurisdiction over the manufacturer in the action.

(b) The change in law made by this section applies to an

1 action filed on or after the effective date of this Act or pending  
2 on the effective date of this Act.

3 SECTION 3. Subsection (a), Section 22.220, Government Code,  
4 is amended to read as follows:

5 (a) Each court of appeals has appellate jurisdiction of all  
6 civil cases within its district of which the district courts or  
7 county courts have jurisdiction when the amount in controversy or  
8 the judgment rendered exceeds \$250 [~~\$100~~], exclusive of interest  
9 and costs.

10 SECTION 4. Subchapter A, Chapter 25, Government Code, is  
11 amended by adding Section 25.0020 to read as follows:

12 Sec. 25.0020. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS.

13 (a) On a written application of any party to an eviction suit, the  
14 county court or county court at law in which an appeal of the suit is  
15 filed may appoint any qualified attorney who is willing to provide  
16 pro bono services in the matter or counsel from a list provided by a  
17 pro bono legal services program of counsel willing to be appointed  
18 to handle appeals under this section to attend to the cause of a  
19 party who:

20 (1) was in possession of the residence at the time the  
21 eviction suit was filed in the justice court; and

22 (2) has perfected the appeal on a pauper's affidavit  
23 approved in accordance with Rule 749a, Texas Rules of Civil  
24 Procedure.

25 (b) The appointed counsel shall represent the individual in  
26 the proceedings of the suit in the county court or county court at  
27 law. At the conclusion of those proceedings, the appointment

1 terminates.

2 (c) The court may terminate representation appointed under  
3 this section for cause.

4 (d) Appointed counsel may not receive attorney's fees  
5 unless the recovery of attorney's fees is provided for by contract,  
6 statute, common law, court rules, or other regulations. The county  
7 is not responsible for payment of attorney's fees to appointed  
8 counsel.

9 (e) The court shall provide for a method of service of  
10 written notice on the parties to an eviction suit of the right to  
11 request an appointment of counsel on perfection of appeal on  
12 approval of a pauper's affidavit.

13 SECTION 5. Subchapter A, Chapter 26, Government Code, is  
14 amended by adding Section 26.010 to read as follows:

15 Sec. 26.010. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS.

16 (a) On a written application of any party to an eviction suit, the  
17 county court or county court at law in which an appeal of the suit is  
18 filed may appoint any qualified attorney who is willing to provide  
19 pro bono services in the matter or counsel from a list provided by a  
20 pro bono legal services program of counsel willing to be appointed  
21 to handle appeals under this section to attend to the cause of a  
22 party who:

23 (1) was in possession of the residence at the time the  
24 eviction suit was filed in the justice court; and

25 (2) has perfected the appeal on a pauper's affidavit  
26 approved in accordance with Rule 749a, Texas Rules of Civil  
27 Procedure.

1       (b) The appointed counsel shall represent the individual in  
2 the proceedings of the suit in the county court or county court at  
3 law. At the conclusion of those proceedings, the appointment  
4 terminates.

5       (c) The court may terminate representation appointed under  
6 this section for cause.

7       (d) Appointed counsel may not receive attorney's fees  
8 unless the recovery of attorney's fees is provided for by contract,  
9 statute, common law, court rules, or other regulations. The county  
10 is not responsible for payment of attorney's fees to appointed  
11 counsel.

12       (e) The court shall provide for a method of service of  
13 written notice on the parties to an eviction suit of the right to  
14 request an appointment of counsel on perfection of appeal on  
15 approval of a pauper's affidavit.

16       SECTION 6. Subsection (c), Section 26.042, Government Code,  
17 is amended to read as follows:

18       (c) If under Subchapter E a county court has original  
19 concurrent jurisdiction with the justice courts in all civil  
20 matters in which the justice courts have jurisdiction, an appeal or  
21 writ of error may not be taken to the court of appeals from a final  
22 judgment of the county court in a civil case in which:

23               (1) the county court has appellate or original  
24 concurrent jurisdiction with the justice courts; and

25               (2) the judgment or amount in controversy does not  
26 exceed \$250 [~~\$100~~], exclusive of interest and costs.

