

BILL ANALYSIS

Senate Research Center

H.B. 3086
By: Hartnett (Wentworth)
Jurisprudence
5-13-97
Engrossed

DIGEST

Since the enactment of Section 25.0022, Government Code, there have been requests from the presiding judges of administrative judicial districts to the presiding statutory probate court judge to assign a statutory probate court judge to hear occasional probate matters in counties that do not have a judge hearing probate matters exclusively. The current statute has no provision allowing such an assignment when a statutory probate judge's expertise is needed.

Section 25.0022 allows compensation to a former or retired statutory probate judge who is assigned to a county with a statutory probate court but does not address the compensation to a former or retired judge assigned to a county that has no statutory probate court. Currently, there is no procedure for recusal of statutory probate judges.

H.B. 3086 is intended to give guidance to attorneys in determining the procedure to be followed. This bill would provide a procedure for the recusal of statutory probate court judges similar to the recusal rules governing the district and county courts. This would also allow the presiding statutory probate judge to assign a statutory probate judge to hear a probate matter in a county court or statutory county court at the request of the presiding judge of an administrative judicial district.

PURPOSE

As proposed, H.B. 3086 provides a procedure for the recusal of statutory probate court judges similar to the recusal rules governing the district and county courts, to allow the presiding statutory probate judge to assign a statutory probate judge to hear a probate matter in a county or statutory county court at the request of the presiding judge of an administrative judicial district. This bill also sets compensation for a former or retired statutory probate judge assigned to a county that does not have a statutory probate court.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 25.0022(i), (n), and (p), Government Code, to authorize judges to be assigned in the manner provided by this section to hold court in a statutory probate court, county court, or any other statutory court exercising probate jurisdiction under certain conditions, including when the presiding judge of an administrative judicial district requests the assignment of a statutory probate judge to hear a probate matter in a county court or statutory county court. Provides that a judge assigned under this section has the jurisdiction, powers, and duties given by Sections 5, 5A, 606, and 607, Probate Code. Requires a former or retired judge assigned to a county that does not have a statutory probate court to be paid an amount equal to the daily compensation of a judge of a statutory probate court in the county where the assigned judge was last elected.

SECTION 2. Amends Chapter 25B, Government Code, by adding Section 25.00255, as follows:

Sec. 25.00255. RECUSAL OR DISQUALIFICATION OF JUDGE. Authorizes a party in a hearing or trial in a statutory probate court to file with the clerk of the court a motion stating grounds for the recusal or disqualification of the judge. Sets forth additional

provisions regarding recusal or disqualification and related proceedings.

SECTION 3. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 4. Emergency clause.