

By: Hartnett

H.B. No. 1944

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the compensation of a statutory probate court judge
3 while assigned as a visiting judge.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 25.0022, Government Code, as amended by
6 Chapters 65, 440, 468, and 820, Acts of the 77th Legislature,
7 Regular Session, 2001, is reenacted and amended to read as follows:

8 Sec. 25.0022. ADMINISTRATION OF STATUTORY PROBATE COURTS.

9 (a) "Statutory probate court" has the meaning assigned by Section
10 3, Texas Probate Code.

11 (b) The judges of the statutory probate courts shall elect
12 from their number a presiding judge of the statutory probate
13 courts. The presiding judge serves a four-year term from the date
14 of qualification as the presiding judge.

15 (c) The presiding judge may perform the acts necessary to
16 carry out this section and to improve the management of the
17 statutory probate courts and the administration of justice.

18 (d) The presiding judge shall:

19 (1) ensure the promulgation of local rules of
20 administration in accordance with policies and guidelines set by
21 the supreme court;

22 (2) advise local statutory probate court judges on
23 case flow management practices and auxiliary court services;

24 (3) perform a duty of a local administrative statutory

1 probate court judge if the local administrative judge does not
2 perform that duty;

3 (4) appoint an assistant presiding judge of the
4 statutory probate courts;

5 (5) call and preside over annual meetings of the
6 judges of the statutory probate courts at a time and place in the
7 state as designated by the presiding judge;

8 (6) call and convene other meetings of the judges of
9 the statutory probate courts as considered necessary by the
10 presiding judge to promote the orderly and efficient administration
11 of justice in the statutory probate courts;

12 (7) study available statistics reflecting the
13 condition of the dockets of the probate courts in the state to
14 determine the need for the assignment of judges under this section;
15 and

16 (8) compare local rules of court to achieve uniformity
17 of rules to the extent practical and consistent with local
18 conditions.

19 (e) In addition to all other compensation, expenses, and
20 perquisites authorized by law, the presiding judge shall be paid
21 for performing the duties of a presiding judge an annual salary
22 equal to the maximum salary authorized by Section 74.051(b) for a
23 presiding judge of an administrative judicial region. The
24 presiding judge is entitled to receive reasonable expenses incurred
25 in administering those duties. The salary and expenses are paid by
26 the counties that have statutory probate courts, apportioned
27 according to the number of statutory probate courts in the county.

1 (f) Each county pays annually to the presiding judge, from
2 fees collected pursuant to Section 118.052(2)(A)(vi), Local
3 Government Code, the amount of the salary apportioned to it as
4 provided by this section and the other expenses authorized by this
5 section. The presiding judge shall place each county's payment of
6 salary and other expenses in an administrative fund, from which the
7 salary and other expenses are paid. The salary shall be paid in
8 equal monthly installments.

9 (g) The assistant presiding judge may assign probate judges
10 as provided by this section and perform the office of presiding
11 judge:

12 (1) on the death or resignation of the presiding judge
13 and until a successor presiding judge is elected; or

14 (2) when the presiding judge is unable to perform the
15 duties of the office because of absence, disqualification,
16 disabling illness, or other incapacity.

17 (h) A judge or a former or retired judge of a statutory
18 probate court may be assigned to hold court in a statutory probate
19 court, county court, or any statutory court exercising probate
20 jurisdiction when:

21 (1) a statutory probate judge requests assignment of
22 another judge to the judge's court;

23 (2) a statutory probate judge is absent, disabled, or
24 disqualified for any reason;

25 (3) a statutory probate judge is present or is trying
26 cases as authorized by the constitution and laws of this state and
27 the condition of the court's docket makes it necessary to appoint an

1 additional judge;

2 (4) the office of a statutory probate judge is vacant;

3 (5) the presiding judge of an administrative judicial
4 district requests the assignment of a statutory probate judge to
5 hear a probate matter in a county court or statutory county court;

6 (6) a motion to recuse the judge of a statutory probate
7 court has been filed;

8 (7) a county court judge requests the assignment of a
9 statutory probate judge to hear a probate matter in the county
10 court; or

11 (8) a local administrative statutory probate court
12 judge requests the assignment of a statutory probate judge to hear a
13 matter in a statutory probate court.

