By: Goodman H.B. No. 823

A BILL TO BE ENTITLED

AN ACT

relating to associate judges for certain family law matters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 201, Family Code, is amended to read as follows:

CHAPTER 201. ASSOCIATE JUDGE[~~, CHILD SUPPORT MASTER~~]

SECTION 2. Section 201.001(e), Family Code, is amended to read as follows:

(e) This section does not apply to [~~a master appointed under Subchapter B or~~] an associate judge appointed under Subchapter B or C.

SECTION 3. Section 201.003(d), Family Code, is amended to read as follows:

(d) This section does not apply to [~~a master appointed under Subchapter B or~~] an associate judge appointed under Subchapter B or C.

SECTION 4. Section 201.004(d), Family Code, is amended to read as follows:

(d) This section does not apply to [~~a master appointed under Subchapter B or~~] an associate judge appointed under Subchapter B or C.

SECTION 5. Section 201.018(d), Family Code, is amended to read as follows:

(d) This section does not apply to an associate judge [~~a~~

~~master~~] appointed under Subchapter B.

SECTION 6. The heading to Subchapter B, Chapter 201, Family Code, is amended to read as follows:

SUBCHAPTER B. ASSOCIATE JUDGE FOR TITLE IV-D CASES [~~CHILD SUPPORT MASTER AND COURT MONITOR~~]

SECTION 7. Sections 201.101(a), (c), and (d), Family Code, are amended to read as follows:

(a) The presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having jurisdiction of Title IV-D cases, shall determine which courts require the appointment of a full-time or part-time associate judge [~~master~~] to complete each Title IV-D case within the time specified in this subchapter.

(c) An associate judge [~~A master~~] appointed under this subchapter may be appointed to serve more than one court. Two or more judges of administrative judicial regions may jointly appoint one or more associate judges [~~masters~~] to serve the regions.

(d) If the presiding judge determines that a court requires an associate judge [~~a master~~], the presiding judge shall appoint an associate judge [~~a master~~]. If an associate judge [~~a master~~] is appointed for a court, all Title IV-D cases shall be referred to the associate judge [~~master~~] by a general order for each county issued by the judge of the court for which the associate judge [~~master~~] is appointed, or, in the absence of that order, by a general order issued by the presiding judge who appointed the associate judge [~~master~~]. Referral of Title IV-D cases may not be made for individual cases or case by case.

SECTION 8. Sections 201.102, 201.103, 201.104, and 201.1041, Family Code, are amended to read as follows:

Sec. 201.102. APPLICATION OF LAW GOVERNING ASSOCIATE JUDGES. (a) [~~The provisions of~~] Subchapter A applies to [~~relating to the qualifications, powers, and immunity of~~] an associate judge appointed under this subchapter [~~apply to a master appointed under this subchapter~~], except that, to the extent of any conflict between this subchapter and Subchapter A, this subchapter prevails.

(b) An associate judge appointed under this subchapter [~~a master:~~

[~~(1)~~] may reside anywhere within the administrative judicial region in which the court to which the associate judge [~~master~~] is appointed is located. An associate judge [~~or, if a master is~~] appointed to serve in two or more administrative judicial regions[~~,~~] may reside anywhere within the regions[~~; and~~

[~~(2) may not be designated as an associate judge~~].

[~~(b) Except as provided by this subchapter, the provisions of Subchapter A relating to an associate judge apply to a master appointed under this subchapter.~~]

Sec. 201.103. DESIGNATION OF HOST COUNTY. (a) The presiding judges of the administrative judicial regions by majority vote shall determine the host county of an associate judge [~~a master~~] appointed under this subchapter.

(b) The host county shall provide an adequate courtroom and quarters, including furniture, necessary utilities, and telephone equipment and service, for the associate judge [~~master~~] and other personnel assisting the associate judge [~~master~~].

(c) An associate judge [~~A master~~] is not required to reside in the host county.

