

BILL ANALYSIS

C.S.H.B. 3304
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Judicial Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Duval County is part of the 229th Judicial District, which covers a three county area (Duval, Jim Hogg, and Starr counties). A single judge hears the caseload for the entire district through a rotational schedule. This schedule allows the district judge to be in Duval County for only 13 weeks per year.

House Bill 3304 permits the district judge of the 229th Judicial District to appoint a full-time or part-time master with the approval of the commissioners court of Duval County.

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.

ANALYSIS

C.S.H.B. 3304 amends Chapter 54 of the Government Code by adding Subchapter V to establish a full or part-time master in Duval County. Section 1 of the bill adds the following provisions:

Sec. 54.1131 authorizes the 229th District Court judge, with the approval of the Duval County commissioners court to appoint a full or part-time master.

Sec. 54.1132 describes the qualifications and requirements of an appointed master.

Sec. 54.1133 provides the master is entitled to compensation set by the commissioners court paid from the county fund for officers' salaries. This subchapter does not apply to master appointed under Section 201.001 of the Family Code.

Sec. 54.1134 authorizes the master to engage in the private practice of law, unless restricted on a finding that it is contrary to the public interest.

Sec. 54.1135 provides the master serves at the will of the 229th District Court judge. This subchapter does not apply to a master appointed under Section 201.001, Family Code.

Sec. 54.1136 authorizes the appointing judge to refer any aspect of civil or criminal case to a master. This subchapter also authorizes the master to preside over any hearing after notice to all parties is given including:

Civil cases: temporary orders in suit for spousal support, motion to modify an order, temporary orders in suits affecting parent-child relationship, application for temporary injunction, habeas corpus, motion to transfer, motion of contempt, an action brought under Chapter 159 of Family Code, action for protection of family, matter on which parties agree, divorce action in which a waiver of citation is on file, friendly suit, and any other matter within the court's jurisdiction.

Criminal cases: negotiated plea, bond forfeiture, pretrial motion, post conviction writ of habeas corpus, an examining trial, and any other matter that the judge considers proper.

This subchapter also prohibits the district court judge from referring a jury trial and/or contested trial on the merits to terminate parental rights to a master unless the affected parties consent. It authorizes the appointing judge to refer a trial on the merits unless a party files a written objection.

Sec. 54.1137 provides that a referring court must issue an order, which may limit master's powers and duties, to refer cases to a master.

Sec. 54.1138 authorizes certain powers to a master except as limited by the order of referral.

Sec. 54.1139 requires a bailiff's attendance at a hearing held by a master.

Sec. 54.1140 provides witnesses appearing before a master are subject to the penalties for perjury proscribed by law.

Sec. 54.1141 requires the master to transmit all information, including his report, related to the case to the referring court. This subchapter also authorizes the master's report to contain findings, conclusions or recommendations. Upon signature, this subchapter requires the master to give notice of substance of report to all parties.

Sec. 54.1142 requires the master to give all parties notice of right to appeal.

Sec. 54.1143 provides the decisions and recommendations of master are in full force and effect pending appeal except for orders providing for incarceration or appointment of a receiver.

Sec. 54.1144 authorizes the referring court to adopt or reject master's report, hear further evidence, or recommit the matter for further proceedings, unless the parties have filed notice of appeal.

Sec. 54.1145 provides that unless an appeal is filed, the master's findings become the decree or order only upon signature of referring court.

Sec. 54.1146 provides procedures of appeal to the referring court.

Sec. 54.1147 provides failure to appeal to referring court does not deprive any party the right to appeal to court of appeals or supreme court, and the date of signing is the controlling date for purposes of appeal.

Sec. 54.1148 requires the master to refer any matters requiring a jury trial back to referring court if a jury trial is demanded.

Sec. 54.1149 provides this subchapter does not apply to masters appointed under Rule 171, Texas Rules of Civil Procedure.

Sec. 54.1150 provides a master appointed under this section is subject to the same judicial immunity as a district judge.

Sec. 54.1151 provides a court reporter is not required under this section; however, the master is authorized to preserve the record by any means, including a court reporter. This subchapter also authorizes the referring court or master to impose costs for preserving the record to the parties.

Sec. 54.1152 requires parties to pay a \$25 fee for services to the clerk to be used for court-related purposes.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.3304 modifies the original in the following manner:

Section numbers of the Government Code added by the bill now begin with Section 54.1131 rather than Section 54.1081 as in the original version.

Section 54.1134 [Section 54.1084 of the original] authorizes a master to engage in private practice unless restricted “on a finding that it is not in the public interest” by the appointing judge. The original did not contain this ‘public interest’ language.

Section 54.1146 [formerly 54.1096] modifies the reference to 54.1091 to 54.1141 to reflect the change in numbering.

The provision in the former section 54.1102 (now 54.1152) which required a defendant convicted in a criminal case before the master to pay a fee of \$25 for the services of the master, has been deleted. In the substitute, a plaintiff in a civil case before a master shall pay a fee of \$25 for the services of the master. The clerk of the referring court shall collect the fee and deposit in the county treasury to be used for court-related purposes.