

BILL ANALYSIS

Senate Research Center

H.B. 823
By: Goodman (Harris)
Jurisprudence
5/5/2003
Engrossed

DIGEST AND PURPOSE

Unlike the associate judges described in current Texas law, who may hear suits involving marriage dissolution, family violence, and all other suits affecting the parent-child relationship, the child support masters have very specialized caseloads. H.B. 823 removes child support masters from current law relating to certain family law matters.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 201, Family Code, to read as follows:

CHAPTER 201. ASSOCIATE JUDGE

SECTION 2. Amends Section 201.001(e), Family Code, to delete a reference to child support master from existing text.

SECTION 3. Amends Section 201.003(d), Family Code, to make a conforming change.

SECTION 4. Amends Section 201.004(d), Family Code, to make a conforming change.

SECTION 5. Amends Section 201.018(d), to reflect the change in title from “child support master” to “associate judge.”

SECTION 6. Amends the heading to Subchapter B, Chapter 201, Family Code to read as follows:

SUBCHAPTER B. ASSOCIATE JUDGE FOR TITLE IV-D CASES

SECTION 7. Amends Section 201.101, Family Code, by amending Subsections (a), (c), and (d) and by adding Subsection (e), as follows:

(a), (c), and (d) Replace the word “master” with “associate judge.”

(e) Authorizes enforcement services, if a county has entered into a contract with the Title IV-D agency under Section 231.0011, to be directly provided by county personnel as provided under Section 231.0011(d), including judges and associate judges of the courts of the county.

SECTION 8. Amends Sections 201.102, 201.103, 201.104, and 201.1041, Family Code, as follows:

Sec. 201.102. (a) Deletes the provision that a child support master may not be designated as an associate judge.

(b) Authorizes an associate judge appointed under this subchapter to reside anywhere within the administrative judicial region. Creates subsection from text of a portion of existing Subsection (a) and deletes existing Subsection (b).

Sec. 201.103. (a)-(c) Replaces the term “master” with “associate judge.”

Sec. 201.104. POWERS OF ASSOCIATE JUDGE. (a) Authorizes on the motion of a party or the associate judges, an associate judge, rather than a master, to refer a complex case back to the judge for final disposition after the associate judge has recommended temporary support.

(b) Authorizes an associate judge to render and sign any order that is not a final order on the merits of the case. Deletes text related to the making of a record.

(c) Authorizes an associate judge, rather than a master, to recommend to the referring court any order after a trial on the merits.

(d) Authorizes only the referring court to hear and render an order on a motion for postjudgment relief, including a motion, rather than order, for a new trial or to vacate, correct, or reform a judgment.

(e) Authorizes an associate judge, notwithstanding Subsection (d) and subject to Section 201.1042(g), to hear and render an order on certain suits.

Sec. 201.1041. JUDICIAL ACTION ON ASSOCIATE JUDGE’S REPORT. (a)-(c) Replaces “master” with “associate judge.”

SECTION 9. Amends Section 201.1042, Family Code, by amending Subsections (a), (b), (c), and (g), as follows:

(a)-(c) Replaces “master” with “associate judge.” Makes a nonsubstantive change.

(g) Prohibits an associate judge, until a hearing is held on a timely filed appeal under this section or the referring court has rendered an order on timely filed motion for new trial or a motion to vacate, correct, or reform a judgment, from holding a hearing on the respondent’s compliance with conditions in the associate judge’s report for suspension of commitment or on a motion to revoke the respondent’s community supervision and suspension of commitment.

SECTION 10. Amends Sections 201.105, 201.106, 201.1065, and 201.1066, Family Code, as follows:

Sec. 201.105. COMPENSATION OF ASSOCIATE JUDGE. (a) Makes a conforming change. Prohibits the salary of an associate judge from exceeding 90 percent of the salary paid to a district judge as set by the General Appropriations Act.

(b) Requires the associate judge’s salary to be paid from the county funds provided by this subchapter, rather than Section 201.107.

Sec. 201.106. (a) and (b) Makes conforming changes.

Sec. 201.1065. (a) Makes a conforming change.

(b) Requires a court monitor, in monitoring a child support case, to recommend that the court, if appropriate, perform certain actions.

Sec. 201.1066. SUPERVISION OF ASSOCIATE JUDGES. Requires the office of court administration to assist the presiding judges in handling certain tasks. Deletes language relating to a plan to improve the efficiency of the masters’ participation in the

child support enforcement program.

SECTION 11. Amends Sections 201.107(a) and (b), Family Code, to make conforming changes.

SECTION 12. Amends Section 201.110(a), Family Code, to require Title IV-D to be completed within specific time periods.