Sec. 201.104. POWERS [~~AND DUTIES~~] OF ASSOCIATE JUDGE [~~MASTER~~]. (a) On the motion of a party or the associate judge, an associate judge [~~a master~~] may refer a complex case back to the judge for final disposition after the associate judge [~~master~~] has recommended temporary support.

(b) An associate judge [~~A master shall take testimony and make a record in all Title IV-D cases as provided by this chapter.~~

[~~(c) A master~~] may render and sign any order that is not a final order on the merits of the case.

(c) An associate judge [~~(d) A master~~] may recommend to the referring court any order after a trial on the merits.

(d) [~~(e)~~] Only the referring court may hear and render an order on a motion for postjudgment relief, including a motion [~~an order~~] for a new trial or to vacate, correct, or reform a judgment.

(e) Notwithstanding Subsection (d) and subject to Section 201.1042(g), an associate judge may hear and render an order on:

(1) a suit to modify or clarify an existing child support order;

(2) a motion to enforce a child support order or revoke a respondent's community supervision and suspension of commitment; or

(3) a respondent's compliance with the conditions provided in the associate judge's report for suspension of the respondent's commitment.

Sec. 201.1041. JUDICIAL ACTION ON ASSOCIATE JUDGE'S

[~~MASTER'S~~] REPORT. (a) If an appeal to the referring court is not filed or the right to appeal is waived, a recommendation of the associate judge [~~master~~], other than a recommendation of enforcement by contempt or a recommendation of the immediate incarceration of a party, shall become an order of the referring court by operation of law without ratification by the referring court.

(b) An associate judge's [~~A master's~~] report that recommends enforcement by contempt or the immediate incarceration of a party becomes an order of the referring court only if:

(1) the referring court signs an order adopting the associate judge's [~~master's~~] recommendation; and

(2) the order meets the requirements of Section 157.166.

(c) Except as provided by Subsection (b), the decisions and recommendations of the associate judge [~~master~~] have full force and effect and are enforceable as an order of the referring court during an appeal of the associate judge's [~~master's~~] report to the referring court.

SECTION 9. Section 201.1042, Family Code, is amended by amending Subsections (a), (b), (c), and (g), and adding Subsection (c-1) to read as follows:

(a) Except as provided by [~~in~~] this section, Section 201.015 applies to an appeal of the associate judge's [~~master's~~] recommendations.

(b) The party appealing an associate judge's [~~a master's~~] recommendation shall file notice with the referring court and the

clerk of the court.

(c) A respondent who timely files an appeal of an associate judge's [~~a master's~~] report recommending incarceration after a finding of contempt shall be brought before the referring court not later than the first working day after the date on which the respondent files [~~of filing~~] the appeal. The referring court shall determine whether the respondent should be released on bond or whether the respondent's appearance in court at a designated time and place can be otherwise assured.

(c-1) If the referring court is not available to conduct the hearing under Subsection (c) within the required time, the associate judge may conduct the hearing and determine whether the respondent may be released in accordance with this section.

(g) Until a hearing is held on a timely filed appeal under this section or the referring court has rendered an order on a timely filed motion for new trial or a motion to vacate, correct, or reform a judgment, an associate judge [~~a master~~] may not hold a hearing on the respondent's compliance with conditions in the associate judge's [~~master's~~] report for suspension of commitment or on a motion to revoke the respondent's community supervision and suspension of commitment [~~incarceration~~].

SECTION 10. Sections 201.105, 201.106, 201.1065, and 201.1066, Family Code, are amended to read as follows:

Sec. 201.105. COMPENSATION OF ASSOCIATE JUDGE [~~MASTER~~]. (a) An associate judge [~~A master~~] appointed under this subchapter is entitled to a salary to be determined by a majority vote of the presiding judges of the administrative judicial regions. The

salary may not exceed 90 percent of the salary paid to a district judge as set by the General Appropriations Act [~~state general appropriations act~~].

