

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 801

By: Henry

AS INTRODUCED

An Act relating to workers' compensation; amending 20 O.S. 1991, Sections 91.1, 91.2, as amended by Section 13, Chapter 359, O.S.L. 1997, and 123, as last amended by Section 13, Chapter 268, O.S.L. 1998 (20 O.S. Supp. 1998, Sections 91.2 and 123), which relate to district courts, district court dockets, and jurisdiction of special judges; modernizing and clarifying language; stating that certain references include the district court or a judge thereof; providing for a workers' compensation docket in the district court; authorizing special judges to hear and decide workers' compensation cases; amending 85 O.S. 1991, Sections 1.2, as last amended by Section 1, Chapter 349, O.S.L. 1993, 3, as last amended by Section 3, Chapter 361, O.S.L. 1997, 3.4, as amended by Section 3, Chapter 349, O.S.L. 1993, and 3.5 (85 O.S. Supp. 1998, Sections 1.2, 3, and 3.4), which relate to the Workers' Compensation Court, and rules, procedures, jurisdiction, and venue in workers' compensation cases; deleting obsolete language relating to judges of the Workers' Compensation Court; making certain rules for workers' compensation cases apply in district court; modifying definition to include district courts when hearing and deciding workers' compensation cases; providing for assignment of cases to district court; expanding and clarifying claimant's choice of forum; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 91.1, is amended to read as follows:

Section 91.1 A. The district courts of ~~the State of Oklahoma~~ this state are the successors to the jurisdiction of all other courts, including the Superior Courts, the County Courts, the Courts of Common Pleas, Special Sessions Courts, Courts of Special Sessions, City Courts, Juvenile Courts, Children's Courts, Justice of the Peace Courts, and municipal courts in civil matters and proceedings for the violation of state statutes.

B. Wherever reference is made in the Oklahoma Statutes to any of the above courts or to ~~the~~ a judge thereof, it shall be deemed to refer to the district court or a judge thereof; provided, however, that any statute that refers to the salary of the judge of any Superior Court, Court of Common Pleas, County Court, Juvenile Court, or Children's Court, insofar as that portion of the statute dealing with salary is concerned, shall not be deemed to refer to any district judge, associate district judge, or special judge, and any salary mentioned in such statute shall not be paid to the judge who succeeded to the jurisdiction of the judge who is named in the statute.

C. Wherever reference is made in the Oklahoma Statutes to the Workers' Compensation Court or the State Industrial Court or a judge thereof, it shall be deemed to include the district court or a judge thereof.

SECTION 2. AMENDATORY 20 O.S. 1991, Section 91.2, as amended by Section 13, Chapter 359, O.S.L. 1997 (20 O.S. Supp. 1998, Section 91.2), is amended to read as follows:

Section 91.2 A. To facilitate the trial and disposition of cases, actions filed in the district court shall be assigned to various dockets by the clerk of the court pursuant to the direction and supervision of the presiding judge of the district. Until changed by order of the Supreme Court, only the following dockets are established: a civil docket, a criminal docket, a workers' compensation docket, a traffic docket, a probate docket, a juvenile ~~and~~ docket, a family relations docket, and a small claims docket.

B. Whenever a district court establishes a drug court program pursuant to the provisions of Sections 1 through 12 of this act, the judge having authority over the program shall cause to be established a drug court docket. In those cases assigned to the drug court docket, the judge shall determine what information or pleadings are to be maintained in a confidential case file which

shall be closed to public inspection. The originating criminal case file shall remain open to public inspection. Nothing in this section shall prohibit the district attorney, defense attorney, or the victim-witness coordinator from advising any victim or other person regarding the assignment or disposition of a drug court case.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 123, as last amended by Section 13, Chapter 268, O.S.L. 1998 (20 O.S. Supp. 1998, Section 123), is amended to read as follows:

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

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. 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, support, guardianship, conservatorship, mental health, juvenile, adoption, or determination of death proceeding, except that nonlawyer special judges may not hear such matters;

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;

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;

12. Any postjudgment collection matter regardless of the amount of the judgment; ~~and~~

13. Youthful offender cases pursuant to the Youthful Offender Act; and

14. Workers' compensation cases regardless of value.

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 4. AMENDATORY 85 O.S. 1991, Section 1.2, as last amended by Section 1, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1998, Section 1.2), is amended to read as follows:

Section 1.2 A. There is hereby created the Workers' Compensation Court which shall consist of ten (10) judges. Each judge of the Court shall be appointed to a designated numbered position on the Court. The positions shall be numbered one through ten. The initial terms of the judges by position number shall expire on the following dates:

Position 1 shall expire 7-1-84.

