

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE B. SCOPE, JURISDICTION, AND VENUE

CHAPTER 1023. VENUE

Sec. 1023.001. VENUE FOR APPOINTMENT OF GUARDIAN. (a) Except as otherwise authorized by this section, a proceeding for the appointment of a guardian for the person or estate, or both, of an incapacitated person shall be brought in the county in which the proposed ward resides or is located on the date the application is filed or in the county in which the principal estate of the proposed ward is located.

(b) A proceeding for the appointment of a guardian for the person or estate, or both, of a minor may be brought:

(1) in the county in which both the minor's parents reside;

(2) if the parents do not reside in the same county, in the county in which the parent who is the sole managing conservator of the minor resides, or in the county in which the parent who is the joint managing conservator with the greater period of physical possession of and access to the minor resides;

(3) if only one parent is living and the parent has custody of the minor, in the county in which that parent resides;

(4) if both parents are dead but the minor was in the custody of a deceased parent, in the county in which the last surviving parent having custody resided; or

(5) if both parents of a minor child have died in a common disaster and there is no evidence that the parents died other than simultaneously, in the county in which both deceased parents resided at the time of their simultaneous deaths if they resided in the same county.

(c) A proceeding for the appointment of a guardian who was appointed by will may be brought in the county in which the will was admitted to probate or in the county of the appointee's residence if the appointee resides in this state.

(d) Repealed by Acts 1999, 76th Leg., ch. 379, Sec. 10, eff. Sept. 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 957, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 379, Sec. 10, eff. Sept. 1, 1999.

Transferred and redesignated from Probate Code, Art/Sec 610 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(c), eff. January 1, 2014.

Sec. 1023.002. CONCURRENT VENUE AND TRANSFER FOR WANT OF VENUE. (a) If two or more courts have concurrent venue of a guardianship proceeding, the court in which an application for a guardianship proceeding is initially filed has and retains jurisdiction of the proceeding. A proceeding is considered commenced by the filing of an application alleging facts sufficient to confer venue, and the proceeding initially legally commenced extends to all of the property of the guardianship estate.

(b) If a guardianship proceeding is commenced in more than one county, it shall be stayed except in the county in which it was initially commenced until final determination of proper venue is made by the court in the county in which it was initially commenced.

(c) If it appears to the court at any time before the guardianship is closed that the proceeding was commenced in a court that did not have venue over the proceeding, the court shall, on the application of any interested person, transfer the proceeding to the proper county.

(d) When a proceeding is transferred to another county under a provision of this chapter, all orders entered in connection with the proceeding shall be valid and shall be recognized in the court to which the guardianship was ordered transferred, if the orders were made and entered in conformance with the procedures prescribed by this code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(d), eff. January 1, 2014.

Sec. 1023.003. TRANSFER OF GUARDIANSHIP TO ANOTHER COUNTY.

(a) When a guardian or any other person desires to transfer the

transaction of the business of the guardianship from one county to another, the person shall file a written application in the court in which the guardianship is pending stating the reason for the transfer.

(b) With notice as provided by Section 1023.004, the court in which a guardianship is pending, on the court's own motion, may transfer the transaction of the business of the guardianship to another county if the ward resides in the county to which the guardianship is to be transferred.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 514 (S.B. 39), Sec. 1(c), eff. September 1, 2017.

Sec. 1023.004. NOTICE. (a) On filing an application or on motion of a court to transfer a guardianship to another county under Section 1023.003, the sureties on the bond of the guardian shall be cited by personal service to appear and show cause why the guardianship should not be transferred.

(b) If an application is filed by a person other than the guardian, the guardian shall be cited by personal service to appear and show cause why the guardianship should not be transferred.

(c) If a court made a motion to transfer a guardianship, the guardian shall be given notice by certified mail to appear and show cause why the guardianship should not be transferred.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(e), eff. January 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 514 (S.B. 39), Sec. 1(d), eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 243 (H.B. 1296), Sec. 1, eff. September 1, 2021.

Sec. 1023.005. COURT ACTION. (a) On hearing an

application or motion under Section [1023.003](#), if it appears that transfer of the guardianship is in the best interests of the ward and either the ward has resided in the county to which the guardianship is to be transferred for at least six months or good cause is not otherwise shown to deny the transfer, the court shall enter an order:

(1) authorizing the transfer on payment on behalf of the estate of all accrued costs;

(2) requiring that any existing bond of the guardian must remain in effect until a new bond has been given or a rider has been filed in accordance with Section [1023.010](#); and

(3) certifying that the guardianship is in compliance with this code at the time of transfer.

