

# ADMINISTRATION OF THE COURTS

## OUTLINE OF STATUTORY PROVISIONS

### SEPTEMBER 1, 1995

#### 1. JUDICIAL DEPARTMENT

a. **Judicial Power** (*Article 5, Section 1, Constitution*). The judicial power of the State is vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

#### 2. SUPREME COURT

a. **Jurisdiction of Supreme Court** (*Article 5, Section 3, Constitution*). The Supreme Court is empowered to exercise the judicial power of the State except as otherwise provided in the Constitution.

#### b. Court Administration

(1) **Rule-Making Authority** (*Article 5, Section 31, Constitution*). The Supreme Court is responsible for the efficient administration of the judicial branch and is authorized to promulgate rules of administration not inconsistent with the laws of the State as may be necessary for the efficient and uniform administration of justice in the various courts.

(2) **Supervisory and Administrative Control** (*Section 74.021, Government Code*). The Supreme Court has supervisory and administrative control over the judicial branch and is responsible for the orderly and efficient administration of justice.

(3) **Rules of Administration** (*Section 74.024, Government Code*). The Supreme Court is authorized to adopt rules of administration setting policies and procedures necessary or desirable for the operation and management of the court system and for the efficient administration of justice. The Rules of Judicial Administration are located in Title 2, Subtitle F--Appendix, of the Texas Government Code.

c. **Transfer of Cases -- Courts of Appeals** (*Section 73.001, Government Code*). The Supreme Court is empowered to transfer cases from one Court of Appeals to another at any time. Justices of the Court to which cases are transferred are directed to hear oral argument at the site of the Court where the cases were originally filed, but opinions and decisions are delivered at the city where the receiving Court regularly sits.

#### 3. CHIEF JUSTICE OF THE SUPREME COURT

a. **State of the Judiciary Message** (*Section 21.004, Government Code*). The Chief Justice of the Supreme Court is authorized to deliver a "State of the Judiciary" message at the commencement of each regular session of the Legislature.

#### b. Assignment of Justices and Judges

(1) **Assignment of Judges** (*Section 74.057, Government Code*). The Chief Justice of the Supreme Court is empowered to assign a judge residing in one Administrative Judicial Region for service in another Administrative Judicial Region.

(2) **Assignment of Retired Judges** (*Section 74.057, Government Code*). With the

retiree's consent, any judge who is retired and who makes an election to continue as a judicial officer after retirement under the provisions of Section 75.001 of the Texas Government Code may be assigned by the Chief Justice of the Supreme Court to sit on any court of the same or lesser dignity as that on which the person sat before retirement.

(3) **Assignment of Retired Appellate Justices and Judges to Administrative Judicial Region** (*Sections 74.056 and 75.002(b), Government Code*). The Chief Justice of the Supreme Court may assign a retiree whose last judicial office before retirement was that of justice or judge of the Supreme Court, the Court of Criminal Appeals, or a Court of Appeals to the Administrative Judicial Region in which the retiree resides for reassignment by the Presiding Judge of that region to a district or statutory county court in the region.

(4) **Assignment of Former Appellate Justices and Judges** (*Sections 74.056 and 75.003, Government Code*). With the former judge's consent, a former judge whose last judicial office before leaving active service was justice or judge of the Supreme Court, Court of Criminal Appeals, or a Court of Appeals may be assigned by the Chief Justice of the Supreme Court to sit on any appellate, district, or statutory county court; or to the Administrative Judicial Region in which the former judge resides for reassignment by the Presiding Judge of that region to a district or statutory county court within the region.

(5) **Assignment of Active Justices to Other Courts of Appeals** (*Section 74.003(a), Government Code*). The Chief Justice of the Supreme Court may temporarily assign a justice of a Court of Appeals to another Court of Appeals.

(6) **Assignment of Retired Appellate Justices and Judges to Courts of Appeals** (*Section 74.003(b), Government Code*). The Chief Justice of the Supreme Court may assign a qualified retired member of the Supreme Court, the Court of Criminal Appeals, or a Court of Appeals to a Court of Appeals for active service regardless of whether a vacancy exists in the court to which the justice is assigned.

c. **Supreme Court Duties** (*Section 74.006, Government Code*). The Chief Justice of the Supreme Court is directed to ensure that the Supreme Court executes and implements the Court's administrative duties and responsibilities under Chapter 74 of the Texas Government Code.

d. **Committees** (*Section 74.007, Government Code*). The Chief Justice, subject to the approval of the Supreme Court, is empowered to name and appoint members to committees necessary or desirable for the efficient administration of justice or to carry out the provisions of Chapter 74 of the Texas Government Code.

