

“Where to Probate a Will?”

LEGAL ARTICLE FALL 2018



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Question: I had a will made several years ago in Fayette County, Texas. Now I live in Austin in Travis County, Texas. If I pass away while I live in Travis County, do my children still have to probate my will in Fayette County? Where do they have to probate my will?

Answer: According to the Texas Probate Code, the proper venue to probate a decedent’s will is in the county where the decedent resided if the decedent had a residence in the state of Texas. If the decedent did not have a residence in the state of Texas but died in the state of Texas, then the will may be probated in the county of the decedent’s death or in the county where the decedent has most of his/her estate (i.e. - land.) Therefore, in your specific situation, if you are residing in Travis County and Travis County is your county of domicile, then the proper venue for your children to probate your will would be in Travis County and not where the will was drafted and/or executed.



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Wadler, Perches, Hundl & Kerlick with offices in Wharton (main office), Fulshear, El Campo and Richmond, Texas, and is the State Attorney and a director of the KJT, Catholic Union of Texas. Attorney’s note: The information in this column is not intended as legal advice but to provide a general understanding of the law.

Readers with legal problems, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances.

Submit your questions for this column via email to phundl@wphk-law.com or via U.S. Mail to Wadler, Perches, Hundl & Kerlick, Philip J. Hundl, c/o KJT Legal Column, 101 W. Burleson Street, Wharton, Texas 77488.