

By: Hartnett

H.B. No. 2367

A BILL TO BE ENTITLED

AN ACT

relating to venue or transfer of certain probate matters and guardianship matters.

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

SECTION 1. Section 15.007, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 15.007. CONFLICT WITH CERTAIN PROVISIONS. Notwithstanding Sections 15.004, 15.005, and 15.031, to the extent that venue under this chapter for a suit by or against an executor, administrator, or guardian as such, for personal injury, death, or any property damage related to the personal injury or death suit conflicts with venue provisions under the Texas Probate Code, this chapter controls.

SECTION 2. Section 5B(b), Texas Probate Code, is amended to read as follows:

(b) Except with respect to a cause of action described by Section 15.007, Civil Practice and Remedies Code, or Section 123.005, Property Code, venue of a cause of action described by Subsection (a) of this section is proper, as provided by Section 7(a) of this code, in the statutory probate court in which the estate is pending, and the judge of the statutory probate court may transfer the cause of action as provided by Subsection (a) of this section to the statutory probate court, regardless of whether venue would otherwise be proper or mandatory in the county of the court

1 from which the action will be transferred. ~~[Notwithstanding any~~
2 ~~other provision of this chapter, the proper venue for an action by~~
3 ~~or against a personal representative for personal injury, death, or~~
4 ~~property damages is determined under Section 15.007, Civil Practice~~
5 ~~and Remedies Code.]~~

6 SECTION 3. Chapter I, Texas Probate Code, is amended by
7 adding Section 7 to read as follows:

8 Sec. 7. VENUE FOR CERTAIN ACTIONS APPERTAINING TO OR
9 INCIDENT TO AN ESTATE OR IN WHICH PERSONAL REPRESENTATIVE IS PARTY.

10 (a) Except with respect to a cause of action described by Section
11 15.007, Civil Practice and Remedies Code, venue for the following
12 is proper in the court in which the estate is pending:

13 (1) a cause of action appertaining to or incident to a
14 decedent's estate; and

15 (2) a cause of action in which the personal
16 representative of a decedent's estate is a party.

17 (b) Except with respect to a cause of action described by
18 Section 15.007, Civil Practice and Remedies Code, venue for a cause
19 of action against a former personal representative of a decedent's
20 estate is proper in the court in which the estate is pending or was
21 last pending.

22 (c) Notwithstanding any other provision of this chapter,
23 the proper venue for an action by or against a personal
24 representative for personal injury, death, or any property damages
25 related to the personal injury or death action is determined under
26 Section 15.007, Civil Practice and Remedies Code.

27 SECTION 4. Section 608, Texas Probate Code, is amended to

1 read as follows:

2 Sec. 608. TRANSFER OF GUARDIANSHIP PROCEEDING. (a) A judge
3 of a statutory probate court, on the motion of a party to the action
4 or of a person interested in a guardianship, may transfer to the
5 judge's court from a district, county, or statutory court a cause of
6 action appertaining to or incident to a guardianship estate that is
7 pending in the statutory probate court or a cause of action relating
8 to a guardianship in which a guardian, ward, or proposed ward in a
9 guardianship pending in the statutory probate court is a party and
10 may consolidate the transferred cause of action with the other
11 proceedings in the statutory probate court relating to the
12 guardianship estate.

13 (b) Except with respect to a cause of action described by
14 Section 15.007, Civil Practice and Remedies Code, or Section
15 123.005, Property Code, venue of a cause of action described by
16 Subsection (a) of this section is proper, as provided by Section
17 610A(a) of this code, in the statutory probate court in which the
18 guardianship is pending, and the judge of the statutory probate
19 court may transfer the cause of action as provided by Subsection (a)
20 of this section to the statutory probate court, regardless of
21 whether venue would otherwise be proper or mandatory in the county
22 of the court from which the action will be transferred.

23 SECTION 5. Subpart B, Part 2, Chapter XIII, Texas Probate
24 Code, is amended by adding Section 610A to read as follows:

25 Sec. 610A. VENUE FOR CERTAIN ACTIONS APPERTAINING TO OR
26 INCIDENT TO AN ESTATE OR IN WHICH GUARDIAN, WARD, OR PROPOSED WARD
27 IS PARTY. (a) Except with respect to a cause of action described

1 by Section 15.007, Civil Practice and Remedies Code, venue for the
2 following is proper in the court in which the guardianship estate is
3 pending:

4 (1) a cause of action appertaining to or incident to a
5 guardianship estate; and

6 (2) a cause of action related to a guardianship in
7 which a guardian, ward, or proposed ward is a party.

8 (b) Except with respect to a cause of action described by
9 Section 15.007, Civil Practice and Remedies Code, venue for a cause
10 of action against a former guardian of a ward is proper in the court
11 in which the ward's guardianship is pending or was last pending.

12 (c) Notwithstanding any other provision of this chapter,
13 the proper venue for an action by or against a guardian for personal
14 injury, death, or any property damages related to the personal
15 injury or death action is determined under Section 15.007, Civil
16 Practice and Remedies Code.

17 SECTION 6. Sections 5A(f) and 607(e), Texas Probate Code,
18 are repealed.

19 SECTION 7. The changes in law made by this Act apply only to
20 actions commenced on or after the effective date of this Act. An
21 action that is commenced before the effective date of this Act is
22 governed by the law applicable to the action immediately before the
23 effective date of this Act, and that law is continued in effect for
24 that purpose.

25 SECTION 8. This Act takes effect September 1, 2009.