

BILL ANALYSIS

C.S.H.B. 2928
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported that in counties where the constitutional county courts exercise exclusive original probate jurisdiction, the question of whether contested probate matters should be heard by an assigned statutory probate court judge or by the applicable district court may be a cause of added contention. C.S.H.B. 2928 seeks to address this issue by changing the method of deciding this question to give the judge of the county court discretion in choosing between the options if the parties make conflicting requests rather than automatically favoring the assignment 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. 2928 amends the Estates Code to revise provisions relating to jurisdiction of contested probate proceedings in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction as follows:

- by authorizing the judge of the county court, if more than one party to the proceeding timely files a motion to request the assignment of a statutory probate court judge or a motion to transfer the contested matter to the district court and the motions conflict, to grant or deny either motion, with or without a hearing, as considered appropriate under the circumstances of the contested matter;
- by prohibiting the county court judge, after the filing of such a motion, from granting any relief with respect to the contested matter other than the assignment or transfer requested in the motion, except for injunctive relief as needed to maintain the status quo existing before the matter became contested;
- by removing language requiring the county court judge to grant a motion for the assignment of a statutory probate court judge, if such a motion is filed by a party before the county court judge transfers the contested matter to a district court and is not withdrawn, and prohibiting the county court judge from transferring the matter to the district court under those circumstances;
- by removing language specifying that the authority of the county court judge who requests the assignment of a statutory probate court judge to request that the probate court judge be assigned to the entire proceeding applies whether the request is made on

the county court judge's own motion or on the motion of a party to the proceeding;

- sets out the conditions under which a party's motion to request the assignment of a statutory probate court judge or to transfer the contested matter to the district court is considered timely; and
- establishes that such a motion may be amended or withdrawn at any time before the judge grants the motion.

C.S.H.B. 2928 removes a provision authorizing a party to file a motion for the assignment of a statutory probate court judge before a matter in the proceeding becomes contested.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2928 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces the requirement for the county court judge, in a contested probate proceeding in which more than one party files a motion to request the assignment of a statutory probate court judge or to transfer the contested matter to the district court, to grant the motion that was filed first with an authorization for the judge to grant or deny either motion, with or without a hearing, as considered appropriate.

The substitute removes language specifying on whose motion the county judge may request that a statutory probate court judge be assigned to an entire proceeding.

The substitute includes a prohibition against a county court judge granting any relief with respect to a contested matter after the filing of an applicable motion, with the exception of injunctive relief needed to maintain the status quo existing before the matter became contested.

The substitute includes a provision setting out the circumstances under which filing of an applicable motion is considered timely and establishing that such a motion may be amended or withdrawn at any time before the judge grants the motion.

The substitute does not include a provision authorizing a party to file an applicable motion before a matter in the proceeding becomes contested.