

By: Telford

H.B. No. 2552

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of or assignment of a statutory probate court judge to hear certain probate matters.

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

SECTION 1. Sections 5(b) and (c), Texas Probate Code, are amended to read as follows:

(b) In those counties in which there is no statutory probate court, county court at law, or other statutory court exercising the jurisdiction of a probate court, all applications, petitions, and motions regarding probate and administrations shall be filed and heard in the county court, except that in contested probate matters, the judge of the county court may on the judge's own motion only if the judge is not licensed to practice law in this state,

~~[4]~~or shall on the motion of any party to the proceeding, according to the motion~~,~~^[+] request as provided by Section 25.0022, Government Code, the assignment of a statutory probate court judge to hear the contested portion of the proceeding, or transfer the contested portion of the proceeding to the district court, which may then hear the contested matter as if originally filed in district court. If the judge of the county court has not transferred a contested probate matter to the district court at the time a party files a motion for assignment of a statutory probate court judge, the county judge shall grant the motion and may not transfer the matter to district court unless the party withdraws

1 the motion. A statutory probate court judge assigned to a contested
 2 probate matter as provided by this subsection has for that matter
 3 the jurisdiction and authority granted to a statutory probate court
 4 by Sections 5A and 5B of this code. The county court shall continue
 5 to exercise jurisdiction over the management of the estate with the
 6 exception of the contested matter until final disposition of the
 7 contested matter is made by the assigned judge or the district
 8 court. In contested matters transferred to the district court in
 9 those counties, the district court, concurrently with the county
 10 court, shall have the general jurisdiction of a probate court. Upon
 11 resolution of all pending contested matters, the contested portion
 12 of the probate proceeding shall be transferred by the district
 13 court to the county court for further proceedings not inconsistent
 14 with the orders of the district court. If a contested portion of
 15 the proceeding is transferred to a district court under this
 16 subsection, the clerk of the district court may perform in relation
 17 to the transferred portion of the proceeding any function a county
 18 clerk may perform in that type of contested proceeding.

19 (c) In those counties in which there is no statutory probate
 20 court, but in which there is a county court at law or other
 21 statutory court exercising the jurisdiction of a probate court, all
 22 applications, petitions, and motions regarding probate and
 23 administrations shall be filed and heard in those courts and the
 24 constitutional county court, rather than in the district courts,
 25 unless otherwise provided by law. The judge of a county court may
 26 hear any of those matters regarding probate or administrations
 27 sitting for the judge of any other county court. In contested

1 probate matters, the judge of the constitutional county court may
2 on the judge's own motion only if the judge is not licensed to
3 practice law in this state, and shall on the motion of a party to the
4 proceeding, transfer the proceeding to the county court at law or a
5 statutory court exercising the jurisdiction of a probate court
6 other than a statutory probate court. The court to which the
7 proceeding is transferred may hear the proceeding as if originally
8 filed in the court.

9 SECTION 2. Section 5, Texas Probate Code, as amended by this
10 Act, applies only to a proceeding that is instituted on or after the
11 effective date of this Act. A proceeding that is instituted before
12 the effective date of this Act is governed by the law in effect on
13 the date the proceeding was instituted, and the former law is
14 continued in effect for that purpose.

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