

By: Homer

H.B. No. 2815

A BILL TO BE ENTITLED

AN ACT

relating to the assignment of a statutory probate court judge in certain contested probate matters.

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

SECTION 1. Sections 5(b) and (b-1), 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. In contested probate matters, the judge of the county court:

(1) [may] on the judge's own motion [or shall on the motion of any party to the proceeding, according to the motion]:

(A) may [(1)] request the assignment of a statutory probate court judge to hear the contested portion of the proceeding, as provided by Section 25.0022, Government Code; or

(B) may [(2)] 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; and

(2) on the motion of any party to the proceeding, according to the motion:

(A) may request the assignment of a statutory probate court judge to hear the contested portion of the

1 proceeding, as provided by Section 25.0022, Government Code; or

2 (B) shall transfer the contested portion of the
3 proceeding to the district court, which may then hear the contested
4 matter as if originally filed in district court.

5 (b-1) If the judge of the county court has not transferred a
6 contested probate matter to the district court under this section
7 by the time a party files a motion for assignment of a statutory
8 probate court judge, the county judge may ~~[shall]~~ grant the motion
9 ~~[and may not transfer the matter to district court unless the party~~
10 ~~withdraws the motion]~~. A party to a proceeding may file a motion
11 for assignment of a statutory probate court judge under this
12 section before the matter becomes a contested probate matter, and
13 the motion is given effect as a motion for assignment of a statutory
14 probate court judge under Subsection (b) of this section if the
15 matter later becomes contested. A transfer of a contested probate
16 matter to district court under any authority other than the
17 authority provided by this section:

18 (1) is disregarded for purposes of this section; and

19 (2) does not affect ~~[defeat]~~ the right of a party to
20 the matter to request that ~~[have]~~ the matter be assigned to a
21 statutory probate court judge in accordance with this section.

22 SECTION 2. (a) The changes in law made by this Act to
23 Section 5, Texas Probate Code, apply only to a probate proceeding or
24 other action commenced on or after the effective date of this Act
25 without regard to whether:

26 (1) the decedent's death occurred before, on, or after
27 that date; or

1 (2) the probate proceeding or other action is the
2 original proceeding or action.

3 (b) A probate proceeding or other action commenced before
4 the effective date of this Act is governed by the law applicable to
5 the proceeding or action immediately before the effective date of
6 this Act, and that law is continued in effect for that purpose.

7 SECTION 3. This Act takes effect September 1, 2007.