27       SECTION 7. Subsection (b), Section 28.052, Government Code,

1 is amended to read as follows:

2 (b) Except to the extent of any conflict with this  
3 subchapter, appeal [~~Appeal~~] is in the manner provided by law for  
4 appeals [~~appeal~~] from justice courts [~~court to county court~~].

5 SECTION 8. The heading to Section 28.053, Government Code,  
6 is amended to read as follows:

7 Sec. 28.053. DE NOVO TRIAL [~~HEARING~~] ON APPEAL.

8 SECTION 9. Subsections (b) and (d), Section 28.053,  
9 Government Code, are amended to read as follows:

10 (b) Trial on appeal to the county court or county court at  
11 law is de novo. No further pleadings are required [~~and the~~  
12 ~~procedure is the same as in small claims court~~].

13 (d) A person may appeal the final judgment [~~Judgment~~] of the  
14 county court or county court at law on the appeal to the court of  
15 appeals [~~is final~~].

16 SECTION 10. (a) Subsections (a) and (e), Section 531.019,  
17 Government Code, as added by Chapter 1161 (H.B. 75), Acts of the  
18 80th Legislature, Regular Session, 2007, are amended to read as  
19 follows:

20 (a) In this section, "public assistance benefits" means  
21 benefits provided under a public assistance program under Chapter  
22 31, 32, or 33, Human Resources Code.

23 (e) For purposes of Section 2001.171, an applicant for or  
24 recipient of public assistance benefits has exhausted all available  
25 administrative remedies and a decision, including a decision under  
26 Section 31.034 or 32.035, Human Resources Code, is final and  
27 appealable on the date that, after a hearing:

1           (1) the hearing officer for the commission or a health  
2 and human services agency reaches a final decision related to the  
3 benefits; and

4           (2) the appropriate attorney completes an  
5 administrative review of the decision and notifies the applicant or  
6 recipient in writing of the results of that review.

7           (b) The changes in law made by this section apply only to an  
8 appeal of a final decision by the Health and Human Services  
9 Commission related to financial assistance benefits under Chapter  
10 31, Human Resources Code, that is rendered on or after the effective  
11 date of this Act. A final decision rendered by the commission  
12 before the effective date of this Act is governed by the law in  
13 effect on the date the decision was rendered, and the former law is  
14 continued in effect for that purpose.

15           SECTION 11. (a) Subsection (a), Section 821.025, Health  
16 and Safety Code, is amended to read as follows:

17           (a) An owner divested of ownership of an animal under  
18 Section 821.023 [~~ordered sold at public auction as provided in this~~  
19 ~~subchapter~~] may appeal the order to a county court or county court  
20 at law in the county in which the justice or municipal court is  
21 located. As a condition of perfecting an appeal, not later than the  
22 10th calendar day after the date the order is issued, the owner must  
23 file a notice of appeal and an appeal bond in an amount determined  
24 by the [~~justice or municipal~~] court from which the appeal is taken  
25 to be adequate to cover the estimated expenses incurred in housing  
26 and caring for the impounded animal during the appeal process. Not  
27 later than the fifth calendar day after the date the notice of

1 appeal and appeal bond is filed, the court from which the appeal is  
2 taken shall deliver a copy of the court's transcript to the county  
3 court or county court at law to which the appeal is made. Not later  
4 than the 10th calendar day after the date the county court or county  
5 court at law, as appropriate, receives the transcript, the court  
6 shall dispose of the appeal. The decision of the county court or  
7 county court at law under this section is final and may not be  
8 further appealed. [~~An owner may not appeal an order:~~

9           ~~[(1) to give the animal to a nonprofit animal shelter,~~  
10 ~~pound, or society for the protection of animals; or~~  
11           ~~[(2) to humanely destroy the animal.]~~

12           (b) Subsection (a), Section 821.025, Health and Safety  
13 Code, as amended by this section, applies only to an appeal of a  
14 court order issued on or after the effective date of this Act. An  
15 appeal of a court order issued before the effective date of this Act  
16 is covered by the law in effect when the appeal was issued, and the  
17 former law is continued in effect for that purpose.