SECTION 13. Amends the heading to Section 201.111, Family Code, to read as follows:

Sec. 201.111. TIME TO ACT ON ASSOCIATE JUDGE'S REPORT THAT INCLUDES FINDING OF CONTEMPT.

SECTION 14. Amends Section 201.111(a), Family Code, to make a conforming change.

SECTION 15. Amends Sections 201.112 and 201.113, Family Code, as follows:

Sec. 201.112. LIMITATION ON LAW PRACTICE BY CERTAIN ASSOCIATE JUDGES. Prohibits a full-time associate judge appointed under this chapter from engaging in the private of practice law.

Sec. 201.113. VISITING ASSOCIATE JUDGE. Clarifies the situation under which an associate judge may be appointed by the presiding judge.

SECTION 16. Amends the heading to Subchapter C, Chapter 201, Family Code, to read as follows:

SUBCHAPTER C. ASSOCIATE JUDGE FOR CHILD PROTECTION CASES.

SECTION 17. Amends Sections 201.201(a) and (d), Family Code, to replace "substitute care" with "child protection."

SECTION 18. Amends Section 201.204, Family Code, as follows:

Sec. 201.204. GENERAL POWERS OF ASSOCIATE JUDGE. (a) Makes a conforming change.

(b) Authorizes an associate judge to render and sign any pretrial order.

(c) Authorizes an associate judge to recommend to the referring court any order after a trial on the merits, rather than requiring taking testimony and making a record.

SECTION 19. Amends Subchapter C, Family Code, by adding Sections 201.2041 and 201.2042 as follows:

Sec. 201.2041. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. Provides that if an appeal to the referring court is not filed or the right to appeal is waived, a recommendation of the associate judge becomes an order of the referring court by operation of law without ratification by the referring court.

Sec. 201.2042. APPEAL TO REFERRING COURT. (a) Provides that except as provided by this section, Section 201.015 applies to an appeal of the associate judge's recommendations.

(b) Requires the party appealing an associate judge's recommendation to file notice with the referring court and the clerk of the court.

SECTION 20. Amends Section 201.205(b), Family Code, to make a conforming change.

SECTION 21. Amends Section 201.206(b), Family Code, to make conforming and nonsubstantive changes.

SECTION 22. Amends Subchapter C, Chapter 201, Family Code, by adding Section 201.2061, as follows:

Sec. 201.2061. SUPERVISION OF ASSOCIATE JUDGES. Requires the office of court administration to assist presiding judges in performing certain tasks.

SECTION 23. Amends Section 201.208, Family Code, as follows:

Sec. 201.208. ASSIGNMENT OF JUDGES AND APPOINTMENT OF VISITING ASSOCIATE JUDGES. (a) Provides that this chapter does not limit the authority of a presiding judge to assign a judge eligible for assignment under Chapter 74, Government Code. Deletes language relating to the appointment of an associate judge for child protection cases.

(b) Provides that if an associate judge appointed under this subchapter is temporarily unable to perform the associate judge's official duties because of absence resulting from family circumstances, illness, injury, disability, or military service, or if there is a vacancy in the position of associate judge, the presiding judge of the administrative judicial region in which the associate judge serves or the vacancy occurs may appoint a visiting associate judge to perform the duties of the associate judge during the period the associate judge is unable to perform the associate judge's duties or until another associate judge is appointed to fill the vacancy.

(c) Provides that a person is not eligible for appointment under this section unless the person has served as an associate judge for at least two years before the date of appointment.

(d) Provides that a visiting associate judge appointed under this section is subject to each provision of this chapter that applies to an associate judge serving under a regular appointment under this subchapter. Provides that a visiting associate judge appointed under this section is entitled to compensation, to be determined by a majority vote of the presiding judges of the administrative judicial regions, through use of funds under this subchapter. Provides that a visiting associate judge is not considered to be a state employee for any purpose.

SECTION 24. Amends Subchapter C, Chapter 201, Family Code, by adding Section 201.209, as follows:

Sec. 201.209. LIMITATION ON LAW PRACTICE BY ASSOCIATE JUDGE. Prohibits an associate judge appointed under this subchapter from engaging in the private practice of law.

SECTION 25. Amends Section 231.012(a), Family Code, to require the county advisory work group to consist of certain individuals.

SECTION 26. Amends Section 54.873(b), Government Code, to prohibit the salary from being less than the salary authorized to be paid to an associate judge for Title IV-D cases.

SECTION 27. Repealer: Sections 201.108 (Mandatory Appointment of Master) and 201.109 (Exemption From Appointment of Master), Family Code.

SECTION 28. Provides that a reference in law to a child support master under Subchapter B, Chapter 201, Family Code, means an associate judge under Subchapter B, Chapter 201, Family Code, as amended by this Act.

SECTION 29. Effective date: September 1, 2003.