(b) In making a determination that the transfer is in the best interests of the ward under Subsection (a), the court may consider:

(1) the interests of justice;

(2) the convenience of the parties; and

(3) the preference of the ward, if the ward is 12 years of age or older.

(c) On receipt of an order described by Subsection (a), the county shall accept the transfer of the guardianship.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. [1438](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 514 (S.B. [39](#)), Sec. 1(e), eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 382 (S.B. [1129](#)), Sec. 1, eff. September 1, 2021.

Sec. 1023.006. TRANSFER OF RECORD. When an order of transfer is made under Section [1023.005](#), the clerk shall record any unrecorded papers of the guardianship required to be recorded. On payment of the clerk's fee, the clerk shall transmit in electronic or paper form to the county clerk of the county to which the

guardianship was ordered transferred:

- (1) the case file of the guardianship proceedings; and
- (2) a certified copy of the index of the guardianship records.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 14, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 13, eff. September 1, 2021.

Sec. 1023.007. TRANSFER EFFECTIVE. The order transferring a guardianship does not take effect until:

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

- (2) a certificate under the clerk's official seal and reporting the filing of the case file and a certified copy of the index is filed in electronic or paper form in the court ordering the transfer by the county clerk of the county to which the guardianship was ordered transferred.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 15, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 14, eff. September 1, 2021.

Sec. 1023.008. CONTINUATION OF GUARDIANSHIP. (a) When a guardianship is transferred from one county to another in accordance with this chapter:

- (1) the guardianship proceeds in the court to which it was transferred as if it had been originally commenced in that court;

(2) the court to which the guardianship is transferred becomes the court of continuing, exclusive jurisdiction;

(3) a proceeding relating to the guardianship that is commenced in the court ordering the transfer continues in the court to which the guardianship is transferred as if the proceeding commenced in the receiving court;

(4) a judgment or order entered in the guardianship before the transfer has the same effect and must be enforced as a judgment or order entered by the court to which the guardianship is transferred; and

(5) the court ordering the transfer does not retain:

(A) jurisdiction of the ward who is the subject of the guardianship; and

(B) the authority to enforce an order entered for a violation of this title that occurred before or after the transfer.

(b) It is not necessary to record in the receiving court any of the papers in the case that were recorded in the court from which the case was transferred.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 382 (S.B. 1129), Sec. 2, eff. September 1, 2021.

Sec. 1023.009. NEW GUARDIAN APPOINTED ON TRANSFER. If it appears to the court that transfer of the guardianship is in the best interests of the ward, but that because of the transfer it is not in the best interests of the ward for the guardian of the estate to continue to serve in that capacity, the court may in its order of transfer revoke the letters of guardianship and appoint a new guardian, and the former guardian shall account for and deliver the estate as provided by this title in a case in which a guardian resigns.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Sec. 1023.010. REVIEW OF TRANSFERRED GUARDIANSHIP.

(a) Not later than the 90th day after the date the transfer of the guardianship takes effect under Section 1023.007, the court to which the guardianship was transferred shall hold a hearing to consider modifying the rights, duties, and powers of the guardian or any other provisions of the transferred guardianship.

(b) After the hearing described by Subsection (a), the court to which the guardianship was transferred shall enter an order requiring the guardian to:

(1) give a new bond payable to the judge of the court to which the guardianship was transferred; or

(2) file a rider to an existing bond noting the court to which the guardianship was transferred.

Added by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.015(a), eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 2, eff. September 1, 2015.

Sec. 1023.011. NO LIABILITY OF JUDGE. (a) When a guardianship is transferred from one county to another in accordance with this chapter, a judge of the court from which the guardianship is transferred may not be held civilly liable for any injury, damage, or loss to the ward or the ward's estate that occurs after the transfer.

(b) A judge of the court to which a guardianship is transferred as described by Subsection (a) may not be held civilly liable for any injury, damage, or loss to the ward or the ward's estate that occurred before the transfer.

Added by Acts 2021, 87th Leg., R.S., Ch. 382 (S.B. 1129), Sec. 3, eff. September 1, 2021.