

By: Hughes

S.B. No. 1222

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of a former or retired justice of an appellate court as a visiting judge of a statutory probate court.

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

SECTION 1. Sections 25.0022(d), (h), (k), (o), (t), (u), and (w), Government Code, are amended to read as follows:

(d) The presiding judge shall:

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

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

(3) perform a duty of a local administrative statutory probate court judge if the local administrative judge does not perform that duty;

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

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

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

1 (7) study available statistics reflecting the
2 condition of the dockets of the probate courts in the state to
3 determine the need for the assignment of judges under this section;

4 (8) compare local rules of court to achieve uniformity
5 of rules to the extent practical and consistent with local
6 conditions;

7 (9) assign or order the clerk who serves the statutory
8 probate courts to randomly assign a judge or former or retired judge
9 of a statutory probate court or a former or retired justice of an
10 appellate court to hear a case under Section 25.002201(a) or
11 25.00255, as applicable; and

12 (10) require the local administrative judge for
13 statutory probate courts in a county to ensure that all statutory
14 probate courts in the county comply with Chapter 37.

15 (h) Subject to Section 25.002201, a judge or a former or
16 retired judge of a statutory probate court or a former or retired
17 justice of an appellate court may be assigned by the presiding judge
18 of the statutory probate courts to hold court in a statutory probate
19 court, a 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) the statutory probate judge is recused or
7 disqualified as described by Section 25.002201(a);

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 (k) The daily compensation of a former or retired judge or
15 justice for purposes of this section is set at an amount equal to
16 the daily compensation of a judge of a statutory probate court in
17 the county in which the former or retired judge or justice is
18 assigned. A former or retired judge or justice assigned to a county
19 that does not have a statutory probate court shall be paid an amount
20 equal to the daily compensation of a judge of a statutory probate
21 court in the county where the assigned judge or justice was last
22 elected.

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

25 (1) expenses certified under Subsection (m) to the
26 assigned judge; and

27 (2) the salary certified under Subsection (m) to the

1 county in which the assigned judge serves, or, if the assigned judge
2 is a former or retired judge or justice, to the assigned judge.

3 (t) To be eligible for assignment under this section, a
4 former or retired judge of a statutory probate court or a former or
5 retired justice of an appellate court must:

6 (1) not have been removed from office;

7 (2) certify under oath to the presiding judge, on a
8 form prescribed by the state board of regional judges, that:

9 (A) the judge or justice has not been publicly
10 reprimanded or censured by the State Commission on Judicial
11 Conduct; and

12 (B) the judge or justice:

13 (i) did not resign or retire from office
14 after the State Commission on Judicial Conduct notified the judge
15 or justice of the commencement of a full investigation into an
16 allegation or appearance of misconduct or disability of the judge
17 or justice as provided in Section 33.022 and before the final
18 disposition of that investigation; or

19 (ii) if the judge or justice did resign from
20 office under circumstances described by Subparagraph (i), was not
21 publicly reprimanded or censured as a result of the investigation;

22 (3) annually demonstrate that the judge or justice has
23 completed in the past state fiscal year the educational
24 requirements for an active statutory probate court judge;

25 (4) have served as an active judge or justice for at
26 least 72 months in a district, statutory probate, statutory county,
27 or appellate court; and

1 (5) have developed substantial experience in the
2 judge's or justice's area of specialty.

3 (u) In addition to the eligibility requirements under
4 Subsection (t), to be eligible for assignment under this section in
5 the judge's or justice's county of residence, a former or retired
6 judge of a statutory probate court or a former or retired justice of
7 an appellate court must certify to the presiding judge a
8 willingness not to:

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

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

15 (w) A former or retired judge or justice who is assigned
16 under this section is not an employee of the county in which the
17 assigned court is located.

18 SECTION 2. Section [25.002201](#), Government Code, is amended
19 to read as follows:

20 Sec. 25.002201. ASSIGNMENT OF JUDGE ON RECUSAL OR
21 DISQUALIFICATION. (a) Except as provided by Subsection (b), not
22 later than the 15th day after the date an order of recusal or
23 disqualification of a statutory probate court judge is issued in a
24 case, the presiding judge shall assign a statutory probate court
25 judge or a former or retired judge of a statutory probate court or a
26 former or retired justice of an appellate court to hear the case if:

27 (1) the judge of the statutory probate court recused

1 himself or herself under Section 25.00255(g)(1)(A);

2 (2) the judge of the statutory probate court
3 disqualified himself or herself under Section 25.00255(g-1);

4 (3) the order was issued under Section
5 25.00255(i-3)(1); or

6 (4) the presiding judge receives notice and a request
7 for assignment from the clerk of the statutory probate court under
8 Section 25.00255(1).

9 (b) If the judge who is the subject of an order of recusal or
10 disqualification is the presiding judge of the statutory probate
11 courts, the chief justice of the supreme court shall assign a
12 statutory probate judge, ~~or~~ a former or retired judge of a
13 statutory probate court, or a former or retired justice of an
14 appellate court to hear the case.

15 SECTION 3. Section 25.00255(a), Government Code, is amended
16 to read as follows:

17 (a) Notwithstanding any conflicting provision in the Texas
18 Rules of Civil Procedure, Rules 18a and 18b, Texas Rules of Civil
19 Procedure, apply to the recusal and disqualification of a statutory
20 probate court judge except as otherwise provided by this section or
21 another provision of this subchapter. The presiding judge:

22 (1) has the authority and shall perform the functions
23 and duties of the presiding judge of the administrative judicial
24 region under the rules, including the duty to hear or rule on a
25 referred motion of recusal or disqualification or, subject to
26 Subdivisions (2) and (3), assign a judge to hear and rule on a
27 referred motion of recusal or disqualification;

1 (2) may assign a presiding judge of the administrative
2 judicial region to hear and rule on a referred motion of recusal or
3 disqualification only with the consent of the presiding judge of
4 the administrative judicial region;

5 (3) may not assign a judge of a statutory probate court
6 located in the same county as the statutory probate court served by
7 the judge who is the subject of the motion of recusal or
8 disqualification; and

9 (4) if the presiding judge is the subject of the motion
10 of recusal or disqualification, shall sign and file with the clerk
11 an order referring the motion to the chief justice of the supreme
12 court for assignment of a presiding judge of an administrative
13 judicial region, a statutory probate court judge, ~~or~~ a former or
14 retired judge of a statutory probate court, or a former or retired
15 justice of an appellate court to hear and rule on the motion,
16 subject to Subdivisions (2) and (3).

17 SECTION 4. This Act takes effect September 1, 2025.