

- SUBJECT:** Allowing statutory county and probate courts to use special judges
- COMMITTEE:** Judiciary—favorable, without amendment
- VOTE:** 6 ayes — Hartnett, Hughes, Alonzo, Gonzales, Straus, Van Arsdale
0 nays
3 absent — Hopson, Keel, Solis
- WITNESSES:** For — Judge John Marshall; Judge Don Metcalfe
Against — None
- BACKGROUND:** Civil Practice and Remedies Code, sections 151.001 - 151.013, allows district court judges in whose court a civil or family law matter is pending to refer the case to a special judge if the parties to the case agree. Any or all issues of fact or law may be referred.
- A special judge must be a retired or former district, statutory county court, or appellate judge who has served as a judge for at least four years in a district, statutory county court, or appellate court. The special judge must have developed substantial experience in the judge's specialty and in the past year have completed at least five days of approved continuing legal education courses. A special judge must not have been removed from office or resigned while under investigation for discipline or removal.
- A special judge has most of the powers of the referring judge and conducts the trial without a jury. Parties share the special judge's fee and administrative costs. The special judge's verdict stands as a verdict of the district court. Parties may appeal the judge's verdict as they would a district court ruling.
- DIGEST:** HB 231 would amend the Civil Practice and Remedies Code to add statutory probate and county courts to those courts from which cases could be referred to special judges. All other aspects of the law applicable to referrals from district courts would apply to referrals from statutory probate and county courts.

The bill would take effect September 1, 2005, and apply to referrals to special judges made on or after that date.

**SUPPORTERS
SAY:**

HB 231 would help relieve clogged courts with overburdened dockets. An increase in filings in county courts of law, along with skyrocketing populations in many areas of Texas, has led to a backlog of cases in Texas courts. The bill would provide an efficient and cost-effective means of relief. Because the parties share the special judge's fees, the bill would pose no costs to the state or counties.

The bill would allow parties in statutory county or probate courts to circumvent long waits for trial by choosing a mutually agreed upon special judge to hear their case. In doing so, HB 231 would better equip the judiciary to respond to the need for a speedy disposition of justice.

Forty-eight states have similar laws that have proven to be effective. Texas eligibility requirements for special judges are among the most stringent, ensuring that only qualified and experienced judges hear cases.

**OPPONENTS
SAY:**

By continuing to place the cost of the special judge on the parties, this bill would expand a benefit only for those who could afford to pay to have their cases heard outside the traditional court system. Those who could not afford to pay for special judges still would have to wait for their day in court.