18           SECTION 12. (a) Subsection (bb), Section 3, Texas Probate  
19 Code, is amended to read as follows:

20           (bb) "Probate proceeding" is synonymous with the terms  
21 "Probate matter," [~~"Probate proceedings,"~~] "Proceeding in  
22 probate," and "Proceedings for probate." The term means a matter or  
23 proceeding related to the estate of a decedent [~~are synonymous~~] and  
24 includes:

25                   (1) the probate of a will, with or without  
26 administration of the estate;

27                   (2) the issuance of letters testamentary and of

1 administration;

2 (3) an heirship determination or small estate  
3 affidavit, community property administration, and homestead and  
4 family allowances;

5 (4) an application, petition, motion, or action  
6 regarding the probate of a will or an estate administration,  
7 including a claim for money owed by the decedent;

8 (5) a claim arising from an estate administration  
9 and any action brought on the claim;

10 (6) the settling of a personal representative's  
11 account of an estate and any other matter related to the settlement,  
12 partition, or distribution of an estate; and

13 (7) a will construction suit [~~include a matter or~~  
14 ~~proceeding relating to the estate of a decedent~~].

15 (b) Chapter I, Texas Probate Code, is amended by adding  
16 Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H to read as follows:

17 Sec. 4A. GENERAL PROBATE COURT JURISDICTION; APPEALS.

18 (a) All probate proceedings must be filed and heard in a court  
19 exercising original probate jurisdiction. The court exercising  
20 original probate jurisdiction also has jurisdiction of all matters  
21 related to the probate proceeding as specified in Section 4B of this  
22 code for that type of court.

23 (b) A probate court may exercise pendent and ancillary  
24 jurisdiction as necessary to promote judicial efficiency and  
25 economy.

26 (c) A final order issued by a probate court is appealable to  
27 the court of appeals.



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

5           (1) an action against a personal representative or  
6 former personal representative arising out of the representative's  
7 performance of the duties of a personal representative;

8           (2) an action against a surety of a personal  
9 representative or former personal representative;

10          (3) a claim brought by a personal representative on  
11 behalf of an estate;

12          (4) an action brought against a personal  
13 representative in the representative's capacity as personal  
14 representative;

15          (5) an action for trial of title to real property that  
16 is estate property, including the enforcement of a lien against the  
17 property; and

18          (6) an action for trial of the right of property that  
19 is estate property.

20       (b) For purposes of this code, in a county in which there is  
21 no statutory probate court, but in which there is a county court at  
22 law exercising original probate jurisdiction, a matter related to a  
23 probate proceeding includes:

24           (1) all matters and actions described in Subsection  
25 (a) of this section;

26           (2) the interpretation and administration of a  
27 testamentary trust if the will creating the trust has been admitted

1 to probate in the court; and

2 (3) the interpretation and administration of an inter  
3 vivos trust created by a decedent whose will has been admitted to  
4 probate in the court.

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

8 (1) all matters and actions described in Subsections  
9 (a) and (b) of this section; and

10 (2) any cause of action in which a personal  
11 representative of an estate pending in the statutory probate court  
12 is a party in the representative's capacity as personal  
13 representative.

14 Sec. 4C. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS.

15 (a) In a county in which there is no statutory probate court or  
16 county court at law exercising original probate jurisdiction, the  
17 county court has original jurisdiction of probate proceedings.

18 (b) In a county in which there is no statutory probate  
19 court, but in which there is a county court at law exercising  
20 original probate jurisdiction, the county court at law exercising  
21 original probate jurisdiction and the county court have concurrent  
22 original jurisdiction of probate proceedings, unless otherwise  
23 provided by law. The judge of a county court may hear probate  
24 proceedings while sitting for the judge of any other county court.

25 (c) In a county in which there is a statutory probate court,  
26 the statutory probate court has original jurisdiction of probate  
27 proceedings.

1        Sec. 4D. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN  
2 COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT.

3        (a) In a county in which there is no statutory probate court or  
4 county court at law exercising original probate jurisdiction, when  
5 a matter in a probate proceeding is contested, the judge of the  
6 county court may, on the judge's own motion, or shall, on the motion  
7 of any party to the proceeding, according to the motion:

8                (1) request the assignment of a statutory probate  
9 court judge to hear the contested matter, as provided by Section  
10 25.0022, Government Code; or

11                (2) transfer the contested matter to the district  
12 court, which may then hear the contested matter as if originally  
13 filed in the district court.

