

SUBJECT: Administration of statutory probate courts and assignment of judges

COMMITTEE: Judicial Affairs — favorable, without amendment

VOTE: 7 ayes — Thompson, Capelo, Deshotel, Garcia, Hinojosa, Solis, Uresti

0 nays

2 absent — Hartnett, Talton

WITNESSES: For — None

Against — None

On — Judge Guy Herman, Judges of the Statutory Probate Courts

DIGEST: HB 900 would establish a local administrative statutory probate court judge in each county that had a statutory probate court. In a county with two or more statutory probate courts, the judges would have to elect a local administrative statutory court judge for a term of up to two years, but not on the basis of rotation or seniority. In a county with only one statutory probate court, that judge would serve as the local administrative statutory probate court judge.

The local administrative statutory probate court judge would have to:

- ! implement and execute local rules of administration;
- ! promulgate local rules of administration if needed;
- ! recommend any needs for outside assignment to dispose of court caseloads;
- ! supervise the expeditious movement of court caseloads;
- ! provide any requested statistical and management information;
- ! set hours and places for holding court;
- ! supervise the employment and performance of nonjudicial personnel;
- ! supervise budget and fiscal matters;
- ! coordinate and cooperate with any other local administrative court judge in the county; and

! performing other duties as directed by the presiding judge.

HB 900 also would define the administrative duties of the presiding judge of a statutory probate court. The presiding judge would have to:

- ! ensure the promulgation of local rules of administration in accordance with Texas Supreme Court guidelines;
- ! advise local statutory probate court judges on case-flow management practices and auxiliary court services;
- ! perform the duty of a local administrative probate court judge if that judge does not;
- ! appoint an assistant presiding judge;
- ! call and preside over annual meetings;
- ! call and convene other meetings as considered necessary;
- ! study available statistics reflecting the condition of dockets of the probate courts to determine the need for assigning judges; and
- ! compare local rules of court to achieve uniformity.

A presiding judge could appoint any special or standing committees of statutory probate court judges necessary or desirable for court management and administration.

A judge or a former or retired judge of a statutory probate court could be assigned to hold court in a court with probate jurisdiction if a county court judge requested the assignment of a statutory probate judge to hear a probate matter in the county court or if a local administrative statutory probate judge requested the assignment of such judge to hear a matter in a statutory probate court.

A statutory probate judge would have the jurisdiction, powers, and duties given to statutory probate court judges by general law. To be eligible for assignment, a former or retired judge could not have been removed from office and would have to certify under oath that the judge had not resigned after receiving notice of formal proceedings by the State Commission on Judicial Conduct and before the final disposition of the proceedings.

Statutory probate court judges in each county would have to adopt local rules of administration providing for assignment, docketing, transfer, and

hearing of all cases and for fair and equitable division of caseloads. The rules could:

- ! designate courts responsible for certain matters;
- ! provide for judicial vacation, sick leave, attendance at educational programs, and similar matters; and
- ! provide for any other matter necessary to carry out or improve the administration and management of the court system.

The rules could not allow a case to be transferred from one court to another unless the case was within the jurisdiction of the court where it was transferred.

A statutory probate court judge could hear and determine a matter pending in any probate court in the county and could sign a judgment or order in any of the courts regardless of whether the case was transferred. A judge would have to try any case and hear any proceeding as assigned and could serve as masters and magistrates of courts other than their own. A judge who had jurisdiction over a suit pending in one county could conduct any of the judicial proceedings except the trial on the merits in a different county, unless a party objected. A pretrial judge hold pretrial proceedings and hearings to which the judge has been assigned in the county in which the case was pending or in a county in which a related case was pending.

HB 900 would take effect September 1, 2001.

SUPPORTERS  
SAY:

Unlike the administrative systems in place for district and statutory county courts, statutory probate courts do not have a clear system. This leads to misunderstandings between administrative judges and statutory probate courts over who has the jurisdiction to control the docket system of the statutory probate court. The current administrative system of statutory probate courts also does not address current management and administrative needs. HB 900 would address those needs.

OPPONENTS  
SAY:

No apparent opposition.

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House Research Organization  
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