(b) The associate judge's [~~master's~~] salary shall be paid from [~~the~~] county funds [~~fund~~] available for payment of officers' salaries or from funds available from the state and federal government as provided by this subchapter [~~in Section 201.107~~].

Sec. 201.106. CHILD SUPPORT COURT MONITOR AND OTHER PERSONNEL. (a) The presiding judge of an administrative judicial region or the presiding judges of the administrative judicial regions, by majority vote, may appoint other personnel, including a child support court monitor for each associate judge [~~master~~] appointed under this subchapter, as needed to implement and administer the provisions of this subchapter.

(b) The salaries [~~salary~~] of the personnel and court monitors shall be paid from [~~the~~] county funds [~~fund~~] available for payment of officers' salaries or from funds available from the state and federal government as provided by this subchapter [~~Section 201.107~~].

Sec. 201.1065. DUTIES OF CHILD SUPPORT COURT MONITOR. (a) A child support court monitor appointed under this subchapter [~~Section 201.106~~] shall monitor child support cases in which the obligor is placed on probation for failure to comply with the requirements of a child support order.

(b) In monitoring a child support case, a court monitor shall:

(1) conduct an intake assessment of the needs of an

obligor that, if addressed, would enable the obligor to comply with a child support order;

(2) refer an obligor to employment services offered by the employment assistance program under Section 302.0035, Labor Code, if appropriate;

(3) provide mediation services or referrals to services, if appropriate;

(4) schedule periodic contacts with an obligor to assess compliance with the child support order and whether additional support services are required; [~~and~~]

(5) monitor the amount and timeliness of child support payments owed and paid by an obligor; and

(6) if appropriate, recommend that the court:

(A) discharge an obligor from or modify the terms of the obligor's community supervision; or

(B) revoke an obligor's community supervision.

Sec. 201.1066. SUPERVISION OF ASSOCIATE JUDGES [~~MASTERS~~]. [~~(a) Not later than January 1, 2000, the office of court administration and the presiding judges of the administrative judicial regions shall report to the legislature a plan to improve the efficiency of the masters appointed under this subchapter and the masters' participation in the child support enforcement program in the state.~~

[~~(b) The plan must:~~

[~~(1) contain written personnel performance standards and require annual performance evaluations for the masters and other personnel appointed under this subchapter;~~

[~~(2) require uniform practices;~~

[~~(3) address training needs and resource requirements of the masters;~~

[~~(4) ensure accountability of the masters for complying with applicable federal and state law, including statutes regarding a minimum 40-hour workweek and working hours under Chapter 658, Government Code; and~~

[~~(5) require a uniform process for receiving, handling, and resolving complaints about individual masters or the child support masters program under this subchapter.~~

[~~(c)~~] The office of court administration shall assist the presiding judges in:

(1) monitoring the associate judges' [~~masters'~~] compliance with job performance standards and federal and state laws and policies;

(2) addressing the training needs and resource requirements of the associate judges;

(3) conducting annual performance evaluations for the associate judges and other personnel appointed under this subchapter based on written personnel performance standards adopted by the presiding judges; and

(4) receiving, investigating, and resolving complaints about particular associate judges or the associate judge program under this subchapter based on a uniform process adopted by the presiding judges.

SECTION 11. Sections 201.107(a) and (b), Family Code, are amended to read as follows:

(a) The office of court administration may contract with the Title IV-D agency for available state and federal funds under Title IV-D and may employ personnel needed to implement and administer this subchapter. An associate judge [~~A master~~], a court monitor for each associate judge [~~master~~], and other personnel appointed under this subchapter are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

(b) The presiding judges of the administrative judicial regions, state agencies, and counties may contract with the Title IV-D agency for available federal funds under Title IV-D to reimburse costs and salaries associated with associate judges [~~masters~~], court monitors, and personnel appointed under this subchapter and may also use available state funds and public or private grants.