Position 2 shall expire 7-1-84.

Position 3 shall expire 7-1-84.

Position 4 shall expire 7-1-82.

Position 5 shall expire 7-1-82.

Position 6 shall expire 7-1-80.

Position 7 shall expire 7-1-80.

Position 8 shall expire 7-1-88.

Position 9 shall expire 7-1-88.

Position 10 shall expire 7-1-96 after being appointed under the provisions hereinafter set forth effective September 1, 1993.

Thereafter, each position shall be filled by a judge appointed to serve a six-year term.

~~Provided the judges serving unexpired terms on the State Industrial Court shall serve on the Workers' Compensation Court until their terms expire only as provided herein. The judges of the State Industrial Court whose terms expire March 14, 1979, shall serve in Positions 6 and 7 until that date, and the judge whose term expires March 14, 1981, shall serve in Position 5 until that date. Upon expiration of these terms, the Governor shall appoint judges to serve the remainder of the initial terms designated in this section.~~

When a vacancy on the Court occurs or is certain to occur or for initial appointments to the Court, the Judicial Nominating Commission shall choose and submit to the Governor and the Chief Justice of the Supreme Court the names of three persons, in addition to the name of the incumbent judge, if any, for each appointment, each of whom has previously notified the Commission in writing that he will serve as a judge if appointed. The Governor shall appoint one of the nominees to fill the vacancy, but if he fails to do so within sixty (60) days, the Chief Justice of the Supreme Court shall appoint one of the nominees, the appointment to be certified to the Secretary of State.

B. A judge of the Court shall have been licensed to practice law in this state for a period of not less than five (5) years prior to appointment. Each judge, before entering upon the duties of his office, shall take and subscribe to an oath of office and file the same with the Secretary of State. Each judge shall continue to serve until his successor shall have been appointed and qualified. A judge shall be eligible for reappointment, provided that he may be removed for cause by the Court on the Judiciary prior to the expiration of his term.

C. Each judge shall receive a salary equal to that paid to a district judge of this state, and shall devote full time to his duties and shall not engage in the private practice of law during the term in office.

D. The Governor shall appoint from among the judges of the Workers' Compensation Court a presiding judge of that Court who shall serve for a two-year term commencing with the initial appointment beginning January 1, 1987. Any judge so appointed shall not serve more than two times in succession. The presiding judge shall preside at all hearings held by the Court, preside at such meetings of the judges of the Court as may be necessary and perform such other supervisory duties as the needs of the Court may require.

The presiding judge may designate one of the other judges to act as presiding judge in his place whenever necessary during the disqualification, disability, or absence of the presiding judge. During the disqualification, disability, or absence of the presiding judge, the acting presiding judge shall exercise all of the powers of the presiding judge.

E. The Court shall have the authority to adopt reasonable rules within its respective areas of responsibility including the rules of procedure for the Court en banc, after notice and public hearing, for effecting the purposes of the Workers' Compensation Act. All of the judges of the Court shall be present at all meetings wherein rules are adopted or amended. All rules, upon adoption, shall be submitted to the Supreme Court, which shall either approve or disapprove them within thirty (30) days. All rules, upon approval by the Supreme Court, shall be published and ~~be~~ made available to the public and, if not inconsistent with the law, shall be binding in the administration of the Workers' Compensation Act. These rules shall apply to cases brought under the Workers' Compensation Act in district court.

F. The Court is hereby designated and confirmed as a court of record, with respect to any matter within the limits of its jurisdiction, and within such limits the judges thereof shall possess the powers and prerogatives of the judges of the other courts of record of this state.

G. The principal office of the Court shall be situated in the City of Oklahoma City in quarters assigned by the Department of Central Services. The Court may hold hearings in any city of this state.

H. All county commissioners and presiding district judges of this state shall make quarters available for the conducting of hearings by a judge of the Court upon request by the Court.