14        (b) If a party to a probate proceeding files a motion for the  
15 assignment of a statutory probate court judge to hear a contested  
16 matter in the proceeding before the judge of the county court  
17 transfers the contested matter to a district court under this  
18 section, the county judge shall grant the motion for the assignment  
19 of a statutory probate court judge and may not transfer the matter  
20 to the district court unless the party withdraws the motion.

21        (c) A party to a probate proceeding may file a motion for the  
22 assignment of a statutory probate court judge under this section  
23 before a matter in the proceeding becomes contested, and the motion  
24 is given effect as a motion for assignment of a statutory probate  
25 court judge under Subsection (a) of this section if the matter later  
26 becomes contested.

27        (d) Notwithstanding any other law, a transfer of a contested

1 matter in a probate proceeding to a district court under any  
2 authority other than the authority provided by this section:

3 (1) is disregarded for purposes of this section; and

4 (2) does not defeat the right of a party to the  
5 proceeding to have the matter assigned to a statutory probate court  
6 judge in accordance with this section.

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

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

24 (g) The county court shall continue to exercise  
25 jurisdiction over the management of the estate, other than a  
26 contested matter, until final disposition of the contested matter  
27 is made in accordance with this section. After a contested matter

1 is transferred to a district court, any matter related to the  
2 probate proceeding may be brought in the district court. The  
3 district court in which a matter related to the probate proceeding  
4 is filed may, on its own motion or on the motion of any party, find  
5 that the matter is not a contested matter and transfer the matter to  
6 the county court with jurisdiction of the management of the estate.

7 (h) If a contested matter in a probate proceeding is  
8 transferred to a district court under this section, the district  
9 court has jurisdiction of any contested matter in the proceeding  
10 that is subsequently filed, and the county court shall transfer  
11 those contested matters to the district court. If a statutory  
12 probate court judge is assigned under this section to hear a  
13 contested matter in a probate proceeding, the statutory probate  
14 court judge shall be assigned to hear any contested matter in the  
15 proceeding that is subsequently filed.

16 (i) The clerk of a district court to which a contested  
17 matter in a probate proceeding is transferred under this section  
18 may perform in relation to the contested matter any function a  
19 county clerk may perform with respect to that type of matter.

20 Sec. 4E. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN  
21 COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which  
22 there is no statutory probate court, but in which there is a county  
23 court at law exercising original probate jurisdiction, when a  
24 matter in a probate proceeding is contested, the judge of the county  
25 court may, on the judge's own motion, or shall, on the motion of any  
26 party to the proceeding, transfer the contested matter to the  
27 county court at law. In addition, the judge of the county court, on

1 the judge's own motion or on the motion of a party to the  
2 proceeding, may transfer the entire proceeding to the county court  
3 at law.

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

11 Sec. 4F. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN  
12 COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which  
13 there is a statutory probate court, the statutory probate court has  
14 exclusive jurisdiction of all probate proceedings, regardless of  
15 whether contested or uncontested. A cause of action related to the  
16 probate proceeding must be brought in a statutory probate court  
17 unless the jurisdiction of the statutory probate court is  
18 concurrent with the jurisdiction of a district court as provided by  
19 Section 4H of this code or with the jurisdiction of any other court.

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

24 Sec. 4G. JURISDICTION OF STATUTORY PROBATE COURT WITH  
25 RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which  
26 there is a statutory probate court, the statutory probate court has  
27 jurisdiction of:

1           (1) an action by or against a trustee;

2           (2) an action involving an inter vivos trust,  
3 testamentary trust, or charitable trust;

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

7           (4) an action to determine the validity of a power of  
8 attorney or to determine an agent's rights, powers, or duties under  
9 a power of attorney.

10           Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. A  
11 statutory probate court has concurrent jurisdiction with the  
12 district court in:

13           (1) a personal injury, survival, or wrongful death  
14 action by or against a person in the person's capacity as a personal  
15 representative;

16           (2) an action by or against a trustee;

17           (3) an action involving an inter vivos trust,  
18 testamentary trust, or charitable trust;

19           (4) an action involving a personal representative of  
20 an estate in which each other party aligned with the personal  
21 representative is not an interested person in that estate;

22           (5) an action against an agent or former agent under a  
23 power of attorney arising out of the agent's performance of the  
24 duties of an agent; and

25           (6) an action to determine the validity of a power of  
26 attorney or to determine an agent's rights, powers, or duties under  
27 a power of attorney.

