

1 SB171
2 189604-1
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 11-JAN-18

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8 SYNOPSIS: Existing law does not make provision for the
9 appointment of a temporary judge of probate when a
10 sitting judge of probate is unable to perform his
11 or her duties due to a suspension.

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

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

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

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

27 "§12-13-37.

1 "(a) (1) Except as provided in subsection (c), if ~~If~~
2 ~~in any matter or proceeding arising in the probate court or in~~
3 ~~reference to which the judge thereof is required of probate is~~
4 unable to exercise jurisdiction or authority or unable to
5 perform ~~a~~ any duty of the office because the judge is
6 incompetent for any legal cause or ~~shall be~~ is absent,
7 suspended, sick,, or otherwise disqualified from acting, ~~he or~~
8 ~~his~~ the judge or the chief clerk ~~must~~ shall certify the fact
9 of incompetency, absence, suspension, sickness,, or
10 disqualification to the Chief Justice of the Alabama Supreme
11 Court, and the Supreme Court shall, upon such certificate,
12 appoint a person possessing the qualifications of a probate
13 judge to act as special ~~probate~~ judge of probate during the
14 period of disqualification.

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

24 "(c) This section does not apply in the event of a
25 vacancy in the office governed by Section 12-13-32."

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.