14 (i) A judge assigned under this section has the
15 jurisdiction, powers, and duties given by Sections 5, 5A, 5B, 606,
16 607, and 608, Texas Probate Code, to statutory probate court judges
17 by general law.

18 (j) ~~[To be eligible for assignment under this section a~~
19 ~~former or retired judge of a statutory probate court must:~~

20 ~~[(1) not have been removed from office; and~~

21 ~~[(2) certify under oath to the presiding judge, on a~~
22 ~~form prescribed by the state board of regional judges, that the~~
23 ~~judge did not resign from office after having received notice that~~
24 ~~formal proceedings by the State Commission on Judicial Conduct had~~
25 ~~been instituted as provided by Section 33.022 and before the final~~
26 ~~disposition of the proceedings.~~

27 ~~[(k)]~~ Except as otherwise provided by this section, the

1 salary, compensation, and expenses of a judge assigned under this
2 section are paid in accordance with state law.

3 (k) [~~(l)~~] The daily compensation of a former or retired
4 judge for purposes of this section is set at an amount equal to the
5 daily compensation of a judge of a statutory probate court in the
6 county in which the former or retired judge is assigned. A former
7 or retired judge assigned to a county that does not have a statutory
8 probate court shall be paid an amount equal to the daily
9 compensation of a judge of a statutory probate court in the county
10 where the assigned judge was last elected.

11 (l) [~~(m)~~] An assigned judge is entitled to receive
12 reasonable and necessary expenses for travel, lodging, and food.
13 The assigned judge shall furnish the presiding judge, for
14 certification, an accounting of those expenses with a statement of
15 the number of days the judge served.

16 (m) [~~(n)~~] ~~A judge assigned under this section has the~~
17 ~~jurisdiction, powers, and duties given by Sections 5, 5A, 5B, 606,~~
18 ~~607, and 608, Texas Probate Code, to statutory probate court judges~~
19 ~~by general law.~~

20 [~~(n)~~] The presiding judge shall certify to the county judge
21 in the county in which the assigned judge served:

22 (1) the expenses approved under Subsection (l) [~~(m)~~];

23 and

24 (2) a determination of the assigned judge's salary,
25 unless the salary is paid by the state in accordance with Subsection
26 (v).

27 (n) [~~(o)~~] A judge who has jurisdiction over a suit pending

1 in one county may, unless a party objects, conduct any of the
2 judicial proceedings except the trial on the merits in a different
3 county.

4 (o) The county in which the assigned judge served shall pay
5 out of the general fund of the county:

6 (1) expenses certified under Subsection (m) [~~(n)~~] to
7 the assigned judge; and

8 (2) the salary certified under Subsection (m) [~~(n)~~] to
9 the county in which the assigned judge serves, or, if the assigned
10 judge is a former or retired judge, to the assigned judge.

11 [~~(p) Except as otherwise provided by this section, the~~
12 ~~salary, compensation, and expenses of a judge assigned under this~~
13 ~~section are paid in accordance with state law.]~~

14 (p) In addition to all compensation and expenses authorized
15 by this section and other law, a judge who is assigned to a court
16 outside the county of the judge's residence is entitled to receive
17 \$25 for each day or fraction of a day served. The county in which
18 the judge served shall pay the additional compensation from the
19 county's general fund on certification by the presiding judge.

20 [~~(q) The daily compensation of a former or retired judge for~~
21 ~~purposes of this section is set at an amount equal to the daily~~
22 ~~compensation of a judge of a statutory probate court in the county~~
23 ~~in which the former or retired judge is assigned. A former or~~
24 ~~retired judge assigned to a county that does not have a statutory~~
25 ~~probate court shall be paid an amount equal to the daily~~
26 ~~compensation of a judge of a statutory probate court in the county~~
27 ~~where the assigned judge was last elected.]~~

1 (q) When required to attend an annual or special meeting
2 prescribed by this section, a judge is entitled to receive, in
3 addition to all other compensation allowed by law, actual and
4 necessary travel expenses incurred going to and returning from the
5 place of the meeting and actual and necessary expenses while
6 attending the meeting. On certification by the presiding judge,
7 the judge's county of residence shall pay the expenses from the
8 county's general fund.