1 (c) Subsection (a), Section 5B, Texas Probate Code, is  
2 amended to read as follows:

3 (a) A judge of a statutory probate court, on the motion of a  
4 party to the action or on the motion of a person interested in an  
5 estate, may transfer to the judge's ~~[his]~~ court from a district,  
6 county, or statutory court a cause of action related to a probate  
7 proceeding ~~[appertaining to or incident to an estate]~~ pending in  
8 the statutory probate court or a cause of action in which a personal  
9 representative of an estate pending in the statutory probate court  
10 is a party and may consolidate the transferred cause of action with  
11 the other proceedings in the statutory probate court relating to  
12 that estate.

13 (d) Subsection (i), Section 25.0022, Government Code, is  
14 amended to read as follows:

15 (i) A judge assigned under this section has the  
16 jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G,  
17 4H ~~[5, 5A]~~, 5B, 606, 607, and 608, Texas Probate Code, to statutory  
18 probate court judges by general law.

19 (e) Subsection (c), Section 25.1132, Government Code, is  
20 amended to read as follows:

21 (c) A county court at law in Hood County has concurrent  
22 jurisdiction with the district court in:

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

25 (2) family law cases and related proceedings;

26 (3) contested probate matters under Section 4D(a)  
27 ~~[5(b)]~~, Texas Probate Code; and



1           (4) contested guardianship matters under Section  
2 606(b), Texas Probate Code.

3           (f) Subsection (b), Section 25.1863, Government Code, is  
4 amended to read as follows:

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

20           (g) Subsection (a), Section 123.005, Property Code, is  
21 amended to read as follows:

22           (a) Venue in a proceeding brought by the attorney general  
23 alleging breach of a fiduciary duty by a fiduciary or managerial  
24 agent of a charitable trust shall be a court of competent  
25 jurisdiction in Travis County or in the county where the defendant  
26 resides or has its principal office. To the extent of a conflict  
27 between this subsection and any provision of the Texas Probate Code

1 providing for venue of a proceeding brought with respect to a  
2 charitable trust created by a will that has been admitted to  
3 probate, this subsection controls.

4 (h) Sections 4, 5, and 5A, Texas Probate Code, are repealed.

5 (i) The changes in law made by this section apply only to an  
6 action filed or a proceeding commenced on or after the effective  
7 date of this Act. An action filed or proceeding commenced before  
8 the effective date of this Act is governed by the law in effect on  
9 the date the action was filed or the proceeding was commenced, and  
10 the former law is continued in effect for that purpose.

11 SECTION 13. (a) Effective January 1, 2014, Subtitle A,  
12 Title 2, Estates Code, as adopted by H.B. No. 2502, Acts of the 81st  
13 Legislature, Regular Session, 2009, if that Act is enacted and  
14 becomes law, is amended by adding Chapters 31 and 32 to read as  
15 follows:

16 CHAPTER 31. GENERAL PROVISIONS

17 Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF  
18 CODE. The term "probate proceeding," as used in this code,  
19 includes:

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

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

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

27 (4) an application, petition, motion, or action

1 regarding the probate of a will or an estate administration,  
2 including a claim for money owed by the decedent;

3 (5) a claim arising from an estate administration and  
4 any action brought on the claim;

5 (6) the settling of a personal representative's  
6 account of an estate and any other matter related to the settlement,  
7 partition, or distribution of an estate; and

8 (7) a will construction suit.

9 Sec. 31.002. MATTERS RELATED TO PROBATE PROCEEDING.

10 (a) For purposes of this code, in a county in which there is no  
11 statutory probate court or county court at law exercising original  
12 probate jurisdiction, a matter related to a probate proceeding  
13 includes:

14 (1) an action against a personal representative or  
15 former personal representative arising out of the representative's  
16 performance of the duties of a personal representative;

17 (2) an action against a surety of a personal  
18 representative or former personal representative;

19 (3) a claim brought by a personal representative on  
20 behalf of an estate;

21 (4) an action brought against a personal  
22 representative in the representative's capacity as personal  
23 representative;

24 (5) an action for trial of title to real property that  
25 is estate property, including the enforcement of a lien against the  
26 property; and

27 (6) an action for trial of the right of property that

1 is estate property.