## *Administration of the Courts*

- e. **Supervision of the Office of Court Administration** (*Section 74.004, Government Code*). The Chief Justice of the Supreme Court is to direct and supervise the operations of the state Office of Court Administration.

#### 4. **OFFICE OF COURT ADMINISTRATION**

- a. **Administrative Matters** (*Chapter 72 and Section 74.023, Government Code*). The state Office of Court Administration was established in 1977 to provide administrative support and technical assistance to all of the courts in the state. The Supreme Court appoints the Administrative Director of the Courts who, as an additional duty of office, serves as Executive Director of the Texas Judicial Council. The Administrative Director consults with and assists judges, clerks, and other court personnel in discharging their administrative duties as provided by law or by rule adopted by the Supreme Court to promote a more efficient operation of the Texas Judicial System.
- b. **Duties** (*Sections 72.011-72.027 Government Code*). The duties assigned to the office by the above indicated statutory provisions include:
  - (1) assist the justices and judges in discharging their administrative duties;
  - (2) consult with the administrative judges and assist them in discharging duties imposed by law or by a rule adopted by the Supreme Court;
  - (3) recommend to the Supreme Court appropriate means to implement the Court Administration Act;
  - (4) examine the judicial dockets, practices, and procedures of the courts and the administrative and business methods or systems used in the office of a clerk of a court or in an office related to and serving a court and recommend necessary improvements or any other changes that will promote the efficient administration of justice;
  - (5) prepare and submit an estimated budget for the appropriation of funds necessary for the maintenance and operation of the judicial system, and study and recommend expenditures of funds appropriated for the maintenance and operation of the judicial system;
  - (6) consult with and assist court clerks, other court officers or employees, and clerks or other officers or employees of offices related to and serving a court to provide for the efficient administration of justice;
  - (7) consult with and make recommendations to administrators and coordinators of the courts to provide for uniform administration of the courts and efficient administration of justice;
  - (8) implement rules of administration or other rules adopted by the Supreme Court for the efficient administration of justice;
  - (9) perform such additional duties as may be assigned by the Supreme Court and by the Chief Justice; and
  - (10) prepare an annual report of the activities of the Office to be published in the Annual Report of the Texas Judicial Council.

In addition to these statutorily mandated duties, the agency performs many other functions at the direction of the Supreme Court. Secretariat services are provided to the Council of Presiding Judges of the Administrative Judicial Regions, the Board of Regional Judges for Title IV-D Account [Child Support Enforcement], the Judicial Districts Board, the Judicial Committee on Court Funding, and numerous other committees and task forces appointed by the Supreme Court in the area of judicial administration.

#### 5. **COURTS OF APPEALS**

- a. **Local Rules** (*Rule 1, Rules of Appellate Procedure*). Each Court of Appeals is empowered to make and amend rules governing its practice that are not inconsistent with the Rules of Appellate Procedure.

#### 6. **PRESIDING JUDGES OF ADMINISTRATIVE JUDICIAL REGIONS**

- a. **Appointment of Regional Presiding Judges** (*Section 74.005, Government Code*). The Governor, with the advice and consent of the Senate, is to appoint one judge in each administrative region as presiding judge of the region.
- b. **Authority of Presiding Judge** (*Section 74.047, Government Code*). A Presiding Judge is empowered to perform the acts necessary to carry out the provisions of Chapter 74 of the Texas Government Code and to improve the management of the court system and the administration of justice.
- c. **Duties of Presiding Judge** (*Section 74.046, Government Code*). The Presiding Judge is to:
  - (1) ensure the promulgation of regional rules of administration within policies and guidelines set by the Supreme Court;
  - (2) advise local judges on case management and auxiliary court services;
  - (3) recommend to the Chief Justice of the Supreme Court the need for judicial assignment from outside the region;
  - (4) recommend to the Supreme Court any changes in the organization, jurisdiction, operation, or procedures of the region necessary or desirable for the improvement of the administration of justice;
  - (5) act for a local administrative judge when the local administrative judge does not perform the duties required by Subchapter D of the Texas Government Code;
  - (6) implement and execute any rules adopted by the Supreme Court under Chapter 74 of the Texas Government Code;
  - (7) provide the Supreme Court or the Office of Court Administration statistical information requested; and
  - (8) perform the duties assigned by the Chief Justice of the Supreme Court.
- d. **Meetings of Presiding Judges** (*Section, 74.001, Government Code*). The Chief Justice of the Supreme Court is to call and preside over at least one annual meeting of the Presiding Judges of the Administrative Judicial Regions to (1) Study the conditions of dockets to determine the need for the assignment of judges; (2) compare the regional and local rules of court to achieve the uniformity of rules that is practicable and consistent with local conditions; (3) consider uniformity in the administration of Chapter 74 of the Texas

