

## **BILL ANALYSIS**

C.S.S.B. 1056  
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Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that requiring the executor or administrator of an estate to travel to the county in which the decedent resided to participate in probate proceedings is impracticable given the size of Texas. C.S.S.B. 1056 seeks to provide a means by which a court can transfer a probate proceeding to the county in which the estate's executor or administrator resides if no immediate family member of the decedent resides in the same county in which the decedent resided.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 1056 amends the Estates Code to authorize a court, after the issuance in a probate proceeding of letters testamentary or of administration to the executor or administrator of an estate, to order on motion of the executor or administrator that the proceeding be transferred to another county in Texas in which the executor or administrator resides if no parent, spouse, child, or sibling of the decedent resides in the same county in which the decedent resided. The bill requires the clerk of the court from which the probate proceeding is transferred to transmit the original file in the proceeding and a certified copy of the index to the court to which the proceeding is transferred. The bill requires the executor or administrator to provide the required notice regarding presentment of claims against the estate in the county of the court that originally issued the letters testamentary or of administration.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1056 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subchapter C, Chapter 33, Estates Code, is amended by adding Section 33.1011 to read as follows:

Sec. 33.1011. TRANSFER TO COUNTY IN WHICH EXECUTOR OR ADMINISTRATOR RESIDES. (a) In this section, "immediate family member" means the parent, spouse, child, or sibling of a person.

(b) After the issuance in a probate proceeding of letters testamentary or of administration to the executor or administrator of an estate, the court, on motion of the executor or administrator, may order that the proceeding be transferred to another county in this state in which the executor or administrator resides if no immediate family member of the decedent resides in the same county in which the decedent resided.

(c) The clerk of the court from which the probate proceeding described by Subsection (b) is transferred shall transmit to the court to which the proceeding is transferred:

- (1) the original file in the proceeding; and
- (2) a certified copy of the index.

SECTION 2. Section 33.1011, Estates Code, as added by this Act, applies only to the estate of a decedent who dies on or after the effective date of this Act. The estate of a decedent who dies before the effective date of this Act is governed by the law in effect on the date of the decedent's death, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter C, Chapter 33, Estates Code, is amended by adding Section 33.1011 to read as follows:

Sec. 33.1011. TRANSFER TO COUNTY IN WHICH EXECUTOR OR ADMINISTRATOR RESIDES. (a) In this section, "immediate family member" means the parent, spouse, child, or sibling of a person.

(b) After the issuance in a probate proceeding of letters testamentary or of administration to the executor or administrator of an estate, the court, on motion of the executor or administrator, may order that the proceeding be transferred to another county in this state in which the executor or administrator resides if no immediate family member of the decedent resides in the same county in which the decedent resided.

(c) The clerk of the court from which the probate proceeding described by Subsection (b) is transferred shall transmit to the court to which the proceeding is transferred:

- (1) the original file in the proceeding; and
- (2) a certified copy of the index.

(d) Notwithstanding the date of any transfer under this section, the executor or administrator shall provide the notice required by Section 308.051 in the county of the court that originally issued the letters testamentary or of administration.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.