

BILL ANALYSIS

Senate Research Center
77R1304 KLA-F

H.B. 536
By: Thompson (Wentworth)
Jurisprudence
4/11/2001
Engrossed

DIGEST AND PURPOSE

Current law is unclear as to what court has jurisdiction over probate matters involving decedents' estates, guardianships, and mental health proceedings in a county that has a statutory probate court. As proposed, H.B. 536 clarifies jurisdiction by establishing that in a county with a statutory probate court, the statutory probate court is the only court with probate jurisdiction.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5, Texas Probate Code, as follows:

(c) Provides that in those counties in which there is no, rather than a, statutory probate court, but in which there is a county court at law or other statutory court exercising the jurisdiction of a probate court, all application, petitions, and motions regarding probate and administrations are required to be filed and heard in those courts and the constitutional county court, and not in the district courts, unless otherwise provided by law, rather than the legislature. Authorizes the judge of a county court to hear any of those matters regarding probate or administrations sitting for the judge of any other county court. Authorizes the judge of the constitutional county court in contested probate matters, and requires the judge on the motion of a party to the proceeding, to transfer the proceeding to the county court at law or a probate court other than a statutory probate court. Deletes text authorizing a statutory probate court to hear such a proceeding. Authorizes the court to which the proceeding is transferred to hear the proceeding as if originally filed in the court.

(d) Requires all applications, petitions, and motions regarding probate or administration, in those counties in which there is a statutory probate court, to be filed and heard in the statutory probate court, unless otherwise provided by law.

Makes conforming and nonsubstantive changes to Subsections (b), (e), (f), and (g).

SECTION 2. Amends Section 606, Texas Probate Code, as follows:

(c) Provides that in those counties in which there is no, rather than a, statutory probate court, but in which there is a county court at law or other statutory court exercising the jurisdiction of a probate court, all applications, petitions, and motions regarding certain matters are required to be filed and heard in those courts and the constitutional county court, rather than in the district courts, unless otherwise provided by law, rather than the legislature. Makes conforming changes.

(d) Provides that in those counties in which there is a statutory probate court, all applications,

petitions, and motions regarding guardianships, mental illness matters, or other matters addressed by this chapter are required to be filed and heard in the statutory probate court, unless otherwise provided by law.

Makes conforming and nonsubstantive changes to Subsections (b), (e), (f), and (g).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2001.