## Administration of the Courts

Government Code in the various administrative regions; and (4) promote more effective administration of justice.

e. **Council of Judges Meeting** (Section 74.048, Government Code and Rule 3a, Rules of Civil Procedure). The Presiding Judge is to call at least one annual meeting of the district and statutory county court judges in the Administrative Judicial Region. The purposes of the meeting(s) are consultation and counseling concerning the state of dockets of the courts and to arrange for disposition of pending cases. The Council of Judges is empowered to adopt: (1) regional rules of administration within policies and guidelines set by the Supreme Court; (2) rules to regulate and facilitate the order of trials and the recordkeeping in the counties in the region in which judges are sent from one region to another to aid in the disposition of cases; and (3) other rules necessary to the practical operation of Chapter 74 of the Texas Government Code.

f. **Assignment of Judges** (Section 74.056, Government Code). A Presiding Judge is authorized to assign active, retired, and former district and county court at law judges to trial courts in the Administrative Judicial Region as visiting judges.

*NOTE: In Attorney General Letter Opinion LO-90-74, the authors conclude that the Presiding Judge of an Administrative Judicial Region may assign a statutory, or county-court-at-law, judge in his region to hear any district court case, provided that the various requirements of Chapter 74 of the Texas Government Code are met.*

*In contrast, when the judges of constitutional county courts, statutory county courts, justice courts, and small claims courts transfer cases to another court, a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred. Similarly, when the judges of those courts exchange benches and courtrooms with each other without transferring a case, a judge may not sit or act in a case unless it is within the jurisdiction of his court. (Section 74.121, Government Code).*

g. **Recusal or Disqualification of Judges** (Rule 18a, Rules of Civil Procedure). Upon the filing of a motion to recuse, a judge must either recuse himself or request the Presiding Judge of the Administrative Judicial Region to assign a judge to hear the motion. If a judge declines to recuse himself, he must forward, in either original form or certified copy, to the Presiding Judge of the Administrative Judicial Region, an order of referral, the motion, and all opposing and concurring statements. The Presiding Judge of the Administrative Judicial Region must immediately set a hearing before himself or some other judge designated by him, must cause notice of the hearing to be given to all parties, and must make such other orders as justice may require. If the motion to recuse is granted, the order is not reviewable, and the Presiding Judge shall assign another judge to sit in the case.

h. **Judicial Districts Board** (Article 5, Section 7a, Constitution; Section 24.942 and 24.943, Government Code). The Presiding Judges of the Administrative Judicial Regions serve as members of the Judicial Districts Board which is directed to study the number of cases pending and number of judges available in the various areas of the State

and submit reports to the Legislature on the need for the redistricting of judicial districts.

i. **Child Support Enforcement**

(1) **Child Support and Court Management Account** (Section 21.007, Government Code). The Presiding Judges of the Administrative Judicial Regions are directed to administer the Child Support and Court Management Account of the Judicial Fund.

(2) **Appointment of Title IV-D Masters** (Sections 201.101 and 201.108, Family Code). The Presiding Judge of each Administrative Judicial Region is empowered to appoint masters to ensure compliance with federal and state requirements for the expedited process of child support enforcement cases.

(3) **Monitoring Child Support Enforcement Cases** (Section 14.85, Government Code). The Presiding Judge of each Administrative Judicial Region is directed to monitor the processing of child support enforcement cases in his region to ensure compliance with federal and state law.

7. **LOCAL ADMINISTRATIVE JUDGES [District and Statutory County Courts]**

a. **Local Administrative Judges.** There are two levels of Local Administrative Judges:

(1) **Local Administrative District Judge** (Section 74.091, Government Code). In each county, there is a Local Administrative District Judge. In a county with two or more district courts the judges of those courts are directed to elect a district judge as Local Administrative Judge. In a county with only one district judge, the district judge serves as the Local Administrative Judge.

(2) **Local Administrative Statutory County Court Judge** (Section 74.0911, Government Code). In each county that has a statutory county court, there is a Local Administrative Statutory County Court Judge. In a county with two or more statutory county courts, the judges of those courts are directed to elect a statutory county court judge as Local Administrative Statutory County Court Judge. In a county with only one statutory county court, the statutory county court judge serves as the Local Administrative Statutory County Court Judge.

b. **Duties of Local Administrative Judge** (Section 74.092, Government Code). A Local Administrative Judge, for the courts for which the judge serves as Local Administrative Judge, is empowered to:

- (1) implement and execute the local rules of administration, including the assignment, docketing, transfer, and hearing of cases;
- (2) appoint any special or standing committees necessary or desirable for court management;
- (3) promulgate local rules of administration if the other judges do not act by a majority vote;
- (4) recommend to the Regional Presiding Judge any needs for assignment from outside the county to dispose of court caseloads;
- (5) supervise the expeditious movement of court caseloads;
- (6) provide the Supreme Court and the Office of Court Administration requested statistical

## *Administration of the Courts*

- and management information;
- (7) set the hours and places for holding court in the county;
- (8) supervise the employment and performance of nonjudicial personnel;
- (9) supervise the budget and fiscal matters of the local court;
- (10) coordinate and cooperate with any other Local Administrative Judge in the district in the assignment of cases in the courts' concurrent jurisdiction; and
- (11) perform other duties as may be directed by the Chief Justice or a Regional Presiding Judge.