9 ~~[(r) An assigned judge is entitled to receive reasonable and
10 necessary expenses for travel, lodging, and food. The assigned
11 judge shall furnish the presiding judge, for certification, an
12 accounting of those expenses with a statement of the number of days
13 the judge served.]~~

14 (r) Except as provided by Subsection (v), Chapter 74 and
15 Subchapter I, Chapter 75, do not apply to the assignment under this
16 section of statutory probate court judges.

17 ~~[(s) The presiding judge shall certify to the county judge
18 in the county in which the assigned judge served:~~

19 ~~[(1) the expenses approved under Subsection (r), and~~

20 ~~[(2) a determination of the assigned judge's salary.]~~

21 (s) The presiding judge may appoint any special or standing
22 committees of statutory probate court judges necessary or desirable
23 for court management and administration.

24 (t) ~~[The county in which the assigned judge served shall pay
25 out of the general fund of the county:~~

26 ~~[(1) expenses certified under Subsection (s) to the
27 assigned judge, and~~

1 ~~[(2) the salary certified under Subsection (s) to the~~
2 ~~county in which the assigned judge serves, or, if the assigned judge~~
3 ~~is a former or retired judge, to the assigned judge.~~

4 ~~[(u) In addition to all compensation and expenses~~
5 ~~authorized by this section and other law, a judge who is assigned to~~
6 ~~a court outside the county of the judge's residence is entitled to~~
7 ~~receive \$25 for each day or fraction of a day served. The county in~~
8 ~~which the judge served shall pay the additional compensation from~~
9 ~~the county's general fund on certification by the presiding judge.~~

10 ~~[(v) When required to attend an annual or special meeting~~
11 ~~prescribed by this section, a judge is entitled to receive, in~~
12 ~~addition to all other compensation allowed by law, actual and~~
13 ~~necessary travel expenses incurred going to and returning from the~~
14 ~~place of the meeting and actual and necessary expenses while~~
15 ~~attending the meeting. On certification by the presiding judge,~~
16 ~~the judge's county of residence shall pay the expenses from the~~
17 ~~county's general fund.~~

18 ~~[(w) The presiding judge may perform the acts necessary to~~
19 ~~carry out the provisions of this section and to improve the~~
20 ~~management of the statutory probate courts and the administration~~
21 ~~of justice.~~

22 ~~[(x) Chapter 74 and Subchapter I, Chapter 75, do not apply~~
23 ~~to the assignment under this section of statutory probate court~~
24 ~~judges.~~

25 ~~[(y)]~~ To be eligible for assignment under this section a
26 former or retired judge of a statutory probate court must:

- 27 (1) not have been removed from office; and

1 (2) certify under oath to the presiding judge, on a
2 form prescribed by the state board of regional judges, that the
3 judge did not resign from office after having received notice that
4 formal proceedings by the State Commission on Judicial Conduct had
5 been instituted as provided in Section 33.022 and before the final
6 disposition of the proceedings.

7 (u) [~~(y)~~] In addition to the eligibility requirements under
8 Subsection (t) [~~(x)~~], to be eligible for assignment under this
9 section in the judge's county of residence, a former or retired
10 judge of a statutory probate court must certify to the presiding
11 judge a willingness not to:

12 (1) appear and plead as an attorney in any court in the
13 judge's county of residence for a period of two years; and

14 (2) accept appointment as a guardian ad litem,
15 guardian of the estate of an incapacitated person, or guardian of
16 the person of an incapacitated person in any court in the judge's
17 county of residence for a period of two years.

18 (v) Notwithstanding any other law, the salary of a judge or
19 a former or retired judge assigned under Subsection (h)(5) or (7) to
20 serve in a statutory county court or constitutional county court
21 shall be paid by the state in the same manner as the salary of a
22 retired district judge assigned under Chapter 74 to serve in a
23 district court or statutory county court is paid by the state.

24 (w) For an assigned judge whose salary is paid by the state
25 in accordance with Subsection (v), the presiding judge shall
26 certify to the state a determination of the assigned judge's
27 salary.

1 SECTION 2. The change in law made by this Act applies only
2 to the assignment of a statutory probate court judge made on or
3 after the effective date of this Act. An assignment made before the
4 effective date of this Act is governed by the law in effect at the
5 time the assignment was made, and the former law is continued in
6 effect for that purpose.

7 SECTION 3. This Act takes effect September 1, 2003.