

## **BILL ANALYSIS**

C.S.H.B. 1744  
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Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties suggest that the cost of some probate cases can be an unreasonable burden on some counties. C.S.H.B. 1744 seeks to provide for the payment of certain costs associated with certain assignments of a statutory probate court judge.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1744 amends the Estates Code to authorize a court, if a party to a probate proceeding in a county with no statutory probate or statutory county court exercising original probate jurisdiction files a granted motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding and on the court's own motion or on the motion of the party who filed the motion for assignment, to order that a county be reimbursed out of the estate for any amounts the county paid as compensation and expenses under statutory provisions relating to the administration of statutory probate courts.

C.S.H.B. 1744 amends the Government Code to authorize a statutory probate court judge so assigned to order that the county be reimbursed as an expense from the estate in accordance with the bill's provisions for any amounts the county paid as compensation and expenses arising under such statutory provisions. The bill requires, in the case that an assigned statutory probate court judge does not order such reimbursement, the party who requested the assignment to reimburse the county for the amounts paid by the county as compensation and expenses under such statutory provisions and, if more than one party to a proceeding filed the motion for the assignment of the statutory probate court judge, requires the statutory probate court judge to prescribe the amounts or manner of apportionment to the presiding judge of the statutory probate courts. The bill requires the presiding judge to certify to the county judge in the county in which the assigned judge served, if applicable, a determination of the amounts to be so apportioned to a party or between two or more parties together with the contact information of the party or parties, if applicable. The bill requires the county in which the assigned judge served, if applicable, to seek reimbursement from one or more parties of the amounts apportioned to a party or between the parties.

**EFFECTIVE DATE**

September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1744 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Subchapter B, Chapter 352, Estates Code, is amended by adding Section 352.054 to read as follows:  
Sec. 352.054. REIMBURSEMENT FOR CERTAIN COSTS FOR ASSIGNED JUDGE. If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding under Section 32.003 and the motion is granted, the court may, on the court's own motion or on the motion of the party who filed the motion for the assignment, order that a county be reimbursed out of the estate for any amounts the county paid as compensation and expenses under Sections 25.0022(o) and (p), Government Code.

SECTION 1. Section 25.0022, Government Code, is amended by amending Subsections (m), (o), and (p) and adding Subsection (o-1) to read as follows:  
(m) The presiding judge shall certify to the county judge in the county in which the assigned judge served:  
(1) the expenses approved under Subsection (1); ~~and~~  
(2) a determination of the assigned judge's salary; and  
(3) if applicable, a determination of the amounts to be apportioned to a party or between two or more parties to a probate proceeding as prescribed under Subsection (o-1), together with the contact information of the party or parties.  
(o) The county in which the assigned judge served:  
(1) ~~shall~~ pay out of the general fund of the county:  
(A) ~~(1)~~ expenses certified under Subsection (m) to the assigned judge; and  
(B) ~~(2)~~ the salary certified under

SECTION 2. Section 25.0022, Government Code, is amended by amending Subsections (m), (o), and (p) and adding Subsection (o-1) to read as follows:  
(m) The presiding judge shall certify to the county judge in the county in which the assigned judge served:  
(1) the expenses approved under Subsection (1); ~~and~~  
(2) a determination of the assigned judge's salary; and  
(3) if applicable, a determination of the amounts to be apportioned to a party or between two or more parties to a probate proceeding as prescribed under Subsection (o-1), together with the contact information of the party or parties.  
(o) The county in which the assigned judge served ~~shall~~:  
(1) pay out of the general fund of the county:  
(A) ~~(1)~~ expenses certified under Subsection (m) to the assigned judge; and  
(B) ~~(2)~~ the salary certified under

Subsection (m) to the county in which the assigned judge serves, or, if the assigned judge is a former or retired judge, to the assigned judge; and

(2) may seek reimbursement from one or more parties to a probate proceeding of the amounts apportioned to a party or between the parties as prescribed under Subsection (o-1).

(o-1) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding under Section 32.003, Estates Code, and the motion is granted, the party shall reimburse the county for the

compensation and expenses paid by the county under Subsections (o) and (p).

If more than one party to a proceeding files a motion for the assignment of a statutory probate court judge under Section 32.003, Estates Code, the statutory probate court judge shall:

(1) prescribe the amounts or manner by which the judge's compensation and expenses are to be equitably apportioned between those parties for purposes of reimbursement under this section; and

(2) provide the amounts or manner of apportionment to the presiding judge.

(p) In addition to all compensation and expenses authorized by this section and other law, a judge who is assigned to a court outside the county of the judge's residence is entitled to receive \$25 for each day or fraction of a day served. Subject to Subsection (o-1), the [The] county in which the judge served shall pay the additional compensation from the county's general fund on certification by the presiding judge.

SECTION 2. Section 25.0022, Government Code, as amended by this Act, applies only

Subsection (m) to the county in which the assigned judge serves, or, if the assigned judge is a former or retired judge, to the assigned judge; and

(2) if applicable, seek reimbursement from one or more parties to a probate proceeding of the amounts apportioned to a party or between the parties as prescribed under Subsection (o-1).

(o-1) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding under Section 32.003, Estates Code, and the motion is granted, the assigned statutory probate court judge may, in accordance with Section 352.054, Estates Code, order that the county be reimbursed as an expense from the estate for any amounts the county paid as compensation and expenses under Subsections (o) and (p). If the statutory probate court judge does not order the reimbursement of the county from the estate under this subsection:

(1) subject to Subdivision (2), the party who requested the assignment shall reimburse the county for the amounts paid by the county as compensation and expenses under Subsections (o) and (p); and

(2) if more than one party to a proceeding filed the motion for the assignment of the statutory probate court judge, the statutory probate court judge shall:

(A) prescribe the amounts or manner by which the judge's compensation and expenses are to be equitably apportioned between those parties for purposes of reimbursement under this section; and

(B) provide the amounts or manner of apportionment to the presiding judge.

(p) In addition to all compensation and expenses authorized by this section and other law, a judge who is assigned to a court outside the county of the judge's residence is entitled to receive \$25 for each day or fraction of a day served. Subject to Subsection (o-1), the [The] county in which the judge served shall pay the additional compensation from the county's general fund on certification by the presiding judge.

SECTION 3. Same as introduced version.

to a motion for the assignment of a statutory probate court judge under Section 32.003, Estates Code, that is filed on or after the effective date of this Act. A motion filed before the effective date of this Act is governed by the law in effect on the date the motion was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.