

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE A. SCOPE, JURISDICTION, VENUE, AND COURTS

CHAPTER 33. VENUE

SUBCHAPTER A. VENUE FOR CERTAIN PROCEEDINGS

Sec. 33.001. PROBATE OF WILLS AND GRANTING OF LETTERS TESTAMENTARY AND OF ADMINISTRATION. (a) Venue for a probate proceeding to admit a will to probate or for the granting of letters testamentary or of administration is:

(1) in the county in which the decedent resided, if the decedent had a domicile or fixed place of residence in this state; or

(2) with respect to a decedent who did not have a domicile or fixed place of residence in this state:

(A) if the decedent died in this state, in the county in which:

(i) the decedent's principal estate was located at the time of the decedent's death; or

(ii) the decedent died; or

(B) if the decedent died outside of this state:

(i) in any county in this state in which the decedent's nearest of kin reside; or

(ii) if there is no next of kin of the decedent in this state, in the county in which the decedent's principal estate was located at the time of the decedent's death.

(b) For purposes of this section:

(1) the decedent's next of kin:

(A) is the decedent's surviving spouse, or if there is no surviving spouse, other relatives of the decedent within the third degree by consanguinity; and

(B) includes a person who legally adopted the decedent or has been legally adopted by the decedent and that person's descendants; and

(2) the decedent's nearest of kin is determined in accordance with order of descent, with the decedent's next of kin

who is nearest in order of descent first, and so on.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 844 (H.B. 2271), Sec. 2, eff. September 1, 2017.

Sec. 33.002. ACTION RELATED TO PROBATE PROCEEDING IN STATUTORY PROBATE COURT. Except as provided by Section 33.003, venue for any cause of action related to a probate proceeding pending in a statutory probate court is proper in the statutory probate court in which the decedent's estate is pending.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Sec. 33.003. CERTAIN ACTIONS INVOLVING PERSONAL REPRESENTATIVE. Notwithstanding any other provision of this chapter, the proper venue for an action by or against a personal representative for personal injury, death, or property damages is determined under Section 15.007, Civil Practice and Remedies Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Sec. 33.004. HEIRSHIP PROCEEDINGS. (a) Venue for a proceeding to determine a decedent's heirs is in:

(1) the court of the county in which a proceeding admitting the decedent's will to probate or administering the decedent's estate was most recently pending; or

(2) the court of the county in which venue would be proper for commencement of an administration of the decedent's estate under Section 33.001 if:

(A) no will of the decedent has been admitted to probate in this state and no administration of the decedent's estate has been granted in this state; or

(B) the proceeding is commenced by the trustee of a trust holding assets for the benefit of the decedent.

(b) Notwithstanding Subsection (a) and Section 33.001, if

there is no administration pending of the estate of a deceased ward who died intestate, venue for a proceeding to determine the deceased ward's heirs is in the probate court in which the guardianship proceedings with respect to the ward's estate were pending on the date of the ward's death. A proceeding described by this subsection may not be brought as part of the guardianship proceedings with respect to the ward's estate, but rather must be filed as a separate cause in which the court may determine the heirs' respective shares and interests in the estate as provided by the laws of this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Sec. 33.005. CERTAIN ACTIONS INVOLVING BREACH OF FIDUCIARY DUTY. Notwithstanding any other provision of this chapter, venue for a proceeding brought by the attorney general alleging breach of a fiduciary duty by a charitable entity or a fiduciary or managerial agent of a charitable trust is determined under Section 123.005, Property Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

#### SUBCHAPTER B. DETERMINATION OF VENUE

Sec. 33.051. COMMENCEMENT OF PROCEEDING. For purposes of this subchapter, a probate proceeding is considered commenced on the filing of an application for the proceeding that avers facts sufficient to confer venue on the court in which the application is filed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Sec. 33.052. CONCURRENT VENUE. (a) If applications for probate proceedings involving the same estate are filed in two or more courts having concurrent venue, the court in which a proceeding involving the estate was first commenced has and retains jurisdiction of the proceeding to the exclusion of the other court

or courts in which a proceeding involving the same estate was commenced.

(b) The first commenced probate proceeding extends to all of the decedent's property, including the decedent's estate property. Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Sec. 33.053. PROBATE PROCEEDINGS IN MORE THAN ONE COUNTY. If probate proceedings involving the same estate are commenced in more than one county, each proceeding commenced in a county other than the county in which a proceeding was first commenced is stayed until the court in which the proceeding was first commenced makes a final determination of venue. Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Sec. 33.054. JURISDICTION TO DETERMINE VENUE. (a) Subject to Sections 33.052 and 33.053, a court in which an application for a probate proceeding is filed has jurisdiction to determine venue for the proceeding and for any matter related to the proceeding.

