

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3304
By: Guillen (Zaffirini)
Jurisprudence
5/21/2003
Committee Report (Substituted)

DIGEST 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.

C.S.H.B. 3304 permits the district judge of the 229th Judicial District to appoint a full-time or part-time associate judge with the approval of the commissioners court of Duval County.

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 Chapter 54, Government Code, by adding Subchapter V, as follows:

SUBCHAPTER V. ASSOCIATE JUDGES IN DUVAL COUNTY

Sec. 54.1131. APPOINTMENT. Authorizes the judge of the 229th District Court, with the approval of the commissioners court of Duval County, to appoint a full-time or a part-time associate judge to perform the duties authorized by this subchapter.

Sec. 54.1132. QUALIFICATIONS. Requires a person to meet certain conditions to be eligible for appointment as an associate judge.

Sec. 54.1133. COMPENSATION. (a) Provides that an associate judge is entitled to the compensation set by the Duval County commissioners court.

(b) Requires the salary to be paid from the county fund available for payments of officers' salaries.

(c) Provides that this section does not apply to an associate judge appointed under Section 201.001, Family Code.

Sec. 54.1134. PRIVATE PRACTICE. Authorizes the associate judge to engage in the private practice of law, unless restricted on a finding that it is not in the public interest by the appointing judge.

Sec. 54.1135. TERMINATION OF SERVICES. (a) Provides that an associate judge serves at the will of the judge of the 229th District Court.

(b) Provides that this section does not apply to an associate judge appointed under Section 201.001, Family Code.

Sec. 54.1136. REFERRAL OF CASE. (a) Authorizes the appointing judge to refer to an associate judge any aspect of a civil or criminal case involving a matter over which the

referring court has jurisdiction in Duval County.

(b) Authorizes an associate judge, after notice to all parties of the time and place of hearing, to preside over any hearing, including certain proceedings in a civil or criminal case.

(c) Prohibits a judge from referring to an associate judge any criminal case for trial on the merits in which a jury trial has been requested.

(d) Authorizes the appointing judge, unless a party files a written objection to the associate judge hearing the trial, to refer to an associate judge a trial on the merits. Provides that if an objection is filed, the trial on the merits must be heard by the referring court.

(e) Provides that a trial on the merits is a final adjudication from which an appeal may be taken to a court of appeals.

(f) Prohibits an associate judge from conducting a contested trial on the merits to terminate parental rights unless the affected parties give written consent to the contested trial by the associate judge. Provides that unless written consent is given by the affected parties to a contested trial on the merits, any order terminating parental rights issued pursuant to an associate judge's report resulting from the contested trial is void.

(g) Authorizes any pending or future cases, on appointment of an associate judge, to be referred to the associate judge.

Sec. 54.1137. ORDER OF REFERRAL. (a) Provides that to refer cases to an associate judge, the referring court must issue an order of referral.

(b) Authorizes the order of referral to limit the power or duties of an associate judge.

Sec. 54.1138. POWERS. Authorizes an associate judge, except as limited by an order of referral, to perform certain tasks.

Sec. 54.1139. ATTENDANCE OF BAILIFF. Requires a bailiff to attend a hearing held by an associate judge if directed by the referring court.

Sec. 54.1140. WITNESS. (a) Provides that a witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) Authorizes a referring court to issue attachment against and to fine or imprison a witness whose failure to appear before an associate judge after being summoned or whose refusal to answer questions has been certified to the court.

Sec. 54.1141. REPORT TRANSMITTED TO COURT; NOTICE. (a) Requires the associate judge, at the conclusion of any hearing conducted by an associate judge and on the preparation of an associate judge's report, to transmit to the referring court certain information.

(b) Requires the associate judge, after the associate judge's report has been signed, to give notice of the substance of the report to the parties participating in the hearing.

(c) Authorizes the associate judge's report to contain the associate judge's finding, conclusions, or recommendations. Requires the associate judge's report to be in writing in a form as the referring court may direct. Authorizes the form to be a notation on the referring court's docket sheet.