I. The judges of the Court shall determine the qualifications ~~necessary for the job of Administrator. Said qualifications, which~~ shall be submitted to the Chief Justice of the Supreme Court for approval, disapproval or modification.

J. Judges of the Workers' Compensation Court may punish for direct contempt pursuant to Sections 565, 565.1 and 566 of Title 21 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 85 O.S. 1991, Section 3, as last amended by Section 3, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1998, Section 3), is amended to read as follows:

Section 3. As used in the Workers' Compensation Act:

1. "Administrator" means the Administrator of workers' compensation as provided for in the Workers' Compensation Act;
2. "Claimant" means a person who claims benefits for an injury pursuant to the provisions of the Workers' Compensation Act;
3. "Court" means the Workers' Compensation Court and the district court when hearing and deciding cases pursuant to the Workers' Compensation Act;
4. "Cumulative trauma" means an injury resulting from employment activities which are repetitive in nature and engaged in over a period of time;
5. "Employer", except when otherwise expressly stated, means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, corporation, or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as herein defined;

6. "Employee" means any person engaged in the employment of any person, firm, limited liability company or corporation covered by the terms of the Workers' Compensation Act, and shall include workers associating themselves together under an agreement for the performance of a particular piece of work, in which event such persons so associating themselves together shall be deemed employees of the person having the work executed; provided, that if such associated workers shall employ a worker in the execution of such contract, then as to such employed worker, both the associated employees and the principal employer shall at once become subject to the provisions of the Workers' Compensation Act relating to independent contractors. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation are specifically excluded from the foregoing definition of "employee", and shall not be deemed to be employees as respects the benefits of the Workers' Compensation Act. Provided, a sole proprietor, member of a partnership, member of a limited liability company who owns at least ten percent (10%) of the capital of the limited liability company or any stockholder-employee of a corporation who owns ten percent (10%) or more stock in the corporation who does not so elect to be covered by a policy of insurance covering benefits under the Workers' Compensation Act, when acting as a subcontractor, shall not be eligible to be covered under the prime contractor's policy of workers' compensation insurance; however, nothing herein shall relieve the entities enumerated from providing workers' compensation insurance coverage for their employees. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or

more stock in the corporation may elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members or any or all stockholder-employees as employees, if otherwise qualified, by endorsement to the policy specifically including them under any policy of insurance covering benefits under the Workers' Compensation Act. When so included the sole proprietors, members of a partnership, members of a limited liability company or any or all stockholder-employees shall be deemed to be employees as respects the benefits of the Workers' Compensation Act. "Employee" shall also include any person who is employed by the departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof. "Employee" shall also include a member of the Oklahoma National Guard while in the performance of duties only while in response to state orders and any authorized voluntary or uncompensated worker, rendering services as a fire fighter, peace officer or civil defense worker. Provided, "employee" shall not include any other person providing or performing voluntary service who receives no wages for the services other than meals, drug or alcohol rehabilitative therapy, transportation, lodging or reimbursement for incidental expenses. "Employee" shall also include a participant in a sheltered workshop program which is certified by the United States Department of Labor. "Employee" shall not include a person, commonly referred to as an owner-operator, who owns or leases a truck-tractor or truck for hire, if the owner-operator actually operates the truck-tractor or truck and if the person contracting with the owner-operator is not the lessor of the truck-tractor or truck. Provided however, an owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the owner-operator elects to participate as a sole proprietor. "Employee" shall not

include a person referred to as a drive-away owner-operator who privately owns and utilizes a tow vehicle in drive-away operations and operates independently for hire, if the drive-away owner-operator actually utilizes the tow vehicle and if the person contracting with the drive-away owner-operator is not the lessor of the tow vehicle. Provided, however, a drive-away owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the drive-away owner-operator elects to participate as a sole proprietor;

7. "Drive-away operations" include every person engaged in the business of transporting and delivering new or used vehicles by driving, either singly or by towbar, saddle mount or full mount method, or any combination thereof, with or without towing a privately owned vehicle;

8. "Employment" includes work or labor in a trade, business, occupation or activity carried on by an employer or any authorized voluntary or uncompensated worker rendering services as a fire fighter, peace officer or civil defense worker;

9. "Compensation" means the money allowance payable to an employee as provided for in the Workers' Compensation Act;

10. a. "Injury" or "personal injury" means only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally result therefrom and occupational disease arising out of and in the course of employment as herein defined. Only injuries having as their source a risk not purely personal but one that is causally connected with the conditions of employment shall be deemed to arise out of the employment.

b. "Injury" or "personal injury" includes heart-related or vascular injury, illness or death only if resultant from stress in excess of that experienced by a person

in the conduct of everyday living. Such stress must arise out of and in the course of a claimant's employment.

