

CHAPTER 459

H.B. No. 360

AN ACT

relating to the jurisdiction of statutory probate courts and the assignment of statutory probate court judges in certain probate proceedings.

*Be it enacted by the Legislature of the State of Texas:*

2043

SECTION 1. Section 5A(b), Texas Probate Code, is amended to read as follows:

(b) In proceedings in the statutory probate courts and district courts, the phrases "appertaining to estates" and "incident to an estate" in this Code include the probate of wills, the issuance of letters testamentary and of administration, and the determination of heirship, and also include, but are not limited to, all claims by or against an estate, all actions for trial of title to land and for the enforcement of liens thereon, all actions for trial of the right of property, all actions to construe wills, the interpretation and administration of testamentary trusts and the applying of constructive trusts, and generally all matters relating to the settlement, partition, and distribution of estates of wards and deceased persons. All statutory probate courts may, in the exercise of their jurisdiction, notwithstanding any other provisions of this Code, hear all suits, actions, and applications filed against or on behalf of any guardianship, heirship proceeding, or decedent's estate, including estates administered by an independent executor. This subsection shall be construed in conjunction with and in harmony with Section 145 and all other sections of this Code dealing with independent executors, but shall not be construed so as to increase permissible judicial control over independent executors. All statutory probate courts shall have the same powers over independent executors that are exercisable by the district courts. In situations where the jurisdiction of a statutory probate court is concurrent with that of a district court, any cause of action appertaining to estates or incident to an estate shall be brought in a statutory probate court rather than in the district court. In actions by or against a personal representative, or in matters involving an *inter vivos* trust, the statutory probate courts have concurrent jurisdiction with the district courts.

SECTION 2. Chapter 781, Acts of the 68th Legislature, Regular Session, 1983 (Article 1969b, Vernon's Texas Civil Statutes), is amended by adding Section 3B to read as follows:

*Sec. 3B. AUTHORITY OF PRESIDING JUDGE. The presiding judge may perform the acts necessary to carry out the provisions of this Act and to improve the management of the statutory probate courts and the administration of justice.*

SECTION 3. Section 7, Chapter 781, Acts of the 68th Legislature, Regular Session, 1983 (Article 1969b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. ASSIGNMENT OF JUDGES. Judges may be assigned in the manner provided by this Act to hold court in a constitutional county court, statutory probate court, county court at law exercising probate jurisdiction, or any statutory court exercising probate jurisdiction when:

- (1) the regular judge requests assignment of another judge to his court;
- (2) the regular judge is absent or is disabled or disqualified for any cause;
- (3) the regular judge is present or is trying cases as authorized by the constitution and laws of this state; ~~or~~
- (4) the office of the regular judge is vacant by reason of death, resignation, or other cause; or
- (5) a motion to recuse the regular judge of a statutory probate court has been filed.

SECTION 4. Section 5(b), Texas Probate Code, is amended to read as follows:

(b) In those counties where 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, administrations, guardianships, limited guardianships, and mental illness matters shall be filed and heard in the county court, except that in contested probate matters, the judge of the county court may on his own motion (or shall on the motion of any party to the proceeding, according to the motion) request as provided by Chapter 781, Acts of the 68th Legislature, Regular Session, 1983 (Article 1969b, Vernon's Texas Civil Statutes), the assignment of a statutory probate judge to hear the contested portion of the proceeding, or ~~or shall on the motion of any party to the proceeding~~ transfer the contested portion of the ~~[such]~~ proceeding to the district court, which may then hear contested matter ~~[such proceeding]~~ as if originally