(d) Authorizes the notice required under Subsection (b) to be given in open court or to be given by certified mail, return receipt requested. Requires the associate judge, if the notice is given by certified mail, to certify the date of mailing and provides that the notice is considered to have been given on the third day after the date of mailing.

Sec. 54.1142. NOTICE OF RIGHT TO APPEAL. Requires an associate judge to give all parties notice of the right of appeal to the judge of the referring court. Authorizes the notice to be given by various means.

Sec. 54.1143. EFFECT OF ASSOCIATE JUDGE'S REPORT PENDING APPEAL. Provides that pending appeal of the associate judge's report to the referring court, the decisions and recommendations of the associate judge are in full force and effect and are enforceable as an order of the referring court, except for the orders providing for incarceration or for the appointment of a receiver.

Sec. 54.1144. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. Authorizes the referring court, after the associate judge's report is filed, and unless the parties have filed a written notice of appeal to the referring court, to perform certain tasks.

Sec. 54.1145. DECREE OR ORDER OF COURT. Provides that if an appeal to the referring court is not filed or the right to an appeal to the referring court is waived, the findings and the recommendations of the associate judge become the decree or order of the referring court only on the referring court's signing an order or decree conforming to the associate judge's report.

Sec. 54.1146. APPEAL TO REFERRING COURT. (a) Provides that any party is entitled to a hearing by the judge of the referring court if, not later than three days, computed in the manner provided by Rule 4, Texas Rules of Civil Procedure, after the associate judge gives the notice required by Section 54.1141, an appeal of the associate judge's report is filed with the referring court.

(b) Provides that the first day of the appeal time to the referring courts begins on the day after the day on which the associate judge gives the notice required by Section 54.1141.

(c) Requires an appeal to the referring court to be in writing and to specify the findings and conclusions of the associate judge to which the party objects. Provides that the appeal is limited to the findings and conclusions specified in the written appeal.

(d) Authorizes the parties, on appeal to the referring court, to present witnesses as in a hearing de novo on the issues raised in the appeal.

(e) Requires notice of any appeal to the referring court to be given to opposing counsel in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(f) Authorizes any other party, if an appeal to the referring court is filed by a party, to file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(g) Requires the referring court, after notice to the parties, to hold a hearing on all appeals not later than the 30th day after the date on which the initial appeal was filed with the referring court.

(h) Authorizes the parties, prior to any hearing before an associate judge, to waive the right of appeal to the referring court. Authorizes the waiver to be in writing or on the record.

Sec. 54.1147. APPELLATE REVIEW. (a) Provides that failure to appeal to the referring court, by waiver or otherwise, on the approval by the referring court of an associate judge's report does not deprive any party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Provides that the date of the signing of an order or judgment by the referring court is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

Sec. 54.1148. JURY TRIAL DEMANDED. Requires the associate judge, if a jury trial is demanded and a jury fee paid in a trial on the merits, to refer any matters requiring a jury back to the referring court for a full trial before the court and jury.

Sec. 54.1149. INAPPLICABILITY OF SUBCHAPTER TO MASTERS APPOINTED UNDER RULE 171. Provides that masters appointed by the referring court under Rule 171, Texas Rules of Civil Procedure, have all the duties and powers set forth in the order of appointment and are not governed by this subchapter.

Sec. 54.1150. IMMUNITY. Provides that an associate judge appointed under this subchapter has the judicial immunity of a district judge.

Sec. 54.1151. COURT REPORTER. (a) Provides that a court reporter is not required during a hearing held by a associate judge appointed under this subchapter.

(b) Authorizes the party, the associate judge, or the referring court to provide for a court reporter during the hearing. Authorizes the record to be preserved by any other means approved by the associate judge.

(c) Authorizes the referring court or associate judge to impose on a party as costs the expense of preserving the record.

Sec. 54.1152. FEES. (a) Requires a plaintiff in a civil case before an associate judge to pay a fee of \$25 for the services of the associate judge.

(b) Requires the clerk of the referring court to collect the fee and deposit it in the county treasury to be used for court-related purposes.

SECTION 2. Effective date: September 1, 2003.