(b) A court's determination under this section is not subject to collateral attack. Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Sec. 33.055. PROTECTION FOR CERTAIN PURCHASERS. Notwithstanding Section 33.052, a bona fide purchaser of real property who relied on a probate proceeding that was not the first commenced proceeding, without knowledge that the proceeding was not the first commenced proceeding, shall be protected with respect to the purchase unless before the purchase an order rendered in the first commenced proceeding admitting the decedent's will to probate, determining the decedent's heirs, or granting administration of the decedent's estate was recorded in the office of the county clerk of the county in which the purchased property is located. Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec.

2.04, eff. January 1, 2014.

#### SUBCHAPTER C. TRANSFER OF PROBATE PROCEEDING

Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS PROPER. If probate proceedings involving the same estate are commenced in more than one county and the court making a determination of venue as provided by Section 33.053 determines that venue is proper in another county, the court clerk shall transmit the file for the proceeding in accordance with the procedures provided by Section 33.105 to the court in the county in which venue is proper. The court to which the file is transmitted shall conduct the proceeding in the same manner as if the proceeding had originally been commenced in that county.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 2, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 11.001, eff. September 1, 2023.

Sec. 33.102. TRANSFER FOR WANT OF VENUE.

(a) If it appears to the court at any time before the final order in a probate proceeding is rendered that the court does not have priority of venue over the proceeding, the court shall, on the application of an interested person, transfer the proceeding to the proper county by transmitting the file for the proceeding in accordance with the procedures provided by Section 33.105 to the proper court in that county.

(b) The court of the county to which a probate proceeding is transferred under Subsection (a) shall complete the proceeding in the same manner as if the proceeding had originally been commenced

in that county.

(c) If the question as to priority of venue is not raised before a final order in a probate proceeding is announced, the finality of the order is not affected by any error in venue.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 3, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 11.002, eff. September 1, 2023.

Sec. 33.103. TRANSFER FOR CONVENIENCE. (a) The court may order that a probate proceeding be transferred to the proper court in another county in this state if it appears to the court at any time before the proceeding is concluded that the transfer would be in the best interest of:

(1) the estate; or

(2) if there is no administration of the estate, the decedent's heirs or beneficiaries under the decedent's will.

(b) The clerk of the court from which the probate proceeding described by Subsection (a) is transferred shall transmit the file for the proceeding in accordance with the procedures provided by Section 33.105 to the court to which the proceeding is transferred.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 11.011, and Ch. 256 (H.B. 1612), Sec. 27(a)(2), eff. September 1, 2023.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.04, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 4, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 4, eff.

September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. [1612](#)), Sec. 3, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. [1612](#)), Sec. 27(a)(2), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. [3474](#)), Sec. 11.003, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. [3474](#)), Sec. 11.011, eff. September 1, 2023.

Sec. 33.104. VALIDATION OF PREVIOUS PROCEEDINGS. All orders entered in connection with a probate proceeding that is transferred to another county under a provision of this subchapter are valid and shall be recognized in the court to which the proceeding is transferred if the orders were made and entered in conformance with the procedure prescribed by this code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. [1198](#)), Sec. 2.04, eff. January 1, 2014.

Sec. 33.105. TRANSFER OF PROBATE PROCEEDING RECORD.

(a) If a probate proceeding is transferred to a court in another county under this chapter, the clerk of the transferring court shall send to the clerk of the court to which the proceeding is transferred, using the electronic filing system established under Section [72.031](#), Government Code:

(1) a transfer certificate and index of transferred documents;

(2) a copy of each final order;

(3) a copy of the order of transfer signed by the transferring court;

(4) a copy of the original papers filed in the transferring court, including a copy of any will;

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

(6) a bill of any costs accrued in the transferring court.

(b) The clerk of the transferring court shall use the

standardized transfer certificate and index of transferred documents form developed by the Office of Court Administration of the Texas Judicial System under Section 72.037, Government Code, when transferring a proceeding under this section.

(c) The clerk of the transferring court shall keep a copy of the documents transferred under Subsection (a).

(d) The clerk of the court to which the proceeding is transferred shall:

(1) accept documents transferred under Subsection (a);

(2) docket the proceeding; and

(3) notify, using the electronic filing system established under Section 72.031, Government Code, all parties to the proceeding, the clerk of the transferring court, and, if appropriate, the transferring court's local registry that the proceeding has been docketed.

(e) The clerk of the transferee court shall physically or electronically mark or stamp the transfer certificate and index of transferred documents to evidence the date and time of acceptance under Subsection (d) but may not physically or electronically mark or stamp any other document transferred under Subsection (a).

(f) The clerks of both the transferee and transferring courts may each produce under Chapter 51, Government Code, certified or uncertified copies of documents transferred under Subsection (a) but must include a copy of the transfer certificate and index of transferred documents with each document produced.

(g) Sections 80.001 and 80.002, Government Code, do not apply to the transfer of documents under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 4, eff. September 1, 2023.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 11.004, eff. September 1, 2023.