SECTION 12. Section 201.110(a), Family Code, is amended to read as follows:

(a) Title IV-D cases must be completed from the time of successful service to the time of disposition within the following time:

(1) 75 [~~90~~] percent within six [~~three~~] months; and

(2) 90 [~~98~~] percent within [~~six months; and~~

[~~(3) 100 percent within~~] one year.

SECTION 13. The heading to Section 201.111, Family Code, is amended to read as follows:

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

SECTION 14. Section 201.111(a), Family Code, is amended to read as follows:

(a) Not later than the 10th day after the date an associate judge's [~~a master's~~] report recommending a finding of contempt is filed, the referring court shall:

(1) adopt, approve, or reject the [~~master's~~] report;

(2) hear further evidence; or

(3) recommit the matter for further proceedings.

SECTION 15. Sections 201.112 and 201.113, Family Code, are amended to read as follows:

Sec. 201.112. LIMITATION ON LAW PRACTICE BY CERTAIN ASSOCIATE JUDGES [~~MASTER~~]. A full-time associate judge appointed under this subchapter [~~A master~~] may not engage in the private practice of law.

Sec. 201.113. VISITING ASSOCIATE JUDGE [~~CHILD SUPPORT MASTER~~]. (a) If an associate judge [~~a child support master~~] appointed under this subchapter is temporarily unable to perform the associate judge's [~~master's~~] official duties because of absence resulting from family circumstances, illness, injury, [~~or~~] 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 [~~master~~] serves or the vacancy occurs may appoint a visiting associate judge for Title IV-D cases [~~child support master~~] to perform the duties of the associate judge [~~master~~] during the period the associate judge [~~master~~] is unable to perform the associate judge's [~~master's~~] duties or until another associate

judge is appointed to fill the vacancy.

(b) A person is not eligible for appointment under this section unless the person has served as a child support master or associate judge for at least two years before the date of appointment.

(c) A visiting associate judge [~~master~~] appointed under this section is subject to each provision of this chapter that applies to an associate judge [~~a child support master~~] serving under a regular appointment under this subchapter. A visiting associate judge [~~master~~] 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 [~~Section 201.105(b)~~]. A visiting associate judge is not considered to be a state employee for any purpose.

SECTION 16. The heading to Subchapter C, Chapter 201, Family Code, is amended to read as follows:

SUBCHAPTER C. ASSOCIATE JUDGE FOR [~~SUBSTITUTE CARE AND~~] CHILD PROTECTION [~~PROTECTIVE SERVICES~~] CASES

SECTION 17. Sections 201.201(a) and (d), Family Code, are amended to read as follows:

(a) The presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having family law jurisdiction and a child protection [~~substitute care~~] caseload, shall determine which courts require the appointment of a full-time or part-time associate judge to complete each case within the times specified in Chapters 262 and 263.

(d) If the presiding judge determines that a court requires

an associate judge, the presiding judge shall appoint an associate judge. If an associate judge is appointed for a court, all child protection [~~substitute care~~] cases shall be referred to the associate judge by a general order for each county issued by the judge of the court for which the associate judge is appointed or, in the absence of that order, by a general order issued by the presiding judge who appointed the associate judge.

SECTION 18. Section 201.204, Family Code, is amended to read as follows:

Sec. 201.204. GENERAL POWERS [~~AND DUTIES~~] OF ASSOCIATE JUDGE. (a) On the motion of a party or the associate judge, an associate judge may refer a complex case back to the referring court for final disposition after recommending temporary orders for the protection of a child.

(b) An associate judge may render and sign any order that is not a final order on the merits of the case.

(c) An associate judge may recommend to the referring court any order after a trial on the merits [~~shall take testimony and make a record in a case as provided by this chapter~~].

SECTION 19. Subchapter C, Family Code, is amended by adding Sections 201.2041 and 201.2042 to read as follows:

Sec. 201.2041. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. 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) Except as

provided by this section, Section 201.015 applies to an appeal of the associate judge's recommendations.