- c. "Injury" or "personal injury" shall not include mental injury that is unaccompanied by physical injury, except in the case of rape which arises out of and in the course of employment;

11. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer;

12. "Insurance carrier" shall include stock corporations, reciprocal or interinsurance associations, or mutual associations with which employers have insured, and employers permitted to pay compensation, directly under the provisions of paragraph 4 of subsection A of Section 61 of this title;

13. "Occupational disease" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease. An occupational disease arises out of the employment only if there is a direct causal connection between the occupational disease and the conditions under which the work is performed;

14. "Permanent impairment" means any anatomical or functional abnormality or loss after maximum medical improvement has been achieved, which abnormality or loss the physician considers to be capable of being evaluated at the time the rating is made. Except as otherwise provided herein, any examining physician shall only evaluate impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to Section 201.1 of this

title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in effect at the time of injury. All evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the Administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator

to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Governor and the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from said guides or any alternative thereto except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto, adopted by the Administrator of the Workers' Compensation Court as provided for in Section 201.1 of this title. These officially adopted guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to permanent impairment with the exception of paragraph 3 of Section 22 of this title, relating to scheduled member injury or loss; and impairment, including pain or loss of strength, may be awarded with respect to those injuries or areas of the body not specifically covered by said guides or alternative to said guides;

15. "Permanent total disability" means incapacity because of accidental injury or occupational disease to earn any wages in any employment for which the employee may become physically suited and reasonably fitted by education, training or experience, including vocational rehabilitation; loss of both hands, or both feet, or both

legs, or both eyes, or any two thereof, shall constitute permanent total disability;

16. "Permanent partial disability" means permanent disability which is less than total and shall be equal to or the same as permanent impairment;

17. "Maximum medical improvement" means that no further material improvement would reasonably be expected from medical treatment or the passage of time;

18. "Independent medical examiner" means a licensed physician authorized to serve as a medical examiner pursuant to Section 17 of this title;

19. a. "Certified workplace medical plan" means an organization of health care providers or any other entity, certified by the Commissioner of Health pursuant to Section 14.3 of this title, that is authorized to enter into a contractual agreement with a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund, to provide medical care under the Workers' Compensation Act. Certified plans shall only include such plans which provide medical services and payment for services on a fee-for-service basis to medical providers and shall not include other plans which contract in some other manner, such as capitated or pre-paid plans.

b. If any insurer except, the State Insurance Fund, fails to contract with or provide access to a certified workplace medical plan, an insured, after sixty (60)

days' written notice to its insurance carrier, shall be authorized to contract independently with a plan of his or her choice for a period of one (1) year, to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to its insurance carrier, for additional one-year periods if his or her insurer has not contracted with or provided access to a certified workplace medical plan.

- c. If the State Insurance Fund fails to contract with at least three certified workplace medical plans, each covering at least fifty counties, then the insured, after sixty (60) days' written notice to the State Insurance Fund, shall be authorized to contract independently with a plan of his or her choice for a period of one (1) year to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to the State Insurance Fund, for additional one-year periods if the State Insurance Fund has not contracted with or fails to continue contracts with at least three certified workplace medical plans covering at least fifty counties; and

20. "Treating physician" or "attending physician" means the licensed physician who has provided or is providing medical care to the injured employee.

