

1 SB397
2 185628-1
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 27-APR-17

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8 SYNOPSIS: Existing law does not make provision for
9 appointment of a temporary probate judge when a
10 sitting probate judge is suspended.

11 This bill would authorize the Alabama
12 Supreme Court to appoint a special probate judge to
13 fulfill the duties of the probate judge when the
14 sitting probate judge has been suspended.

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16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 To amend Section 12-13-37, Code of Alabama 1975, to
21 provide for the appointment of a special probate judge in
22 certain circumstances.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 12-13-37, Code of Alabama 1975,
25 is amended to read as follows:

26 "§12-13-37.

1 "(a) ~~If in any matter or proceeding arising in the~~
2 ~~probate court or in reference to which the judge thereof is~~
3 ~~required of probate is unable to~~ exercise jurisdiction or
4 authority or to perform ~~a~~ any duty of the office because the
5 judge is incompetent for any legal cause or ~~shall be~~ is
6 absent, suspended, sick, or otherwise disqualified from
7 acting, ~~he or his~~ the judge or the chief clerk must certify
8 the fact of incompetency, absence, suspension, sickness, or
9 disqualification to the Chief Justice of the Alabama Supreme
10 Court, and the Supreme Court shall, upon such certificate,
11 appoint a person possessing the qualifications of a probate
12 judge to act as special probate judge during the period of
13 disqualification. This section shall apply in circumstances in
14 which the disqualification is related to a particular matter
15 or proceeding arising in the probate court when the judge is
16 unable to perform any of the duties of his or her office due
17 to incompetency, absence, suspension, sickness, or other
18 disqualification, but shall not apply in the event of a
19 vacancy in the office governed by Section 12-13-32.

20 "(b) ~~The~~ Such special judge ~~in relation to such~~
21 ~~matter or proceeding~~ shall have the jurisdiction and
22 authority and discharge the duties of the probate judge, and
23 the judgments, orders, and decrees made or rendered by ~~him~~ the
24 special judge shall be entered on the records of ~~such~~ the
25 court and shall have the force and effect and shall be subject
26 to revision on appeal or by other revisory remedy, of
27 judgments, orders, and decrees of ~~such~~ the probate court."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.