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

SECTION 20. Section 201.205(b), Family Code, is amended to read as follows:

(b) The associate judge's salary shall be paid from county funds available for payment of officers' salaries subject to the approval of the commissioners court or from funds available from the state and federal governments as provided by this subchapter [~~in Section 201.207~~].

SECTION 21. Section 201.206(b), Family Code, is amended to read as follows:

(b) The salaries [~~salary~~] of the personnel shall be paid from county funds available for payment of officers' salaries subject to the approval of the commissioners court or from funds available from the state and federal governments as provided by this subchapter [~~Section 201.207~~].

SECTION 22. Subchapter C, Chapter 201, Family Code, is amended by adding Section 201.2061 to read as follows:

Sec. 201.2061. SUPERVISION OF ASSOCIATE JUDGES. The office of court administration shall assist the presiding judges in:

(1) monitoring the associate judges' compliance with any applicable job performance standards, uniform practices adopted by the presiding judges, and federal and state laws and policies;

(2) addressing the training needs and resource requirements of the associate judges;

(3) conducting annual performance evaluations for the associate judges and other personnel appointed under this subchapter based on written personnel performance standards adopted by the presiding judges; and

(4) receiving, investigating, and resolving complaints about particular associate judges or the associate judge program under this subchapter based on a uniform process adopted by the presiding judges.

SECTION 23. Section 201.208, Family Code, is amended to read as follows:

Sec. 201.208. ASSIGNMENT OF JUDGES AND APPOINTMENT OF VISITING ASSOCIATE JUDGES [~~JUDGE FOR CHILD PROTECTION CASES~~]. (a) [~~The presiding judge of an administrative judicial region may appoint an associate judge for a court handling child protection cases.~~

[~~(b)~~] This chapter does not limit the authority of a presiding judge to assign a judge eligible for assignment under Chapter 74, Government Code, [~~appoint visiting or retired judges~~] to assist in processing cases in a reasonable time.

(b) 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) 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) 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. 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. A visiting associate judge is not considered to be a state employee for any purpose.

SECTION 24. Subchapter C, Chapter 201, Family Code, is amended by adding Section 201.209 to read as follows:

Sec. 201.209. LIMITATION ON LAW PRACTICE BY ASSOCIATE JUDGE. An associate judge appointed under this subchapter may not engage in the private practice of law.

SECTION 25. Section 231.012(a), Family Code, is amended to read as follows:

(a) The director of the Title IV-D agency shall establish a county advisory work group to assist the Title IV-D agency in developing and changing child support programs that affect counties. The work group shall consist of at least one of each of

the following:

(1) county judge;

(2) county commissioner;

(3) district clerk;

(4) domestic relations officer;

(5) associate judge for Title IV-D cases [~~master~~]; and

(6) district court judge.

SECTION 26. Section 54.873(b), Government Code, is amended to read as follows:

(b) The salary may not be less than the salary authorized to be paid to an associate judge for Title IV-D [~~a master for family law~~] cases appointed under Subchapter B, Chapter 201, Family Code.

SECTION 27. Sections 201.108 and 201.109, Family Code, are repealed.

SECTION 28. 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.

COMMITTEE AMENDMENT NO. 1

Amends H.B. 823 as follows:

On page 2, line 19, after "associate judge" insert "for Title IV-D cases".

On page 2, line 20, after the first reference to "associate judge" insert "for that purpose. Except as provided under subsection (e)"; strike the period and replace with a comma; and replace "If" with "if".

On page 2, line 21, after "court" insert "under this chapter".

On page 3, line 1, add "(e) If a county has entered into a contract with the Title IV-D agency under Section 231.0011, enforcement services may be directly provided by county personnel, as provided under Section 231.0011(d), including judges and associate judges of the courts of the county."

On page 6, delete subsection (c-1)(lines 10-13).

On page 13, line 15, after "any" insert "pre-trial", insert a period after "order", and delete the remainder of lines 15 and 16.

Hodge