SECTION 6. AMENDATORY 85 O.S. 1991, Section 3.4, as amended by Section 3, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1998, Section 3.4), is amended to read as follows:

Section 3.4 A. All claims for any compensation or benefits under the Workers' Compensation Act shall be commenced with the filing of a notice of injury with the Administrator. All claims

filed for workers' compensation benefits shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the claimant and his agent, if any. Any person who signs this statement or causes another to sign this statement knowing the statement to be false shall be guilty of perjury. An individual who signs on behalf of a claimant may be presumed to have the authorization of the claimant and to be acting at his direction. All answers and defenses to claims or other documents filed on behalf of a respondent or the respondent's insurer in a workers' compensation case shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the respondent, the insurer, or their respective agents, if any. Any person who signs such a statement or causes another to sign such a statement, knowing the statement to be false, shall be guilty of perjury. An individual who signs on behalf of a respondent, its insurer, or its agent may be presumed to have the authorization of the respondent, its insurer and agent to be acting at their direction. All matters pertaining to such claims shall be presented to the Administrator until such time as the Administrator is notified in writing by a party that there is a controverted issue that cannot be resolved by the parties or that the parties have received an agreed final order from the Court. The Administrator shall, within seven (7) days of the receipt of such notification, set the matter for hearing at the earliest available time to be heard by the Court or the district court in the appropriate judicial district as provided in Section 3.5 of this title. The Administrator shall assign ~~a member of the Court to hear a docket in each~~ the matter to the district court of the appropriate judicial district ~~of the state at least once each calendar month~~ when there has been a request for a hearing in the ~~judicial~~ district court. ~~The Administrator shall assign Judges to the state judicial districts on a rotating basis for the purpose of holding prehearing~~

~~conferences and hearing cases.~~ At the request of either party, a prehearing conference shall be held before the ~~member of the Court~~ judge assigned to the case within forty-five (45) days of the filing of a claimant's request for a hearing. The purpose of the prehearing conference shall be to mediate and encourage settlement of the case or determine issues in dispute. The ~~Court~~ court shall be vested with jurisdiction over all claims filed pursuant to the Workers' Compensation Act. The ~~Court~~ court shall determine the lawfulness of any claim for compensation under the Workers' Compensation Act based on the weight of evidence; provided, however, any claim, and subsequent disability, that has as its source a physical condition resulting from incremental damage or injury or a gradual deterioration of physical health, which is caused by a condition arising out of and in the course of employment, must be proven by a preponderance of the evidence presented to the ~~Court~~ court.

B. All claims so filed shall be heard by the Judge sitting without a jury. All petitions for final orders or awards filed pursuant to the provisions of Section 84 of this title must be approved by the ~~Court~~ court having jurisdiction before a final order or award may be entered. All matters relating to a claim for benefits under the Workers' Compensation Act shall be filed with the Administrator.

SECTION 7. AMENDATORY 85 O.S. 1991, Section 3.5, is amended to read as follows:

Section 3.5. The claimant at the time of filing ~~his~~ a notice of injury shall elect ~~where necessary hearings by the Court shall be held; provided, that if~~ to proceed in either the Workers' Compensation Court or the district court. If the claimant elects to proceed in the district court and the claimant is a legal resident of ~~the State of Oklahoma~~ this state, he or she shall be required to elect either the ~~judicial~~ district court of the county of his or her

legal residence at the time ~~he sustained his~~ of the injury, the ~~judicial~~ district court of the county where the injury occurred, or the ~~judicial~~ district court of the county of the principal place of business of the employer. ~~In the event that~~ If the claimant is not a legal resident of ~~the State of Oklahoma~~ this state, ~~the necessary hearings~~ the matter shall be ~~held~~ tried in the ~~judicial~~ district court of the county of the principal place of business of the employer; provided, that if the injury occurred within ~~the~~ this state, the ~~hearings~~ the matter shall be ~~held~~ tried in the ~~judicial~~ district court of the county where the injury occurred. In the event the claimant is not a legal resident of ~~the State of Oklahoma~~ this state and the accident resulting in injury occurred outside the territorial limits of ~~the~~ this state, ~~then the hearings~~ the matter shall be ~~held~~ tried in the ~~judicial~~ district court of the county in this state ~~wherein~~ in which the contract of employment was entered into. After the election has been made as provided above, all future ~~hearings by the Court~~ matters affecting the claimant's case shall be ~~held~~ tried in the ~~judicial~~ district ~~so~~ court designated unless ~~the Court~~, upon agreement by the claimant and the employer, the court shall transfer ~~such the~~ cause ~~for hearing~~ to ~~any other~~ ~~judicial~~ another district ~~agreed upon~~ court to the Workers' Compensation Court. In addition, hearings may be held in any jurisdiction if the Judge determines that good cause has been shown.

SECTION 8. This act shall become effective November 1, 1999.

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