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AN ACT

1 relating to jurisdiction, venue, and appeals in certain matters,
2 including the jurisdiction of and appeals from certain courts and
3 administrative decisions and the appointment of counsel in certain
4 appeals.
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6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

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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.

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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,

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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:

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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

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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.

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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

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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

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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

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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:

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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.

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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

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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

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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

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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

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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

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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

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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

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S.B. No. 408

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.

S.B. No. 408

David Newkum
President of the Senate

Jim Strawn
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.

Antony Spaw
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.

Robert Haney
Chief Clerk of the House

Approved:

19 Jun 09
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

JUN 18 2009

Colby Shuter III