2 (b) For purposes of this code, in a county in which there is  
3 no statutory probate court, but in which there is a county court at  
4 law exercising original probate jurisdiction, a matter related to a  
5 probate proceeding includes:

6 (1) all matters and actions described in Subsection  
7 (a);

8 (2) the interpretation and administration of a  
9 testamentary trust if the will creating the trust has been admitted  
10 to probate in the court; and

11 (3) the interpretation and administration of an inter  
12 vivos trust created by a decedent whose will has been admitted to  
13 probate in the court.

14 (c) For purposes of this code, in a county in which there is  
15 a statutory probate court, a matter related to a probate proceeding  
16 includes:

17 (1) all matters and actions described in Subsections  
18 (a) and (b); and

19 (2) any cause of action in which a personal  
20 representative of an estate pending in the statutory probate court  
21 is a party in the representative's capacity as personal  
22 representative.

23 CHAPTER 32. JURISDICTION

24 Sec. 32.001. GENERAL PROBATE COURT JURISDICTION; APPEALS.

25 (a) All probate proceedings must be filed and heard in a court  
26 exercising original probate jurisdiction. The court exercising  
27 original probate jurisdiction also has jurisdiction of all matters

1 related to the probate proceeding as specified in Section 31.002  
2 for that type of court.

3 (b) A probate court may exercise pendent and ancillary  
4 jurisdiction as necessary to promote judicial efficiency and  
5 economy.

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

8 Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE  
9 PROCEEDINGS. (a) In a county in which there is no statutory  
10 probate court or county court at law exercising original probate  
11 jurisdiction, the county court has original jurisdiction of probate  
12 proceedings.

13 (b) In a county in which there is no statutory probate  
14 court, but in which there is a county court at law exercising  
15 original probate jurisdiction, the county court at law exercising  
16 original probate jurisdiction and the county court have concurrent  
17 original jurisdiction of probate proceedings, unless otherwise  
18 provided by law. The judge of a county court may hear probate  
19 proceedings while sitting for the judge of any other county court.

20 (c) In a county in which there is a statutory probate court,  
21 the statutory probate court has original jurisdiction of probate  
22 proceedings.

23 Sec. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING  
24 IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY  
25 COURT. (a) In a county in which there is no statutory probate  
26 court or county court at law exercising original probate  
27 jurisdiction, when a matter in a probate proceeding is contested,

1 the judge of the county court may, on the judge's own motion, or  
2 shall, on the motion of any party to the proceeding, according to  
3 the motion:

4 (1) request the assignment of a statutory probate  
5 court judge to hear the contested matter, as provided by Section  
6 25.0022, Government Code; or

7 (2) transfer the contested matter to the district  
8 court, which may then hear the contested matter as if originally  
9 filed in the district court.

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

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

23 (d) Notwithstanding any other law, a transfer of a contested  
24 matter in a probate proceeding to a district court under any  
25 authority other than the authority provided by this section:

26 (1) is disregarded for purposes of this section; and

27 (2) does not defeat the right of a party to the

1 proceeding to have the matter assigned to a statutory probate court  
2 judge in accordance with this section.

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

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

20 (g) The county court shall continue to exercise  
21 jurisdiction over the management of the estate, other than a  
22 contested matter, until final disposition of the contested matter  
23 is made in accordance with this section. After a contested matter  
24 is transferred to a district court, any matter related to the  
25 probate proceeding may be brought in the district court. The  
26 district court in which a matter related to the probate proceeding  
27 is filed may, on its own motion or on the motion of any party, find

1 that the matter is not a contested matter and transfer the matter to  
2 the county court with jurisdiction of the management of the estate.

3 (h) If a contested matter in a probate proceeding is  
4 transferred to a district court under this section, the district  
5 court has jurisdiction of any contested matter in the proceeding  
6 that is subsequently filed, and the county court shall transfer  
7 those contested matters to the district court. If a statutory  
8 probate court judge is assigned under this section to hear a  
9 contested matter in a probate proceeding, the statutory probate  
10 court judge shall be assigned to hear any contested matter in the  
11 proceeding that is subsequently filed.

