

BILL ANALYSIS

Senate Research Center

S.B. 402
By: Harris
Jurisprudence
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As Filed

DIGEST

Currently, the law does not permit probate court masters to be appointed except for probable cause masters in mental health cases. The statutory probate court judges would like to be able to appoint masters, subject to approval of the county commissioners, to conduct hearings such as in probable cause hearings, or the uncontested docket, or while the judge is in a jury trial. This bill allows a probate court master to be appointed, subject to approval both of the commissioners court and the statutory probate court judge.

PURPOSE

As proposed, S.B. 402 allows probate court masters to be appointed in mental health cases.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the judge of a statutory probate court in SECTION 1 (Section 54.602, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. PROBATE MASTERS

Sec. 54.601. DEFINITION. Defines "statutory probate court."

Sec. 54.602. APPOINTMENT. Authorizes a judge of a statutory probate court, by order, to appoint a person to act as probate master, after obtaining approval of the commissioner's court. Requires a probate master to meet the qualifications to serve as a judge of the court to which appointed.

Sec. 54.603. DURATION OF APPOINTMENT. Prohibits a term of appointment from exceeding four years. Sets forth guidelines for termination of the probate master's appointment. Requires the appointing judge to note the duration of appointment.

Sec. 54.604. COMPENSATION. Provides that the probate master is entitled to the compensation set by the appointing judge and approved by the commissioner's court. Prohibits the salary of the probate master from exceeding the appointing judge's salary. Requires the compensation of the probate master to be paid by the county from the county general fund from which the appointing judge's salary is paid.

Sec. 54.605. OATH. Requires the probate master to take the constitutional oath.

Sec. 54.606. POWERS AND DUTIES. Provides that the probate master has all the powers and duties of the appointing judge, subject to the approval of the appointing judge.

Sec. 54.607. MAGISTRATE. Provides that a probate master appointed under this subchapter is a magistrate.

Sec. 54.608. ORDERS, JUDGMENTS, AND DECREES. Requires the appointing judge to reject or confirm all orders, judgments, and decrees of the probate master within a certain period of time. Provides that actions by the probate master have the same effect as those made by the appointing judge.

Sec. 54.609. JUDICIAL IMMUNITY. Provides that a probate master has the same judicial immunity as an appointing judge.

Sec. 54.610. OBJECTION TO PROBATE MASTER. Requires the appointing judge to give notice of a probate master's assigned responsibility for a matter. Prohibits a probate master from hearing a case if a party files a timely objection. Sets forth requirements for filing deadlines for objections.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.