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Bill Analysis
Legislative Service Commission

S.B. 145

126th General Assembly
(As Introduced)

Sen. Armbruster

BILL SUMMARY

- Provides the judges of the Domestic Relations Division of the Lorain County Court of Common Pleas jurisdiction over probate matters, on and after January 1, 2006.
 - Designates the successors to the current Lorain County Probate Judge as judges of the Domestic Relations Division of the Lorain County Court of Common Pleas.
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CONTENT AND OPERATION

Existing law

In general

Article IV, Section 4, Ohio Constitution, provides for courts of common pleas. It specifies that there is a court of common pleas and such divisions of the court as may be established by law serving each county of the state, that each county must have one or more resident judges as provided by law, and that, unless otherwise provided by law, there must be a probate division and such other divisions of the courts of common pleas as may be provided by law (judges must be elected specifically to the probate division and the other divisions).

Existing law specifies that a probate division of the court of common pleas must be held at the county seat in each county and that, every six years, in each county having a separate judge of the probate division of the court of common pleas, one probate judge is to be elected who is qualified as specified under general common pleas court law for a term of six years commencing on February 9 following the election. Existing law specifies that, as used in the Revised Code, "probate court" means the probate division of the court of common

pleas and "probate judge" means the judge of the court of common pleas who is judge of the probate division. (R.C. 2101.01 and 2101.02; see **COMMENT.**)

Under existing law, generally, unless R.C. 2101.022, 2301.03, 2151.08, Chapter 2153., or another provision specifies otherwise, the probate division of a court of common pleas is the "juvenile court" for purposes of the Revised Code and has jurisdiction under R.C. Chapters 2151. and 2152., and the judge of that court is the "juvenile judge" (R.C. 2151.011(A)(1) and (2)).

Existing law creates, for 29 specified courts of common pleas, various divisions of the courts other than probate divisions. Among the types of divisions created are domestic relations divisions, juvenile divisions, and domestic relations-juvenile-probate divisions (R.C. 2301.03).

Lorain County Court of Common Pleas

Currently, the Lorain County Court of Common Pleas has nine judges: one judge of the probate division (under R.C. 2101.01), five judges of the general division (under R.C. 2301.02(B)), and three judges of the domestic relations division (under R.C. 2301.02(B) and 2301.03(C)).

Under existing law, the judges of the Lorain County Court of Common Pleas whose terms began on January 3, 1959, January 4, 1989, and January 2, 1999, and their successors, have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the Court and are elected and designated as judges of the Court of Common Pleas, Division of Domestic Relations. They have all of the powers relating to juvenile courts, and all cases under R.C. Chapters 2151. and 2152. (the Juvenile Code and the Delinquent Child/Juvenile Traffic Offender Law), all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases are assigned to them, except for cases that for some special reason are assigned to another judge of the Court. (R.C. 2301.03(C).)

Operation of the bill

The bill provides the judges of the Domestic Relations Division of the Lorain County Court of Common Pleas jurisdiction over probate matters, and designates the successors to the current Lorain County Probate Judge as judges of the Domestic Relations Division of the Lorain County Court of Common Pleas.

**Lorain County Court of Common Pleas Domestic Relations Division--
expansion of jurisdiction to include probate matters**

The bill specifies that, on and after January 1, 2006, the judges of the Domestic Relations Division of the Lorain County Court of Common Pleas, in addition to the powers and jurisdiction described above in "**Lorain County Court of Common Pleas**" under "**Existing law**," have jurisdiction over matters that are within the jurisdiction of the Probate Court under R.C. Chapter 2101. and other Revised Code provisions. From January 1, 2006, through February 8, 2009, the judges of the Domestic Relations Division are to exercise probate jurisdiction concurrently with the Probate Judge of Lorain County. (R.C. 2301.03(C)(1)(b).)

Related to this, it modifies R.C. 2301.02, which generally pertains to the election of common pleas court judges other than judges of the probate division, to specify that judges of the Lorain County Court of Common Pleas Domestic Relations Division elected pursuant to the section also are to perform the duties and functions of the judge of the probate division (R.C. 2301.02(C), last paragraph).

Designation of successors to the current Lorain County Probate Judge as judges of the Domestic Relations Division of the Lorain County Court of Common Pleas

The bill amends the provision that currently specifies that there are eight judges of the Lorain County Common Pleas Court, not counting the Probate Judge of that Court, so that the provision will specify that there are nine judges of the Lorain County Common Pleas Court and that the ninth judge is to be elected in 2008, term to begin February 9, 2009. The bill specifies that this judge is to be elected and designated as a judge of the Domestic Relations Division of the Court, with all the powers and jurisdiction of the judges currently serving in that division, as described above in "**Lorain County Court of Common Pleas**" under "**Existing law**." It also specifies that this judge is the successor to the Probate Judge of the Lorain County Common Pleas Court who was elected in 2002 for a term that began on February 9, 2003. (R.C. 2301.02(B) and 2301.03(C)(1)(a) and (c).)

Transitional provisions

Regarding its expansion of the jurisdiction of the Lorain County Court of Common Pleas Domestic Relations Division to include probate matters, the bill specifies that (R.C. 2101.01(B) and 2301.03(C)(2)):

(1) From January 1, 2006, through February 8, 2009, with respect to Lorain County, all references in law to the probate court must be construed as references to both the Probate Court and the Domestic Relations Division of the

Lorain County Court of Common Pleas, and all references in law to the probate judge must be construed as references to both the Probate Judge and the judges of the Domestic Relations Division of the Lorain County Court of Common Pleas.

(2) On and after February 9, 2009, with respect to Lorain County, all references in law to the probate court must be construed as references to the Domestic Relations Division of the Lorain County Court of Common Pleas, and all references to the probate judge must be construed as references to the judges of the Domestic Relations Division of the Lorain County Court of Common Pleas.

(3) On and after February 9, 2009, with respect to Lorain County, all pleadings, forms, journals, and other records filed or used in probate matters must be entitled, "In the Court of Common Pleas, Domestic Relations Division," but are not defective if entitled "In the Probate Division" or "In the Probate Court."

(4) On and after February 9, 2009, with respect to Lorain County, all references in law to the clerk of the probate court must be construed as references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio as the Administrative Judge of the Domestic Relations Division of the Lorain County Court of Common Pleas.

COMMENT

Several provisions of existing law specify different procedures regarding probate judges in certain counties: (1) R.C. 2101.021 provides for an additional probate judge for Cuyahoga County, (2) R.C. 2101.022 provides special domestic relations-juvenile-probate authority for the judge of the Probate Division of the Marion County Court of Common Pleas who was elected in 2003 and that judge's successors, (3) R.C. 2101.023 provides that the judge of the Erie County Court of Common Pleas who will be elected in 2008, and that judge's successors, will be the successor to the judge of the Probate Division of that Court whose term expires on February 8, 2009, and will be designated a general division judge with expanded powers including those regarding probate matters, (4) R.C. 2101.024 provides that the Probate Judge of the Logan County Court of Common Pleas has special domestic relations-juvenile-probate authority, and (5) R.C. 2301.02(C), in the last paragraph, specifies that judges of a probate division of a court of common pleas are judges of the court of common pleas but are to be elected pursuant to R.C. 2101.02 and 2101.021, except in Adams, Harrison, Henry, Morgan, Morrow, Noble, and Wyandot counties in which the judge of the court of common pleas elected pursuant to R.C. 2301.02 (i.e., the general division judge) also serves as judge of the probate division.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-10-05	p. 492

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