

BILL ANALYSIS

H.B. 823
By: Goodman
Juvenile Justice & Family Issues
Committee Report (Amended)

BACKGROUND AND PURPOSE

Subchapter B of Chapter 201, Texas Family Code, regulates the judicial officers who hear paternity and child support cases brought by the Office of the Attorney General, the state's Title IV-D agency. The child support masters program was created effective January 1, 1987, (Acts 1986, 69th Leg., 2nd C.S., Ch. 10) in response to a federal mandate concerning the handling of Title IV-D cases. The Federal Child Support Enforcement Amendments of 1984 [P. L. 98-378] required States, as a condition of receiving federal funds, to have in effect laws providing for expedited processes to establish and enforce child support obligations. Federal regulations were promulgated that defined expedited processes as "administrative or expedited judicial processes or both which . . . meet specified processing times and under which the presiding officer is not a judge of the court." Federal law was amended by the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) [P.L. 103-66] to change the expedited process time frames for Title IV-D cases, and to remove the restriction against the presiding officer being a judge of the court. State law has not been amended to reflect these changes.

Unlike the associate judges described in subchapter A of Chapter 201, who may hear suits involving marriage dissolution, family violence, and all suits affecting the parent-child relationship, the child support masters have very specialized case loads. In most respects, the powers and duties of a child support master mirror those of an associate judge under subchapter A, although fewer actions by a child support master require ratification by a referring court.

Subchapter C of Chapter 201, enacted in 1999, followed the model established under subchapter B to create another class of associate judges to handle specialized case loads - those cases dealing with child abuse and neglect. Most provisions of subchapter A apply to associate judges appointed under this subchapter.

The child support masters and the associate judges for child protective cases are unique in Texas jurisprudence. They are state employees appointed and supervised by the presiding judges of the administrative judicial regions, and they may be appointed to serve in more than one court.

The provisions of this bill are intended to change the title in subchapter B of "child support master" to "associate judge" to be consistent with the rest of the chapter. Additional changes are made to subchapter B to reflect changes in federal law made by OBRA '93. Changes are made to subchapter C to more accurately describe the type of cases being heard. Changes are also made to the powers and duties of the associate judges under subchapter C, as well as provisions regarding the appointment of visiting associate judges, to correspond to existing provisions in subchapter B.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

Sections 1, 2, 3, 4, and 5. Amends the heading to Chapter 201, Family Code and Family Code Sections 201.001 (e), 201.003 (d), 201.004 (d), and 201.018 (d) to reflect the change in title from “child support masters” to an “associate judge.”

Section 6. Amends the heading to Subchapter B, Chapter 201, Family Code from “child support master and court monitor” to “associate judge for Title IV-D cases.”

Section 7. Amends Sections 201.101(a),(c), and (d) Family Code by replacing the word “master” with “associate judge.”

Section 8. Section 201.102, Application of Law Governing Associate Judges, is amended to repeal the provision that a child support master may not be designated as an associate judge. The remaining provisions are simplified to remove a redundancy that currently exists in subsections (a) and (b). Section 201.103 is amended by replacing the word “master” with “associate judge.” Section 201.104, Powers and Duties of Master is amended by repealing subsection (b) concerning the making of a record. The language duplicates similar provisions found in subchapter A, which applies to proceedings under subchapter B unless there is a specific exception set out in subchapter B. Section 201.009 adequately addresses provisions for making a record of the proceedings. Current subsection (e) is amended and a new subsection is added to clarify the powers of a child support master when a party requests post-judgment relief, and to clarify that a child support master may hear post-judgment motions for contempt or modification of final child support orders. Section 201.1041 is amended by replacing the word “master” with “associate judge.”

Section 9. Section 201.1042, Appeal to Referring Court, is amended to provide that the child support master may conduct a release hearing for an incarcerated child support obligor if the referring court is unavailable within the “one working day” time frame required by the section. The final subsection is amended to clarify the powers of the master while an appeal or other motion for post-judgment relief is pending before the referring court.

Section 10. Sections 201.105, 201.106 and 201.1066 are amended by replacing the word “master” with “associate judge.” Section 201.1065, Duties of Child Support Court Monitor, is amended to add that a child support court monitor may recommend discharge from or the modification of the terms and conditions of community supervision, or may recommend the revocation of community supervision. Section 201.1066, Supervision of Masters, is further amended to repeal the requirements for a report due to the Legislature on January 1, 2000 while adding ongoing obligations of the presiding judges and the office of court administration for supervising associate judges

Section 11. Amends Sections 201.107(a) and (b) by replacing the word “master” with “associate judge.”

Section 12. Section 201.110, Time for Disposition of Title IV-D Cases, is amended to comply with the change in federal law made by OBRA ‘93.

Section 13. Amend the heading to Section 201.111 by replacing the word “master’s” with “associate judge’s.”

Section 14. Amends section 201.111(a) by replacing the word “master’s” with “associate judge’s.”

Section 15. Amends Section 201.112, Limitation on Law Practice, so that full-time associate judges appointed under this subchapter may not engage in the private practice of law. Section 201.113, Visiting Child Support Master, is amended to clarify the situations under which a visiting child support master may be appointed by the presiding judge.

Section 16. Amends the heading to Subchapter C, Chapter 201, Family Code.

Section 17. Section 201.201, Authority of Presiding Judges, is amended to more accurately define the type of case heard under this subchapter. The term “substitute care” case is changed to “child protection” case.

Section 18. Section 201.204 is amended to clarify the general powers of an associate judge. The changes are made to correspond to similar provisions in subchapter B which were enacted in 1999 in response to recommendations of the Sunset Advisory Commission for improved efficiency in processing orders in child support cases.

Section 19. Amends Subchapter C, Family Code by adding Sections 201.2041 and 201.2042. Section 201.2041 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. Section 201.2042 establishes the procedural requirements for an appeal of an associate judge’s recommendations.

Section 20. Amends Section 201.205(b) by establishing that an associate judge’s salary shall be paid as provided by this subchapter.

Section 21. Amends Section 201.206(b) by replacing the word “salary” with “salaries” and that such salaries shall be paid as provided by this subchapter.

Section 22. Amends Subchapter C, Chapter 201, Family Code by adding Section 201.2061 to establish the supervision of associate judges by the office of court administration.

Section 23. Section 201.208, Appointment of Associate Judge for Child Protection Case, is amended to add provisions for appointing a visiting associate judge. This change makes subchapter C consistent with the provisions of subchapter B.

Section 24. Amends Subchapter C, Chapter 201, Family Code by adding Section 201.209 to provide that an associate judge appointed under this subchapter may not engage in the private practice of law.

Section 25. Section 231.012(a) is amended by adding an associate judge for Title IV-D cases to the list of persons to be appointed to the county advisory work group and removing the term “master.”

Section 26. Amends Section 54.873 (b), Government Code by replacing “a master for family law” with “an associate judge for Title IV-D.”

Section 27. Repeals Sections 201.108 and 201.109 in accordance with changes to federal law made subsequent to the adoption of this section.

Section 28. Establishes 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. This Act takes effect September 1, 2003.

EFFECTIVE DATE

September 1, 2003.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 provides that if the presiding judge determines that a court requires an associate judge for Title IV-D cases, the presiding judge shall appoint an associate judge for that purpose.

Unless, a county has entered into a contract with the Title IV-D agency, enforcement services may be provided directly by county personnel, including judges and associate judges of the courts of the county. The amendment deletes the authority of the associate judge to conduct the contempt hearing and determine whether a respondent may be released, and lastly the amendment provides that an associate judge may render and sign any pre-trial order.