### **8. DISTRICT AND STATUTORY COUNTY COURTS**

- a. Local Rules** (*Rule 3a, Rules of Civil Procedure*). Each district court and each county court at law is empowered to make and amend certain local rules governing practice before it, subject to the approval of the Supreme Court.
- b. Local Rules of Administration** (*Section 74.093, Government Code*). The district and statutory county court judges in each county are empowered to adopt, by majority vote, local rules of administration. The rules must provide for:
  - (1) assignment, docketing, transfer, and hearing cases;
  - (2) designation of court divisions or branches responsible for certain matters;
  - (3) holding court at least once a week in the county unless in the opinion of the Local Administrative Judge sessions at other intervals will result in more efficient court administration;
  - (4) fair and equitable division of caseloads; and
  - (5) plans for judicial vacation, sick leave, attendance at educational programs, and similar matters.

Also, the rules may provide for any other matter necessary to carry out Chapter 74 of the Texas Government Code.

### **9. PRESIDING JUDGE OF STATUTORY PROBATE COURTS**

- a. Election of Presiding Judge of the Statutory Probate Courts** (*Section 25.0022(b), Government Code*). The judges of the statutory probate courts are directed to elect from their number a Presiding Judge of the Statutory Probate Courts.
- b. Authority of Presiding Judge** (*Section 25.0022(v), Government Code*). The Presiding Judge is empowered to perform the acts necessary to carry out the provisions of Section 25.002 of the Texas Government Code and to improve the management of the statutory probate courts and the administration of justice.

- c. Assignment of Judges** (*Section 25.0022(j), Government Code*). A judge or a retired judge of a statutory probate court may be assigned by the Presiding Judge as provided in Section 25.0022 of the Texas Government Code.

- d. Meetings of the Statutory Probate Judges** (*Sections 25.0022(k) and 25.0022(l), Government Code*). The Presiding Judge is to call and preside over at one annual meeting of the judges of the statutory probate courts to: (1) study the statistics reflecting the condition of the dockets of the probate courts to determine the need for the assignment of judges; and (2) compare the local rules of court to achieve the uniformity of rules that is practical and consistent with local conditions. The Presiding Judge may call and convene additional meetings as are necessary for the promotion of the orderly and efficient administration of justice.

- e. Assistant Presiding Judge** (*Section 25.002(h), Government Code*). The Presiding Judge is empowered to appoint an Assistant Presiding Judge of the Statutory Probate Courts. The Assistant Presiding Judge may assign probate judges and perform the duties of the Office of Presiding Judge in the absence of the Presiding Judge, as provided in Section 25.0022 of the Texas Government Code.

### **10. STATUTORY PROBATE COURTS**

- a. Local Rules** (*Rule 3a, Rules of Civil Procedure*). Each statutory probate court is empowered to make and amend certain local rules governing practice before it, subject to the approval of the Supreme Court.

### **11. CONSTITUTIONAL COUNTY COURTS**

- a. Local Rules** (*Rule 3a, Rules of Civil Procedure*). Each constitutional county court is empowered to make and amend certain local rules governing practice before it, subject to the approval of the Supreme Court.

### **12. JUSTICE COURTS**

- a. Civil Matters** (*Rules 523-591, Rules of Civil Procedure*). Rules 523 to 591 of the Rules of Civil Procedure govern the practice of civil matters in the justice courts.
- b. Small Claims** (*Chapter 28, Government Code*). Chapter 28 of the Texas Government Code governs the practice in small claims matters.
- c. Criminal Matters** (*Chapter 45, Code of Criminal Procedure*). Chapter 45 of the Code of Criminal Procedure governs the practice of criminal matters in the justice courts.

### **13. MUNICIPAL COURTS**

- a. Municipal Court Cases** (*Chapter 45, Code of Criminal Procedure*). Chapter 45 of the Code of Criminal Procedure governs the practice in the municipal courts.
- b. Local Rules** (*Section 30.501, Government Code*). The municipal courts of record are authorized to make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the court that are not inconsistent with general law.