12 (i) The clerk of a district court to which a contested  
13 matter in a probate proceeding is transferred under this section  
14 may perform in relation to the contested matter any function a  
15 county clerk may perform with respect to that type of matter.

16 Sec. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING  
17 IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in  
18 which there is no statutory probate court, but in which there is a  
19 county court at law exercising original probate jurisdiction, when  
20 a matter in a probate proceeding is contested, the judge of the  
21 county court may, on the judge's own motion, or shall, on the motion  
22 of any party to the proceeding, transfer the contested matter to the  
23 county court at law. In addition, the judge of the county court, on  
24 the judge's own motion or on the motion of a party to the  
25 proceeding, may transfer the entire proceeding to the county court  
26 at law.

27 (b) A county court at law to which a proceeding is



1 transferred under this section may hear the proceeding as if  
2 originally filed in that court. If only a contested matter in the  
3 proceeding is transferred, on the resolution of the matter, the  
4 matter shall be returned to the county court for further  
5 proceedings not inconsistent with the orders of the county court at  
6 law.

7 Sec. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING  
8 IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which  
9 there is a statutory probate court, the statutory probate court has  
10 exclusive jurisdiction of all probate proceedings, regardless of  
11 whether contested or uncontested. A cause of action related to the  
12 probate proceeding must be brought in a statutory probate court  
13 unless the jurisdiction of the statutory probate court is  
14 concurrent with the jurisdiction of a district court as provided by  
15 Section 32.007 or with the jurisdiction of any other court.

16 (b) This section shall be construed in conjunction and in  
17 harmony with Section 145 and all other sections of this title  
18 relating to independent executors, but may not be construed to  
19 expand the court's control over an independent executor.

20 Sec. 32.006. JURISDICTION OF STATUTORY PROBATE COURT WITH  
21 RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which  
22 there is a statutory probate court, the statutory probate court has  
23 jurisdiction of:

- 24 (1) an action by or against a trustee;  
25 (2) an action involving an inter vivos trust,  
26 testamentary trust, or charitable trust;  
27 (3) an action against an agent or former agent under a

1 power of attorney arising out of the agent's performance of the  
2 duties of an agent; and

3 (4) an action to determine the validity of a power of  
4 attorney or to determine an agent's rights, powers, or duties under  
5 a power of attorney.

6 Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT.  
7 A statutory probate court has concurrent jurisdiction with the  
8 district court in:

9 (1) a personal injury, survival, or wrongful death  
10 action by or against a person in the person's capacity as a personal  
11 representative;

12 (2) an action by or against a trustee;

13 (3) an action involving an inter vivos trust,  
14 testamentary trust, or charitable trust;

15 (4) an action involving a personal representative of  
16 an estate in which each other party aligned with the personal  
17 representative is not an interested person in that estate;

18 (5) an action against an agent or former agent under a  
19 power of attorney arising out of the agent's performance of the  
20 duties of an agent; and

21 (6) an action to determine the validity of a power of  
22 attorney or to determine an agent's rights, powers, or duties under  
23 a power of attorney.

24 (b) Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H, Texas  
25 Probate Code, as added by Section 12 of this Act, are repealed.

26 (c) Except as otherwise provided by this subsection, this  
27 section takes effect January 1, 2014. The changes in law made by

1 this section take effect only if H.B. No. 2502, Acts of the 81st  
2 Legislature, Regular Session, 2009, is enacted and becomes law. If  
3 that bill does not become law, this section has no effect.

4         SECTION 14. Except as otherwise provided by this Act, the  
5 changes in law made by this Act apply only to an action filed on or  
6 after the effective date of this Act. An action filed before the  
7 effective date of this Act is governed by the law applicable to the  
8 action immediately before the effective date of this Act, and the  
9 former law is continued in effect for that purpose.

10         SECTION 15. Except as otherwise provided by this Act, this  
11 Act takes effect September 1, 2009.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 408 passed the Senate on April 2, 2009, by the following vote: Yeas 31, Nays 0; May 28, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 29, 2009, House granted request of the Senate; June 1, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 408 passed the House, with amendments, on May 20, 2009, by the following vote: Yeas 139, Nays 0, one present not voting; May 29, 2009, House granted request of the Senate for appointment of Conference Committee; May 31, 2009, House adopted Conference Committee Report by the following vote: Yeas 146, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor