

ENROLLED HOUSE
BILL NO. 1969

By: Settle, Graves and Toure
of the House

and

Henry of the Senate

An Act relating to courts and probate procedure; amending 20 O.S. 1991, Section 123, which relates to special judges; modifying and adding duties of special judges; amending 58 O.S. 1991, Section 1, as amended by Section 6, Chapter 253, O.S.L. 1995 (58 O.S. Supp. 1996, Section 1), which relates to probate jurisdiction and venue; clarifying requirement to render accounts; providing for jurisdiction and venue to determine in whom title is vested; providing for service of notice and process; providing for compliance with the Oklahoma Pleading Code; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 20 O.S. 1991, Section 123, is amended to read as follows:

Section 123. A. Special judges may hear and decide the following actions:

1. Actions for the recovery of money where the amount claimed does not exceed Ten Thousand Dollars (\$10,000.00) and counterclaim or setoff does not exceed Ten Thousand Dollars (\$10,000.00) ~~;~~ ;

2. All uncontested matters, whether by default, agreement or otherwise, except that a nonlawyer special judge may not hear any uncontested matters, whether by default, agreement or otherwise, in actions for the recovery of money where judgment is sought for a greater sum than One Thousand Dollars (\$1,000.00) ~~;~~ ;

3. Actions for forcible entry and detainer except a nonlawyer special judge may not hear such actions if title to land or a boundary dispute is involved ~~;~~ ;

4. Actions for replevin where the amount in controversy does not exceed Ten Thousand Dollars (\$10,000.00), except that nonlawyer special judges may not hear such actions where the amount in controversy exceeds One Thousand Dollars (\$1,000.00) ~~;~~ ;

5. Misdemeanors, except that special judges who are not lawyers may not hear criminal actions where the punishment prescribed by law exceeds a fine of Two Hundred Dollars (\$200.00), or imprisonment in a county jail for thirty (30) days, or both such fine and imprisonment except by written consent of all parties ~~;~~ ;

6. Felonies involving a second and subsequent offense of driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, including any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, to a degree that renders the defendant incapable of safely driving or operating a motor vehicle, except that nonlawyer special judges may not hear such matters ~~;~~ ;

7. When there is no district or associate district judge present in the county or when they are disqualified, the issuance of a temporary injunction or restraining order, but this paragraph shall not embrace nonlawyer special judges-;

8. Issuance of writs of habeas corpus, but this paragraph shall not embrace nonlawyer special judges-;

9. ~~Perform the duties of magistrate in criminal cases.~~

~~10.~~ Any matter, regardless of value, at any stage, whether intermediate or final, and whether or not title to property, real, personal, tangible, intangible, or any combination thereof, is to be determined, in a probate, divorce, domestic relations, custody ~~or~~, support, guardianship, conservatorship, mental health, juvenile, adoption, or determination of death proceeding, except that nonlawyer special judges may not hear such matters-;

~~11.~~ 10. An appeal from an order of the Department of Public Safety revoking a person's license to drive, except that nonlawyer special judges may not hear such matters-;

~~12.~~ 11. Other actions and proceedings, regardless of court rules, where the parties agree in writing, at any time before trial, to the action being heard by a special judge; and

12. Any postjudgment collection matter regardless of the amount of the judgment.

B. Special judges shall be authorized to serve as referee in any matter before the district court.

C. A special judge may perform the duties of a magistrate in criminal cases.

SECTION 2. AMENDATORY 58 O.S. 1991, Section 1, as amended by Section 6, Chapter 253, O.S.L. 1995 (58 O.S. Supp. 1996, Section 1), is amended to read as follows:

Section 1. A. The district court has probate jurisdiction, and the judge thereof power, which must be exercised in the cases and in the manner prescribed by statute:

1. To open and receive proof of last wills and testaments, and to admit them to proof and to revoke the probate thereof, and to allow and record foreign wills;

2. To grant letters testamentary, of administration and of guardianship, and to revoke the same;

3. To appoint appraisers of estates of deceased persons and of minors and incapacitated persons;

4. To compel ~~executors, administrators,~~ personal representatives and guardians to render accounts;

5. To order the sale of property of estates, or belonging to minors or to incapacitated persons;

6. To order the payments of debts from estates or guardianships;

7. To order and regulate all distribution of property or estates of deceased persons;

8. To compel the attendance of witnesses and the production of title deeds, papers, and other property of an estate, or of a minor, or incapacitated persons;

9. To exercise all the powers conferred by this chapter or by other law;

10. To make such orders as may be necessary to the exercise of the powers conferred upon it; and

11. To appoint and remove guardians for infants, and for persons insane or who are otherwise incapacitated persons; to compel payment and delivery by them of money or property belonging to their wards, to control their conduct and settle their accounts.

B. The district court which has jurisdiction and venue of the administration of any estate is granted jurisdiction and venue to

cause Oklahoma and federal estate taxes to be equitably apportioned and collected.

C. The district court which has jurisdiction and venue of the administration of any estate is granted unlimited concurrent jurisdiction and venue to hear and determine:

1. In whom the title to any property is vested, whether the property is real, personal, tangible, intangible, or any combination thereof;

2. Rights with respect to such property as to all persons and entities; and

3. Whether or not such property is subject to the jurisdiction of the court in the decedent's estate.

D. For proceedings under subsection C of this section, service of notice and process shall be required as in other cases and the provisions of the Oklahoma Pleading Code, Section 2001 et seq. of Title 12 of the Oklahoma Statutes, shall be followed.

SECTION 3. This act shall become effective November 1, 1997.

Passed the House of Representatives the 12th day of May, 1997.

Speaker of the House of
Representatives

Passed the Senate the 13th day of May, 1997.

President of the Senate