

SHORT TITLE: Guardian and ward; eliminating certain choice of venue for guardianship proceeding; repealer; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1301

By: Henry

AS INTRODUCED

An Act relating to guardianship; amending 30 O.S. 1991, Section 1-115, which relates to guardianship proceedings; modifying choice of venue for guardianship proceeding; amending 58 O.S. 1991, Section 1, as amended by Section 6, Chapter 253, O.S.L. 1995 (58 O.S. Supp. 1995, Section 1), which relates to probate procedure; deleting language granting certain jurisdiction; repealing 58 O.S. 1991, Sections 8 and 10, which relate to transfer of certain probate proceedings; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 30 O.S. 1991, Section 1-115, is amended to read as follows:

Section 1-115. A. The venue for a guardianship proceeding is in:

1. The district court of the county where the minor or the incapacitated or partially incapacitated person resides; or

~~2. The district court of the county where the proposed guardian resides if the proposed guardian is a member of the minor's or incapacitated person's family; or~~

~~3. The district court of the county to which the cause is transferred by a judge of the court in which the petition was filed or the cause is pending. Provided, venue to appoint the guardian of a nonresident minor or incapacitated person shall be in a county where the nonresident has property.~~

B. If a proceeding pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act could be maintained in more

than one place in this state, the court in which the proceeding is first commenced has the exclusive right to exercise jurisdiction over the proceeding and proceed with the action.

1. If proceedings concerning the same estate, minor, alleged incapacitated, or partially incapacitated person, or ward are commenced in more than one court of this state, the court in which a proceeding was first commenced shall continue to hear the matter and determine venue. If the court where the proceeding was first filed determines that venue is properly in another court, it shall transfer the proceeding to the other court.

2. If the court finds that in the interest of justice a proceeding should be conducted in another court of this state, the court may transfer the proceeding to the other court.

C. If both guardianship and conservatorship proceedings ~~as to~~ for the same person are commenced or pending in the same court, the proceedings may be consolidated.

SECTION 2. AMENDATORY 58 O.S. 1991, Section 1, as amended by Section 6, Chapter 253, O.S.L. 1995 (58 O.S. Supp. 1995, Section 1), is amended to read as follows:

Section 1. A. The district court has probate jurisdiction, and the judge thereof power, which must be exercised in the cases and in the manner prescribed by statute:

1. To open and receive proof of last wills and testaments, and to admit them to proof and to revoke the probate thereof, and to allow and record foreign wills;

2. To grant letters testamentary, of administration and of guardianship, and to revoke the same;

3. To appoint appraisers of estates of deceased persons and of minors and incapacitated persons;

4. To compel executors, administrators, and guardians to render accounts;

5. To order the sale of property of estates, or belonging to minors or to incapacitated persons;

6. To order the payments of debts from estates or guardianships;

7. To order and regulate all distribution of property or estates of deceased persons;

8. To compel the attendance of witnesses and the production of title deeds, papers, and other property of an estate, or of a minor, or incapacitated persons;

9. To exercise all the powers conferred by this chapter or by other law; and

10. To make such orders as may be necessary to the exercise of the powers conferred upon it; ~~and~~

~~11. To appoint and remove guardians for infants, and for persons insane or who are otherwise incapacitated persons; to compel payment and delivery by them of money or property belonging to their wards, to control their conduct and settle their accounts.~~

B. The district court which has jurisdiction and venue of the administration of any estate is granted jurisdiction and venue to cause Oklahoma and federal estate taxes to be equitably apportioned and collected.

SECTION 3. REPEALER 58 O.S. 1991, Section 8 and 10, are hereby repealed.

SECTION 4. This act shall become effective November 1, 1996.

45-2-2213 KSM