

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~~

1 ~~master~~] appointed under Subchapter B.

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

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

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

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

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

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

1 SECTION 8. Sections 201.102, 201.103, 201.104, and
2 201.1041, Family Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (e) Notwithstanding Subsection (d) and subject to Section
18 201.1042(g), an associate judge may hear and render an order on:

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

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

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

27 Sec. 201.1041. JUDICIAL ACTION ON ASSOCIATE JUDGE'S

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

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

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

13 (2) the order meets the requirements of Section
14 157.166.

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

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

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

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

1 clerk of the court.

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

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

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

22 SECTION 10. Sections 201.105, 201.106, 201.1065, and
23 201.1066, Family Code, are amended to read as follows:

24 Sec. 201.105. COMPENSATION OF ASSOCIATE JUDGE [~~MASTER~~].

25 (a) An associate judge [~~A master~~] appointed under this subchapter
26 is entitled to a salary to be determined by a majority vote of the
27 presiding judges of the administrative judicial regions. The

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

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

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

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

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

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

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

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

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

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

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

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

13 (6) if appropriate, recommend that the court:

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

16 (B) revoke an obligor's community supervision.

17 Sec. 201.1066. SUPERVISION OF ASSOCIATE JUDGES ~~[MASTERS]~~.

18 ~~[(a) Not later than January 1, 2000, the office of court~~
19 ~~administration and the presiding judges of the administrative~~
20 ~~judicial regions shall report to the legislature a plan to improve~~
21 ~~the efficiency of the masters appointed under this subchapter and~~
22 ~~the masters' participation in the child support enforcement program~~
23 ~~in the state.~~

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

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

1 ~~[(2) require uniform practices,~~

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

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

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

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

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

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

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

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

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

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

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

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

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

- 21 (1) 75 [~~90~~] percent within six [~~three~~] months; and
22 (2) 90 [~~98~~] percent within [~~six months, and~~
23 [~~(3) 100 percent within~~] one year.

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

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

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

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

- 6 (1) adopt, approve, or reject the [~~master's~~] report;
7 (2) hear further evidence; or
8 (3) recommit the matter for further proceedings.

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

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

15 Sec. 201.113. VISITING ASSOCIATE JUDGE [~~CHILD SUPPORT~~
16 ~~MASTER~~]. (a) If an associate judge [~~a child support master~~]
17 appointed under this subchapter is temporarily unable to perform
18 the associate judge's [~~master's~~] official duties because of absence
19 resulting from family circumstances, illness, injury, [~~or~~]
20 disability, or military service, or if there is a vacancy in the
21 position of associate judge, the presiding judge of the
22 administrative judicial region in which the associate judge
23 [~~master~~] serves or the vacancy occurs may appoint a visiting
24 associate judge for Title IV-D cases [~~child support master~~] to
25 perform the duties of the associate judge [~~master~~] during the
26 period the associate judge [~~master~~] is unable to perform the
27 associate judge's [~~master's~~] duties or until another associate

1 judge is appointed to fill the vacancy.

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

6 (c) A visiting associate judge [~~master~~] appointed under
7 this section is subject to each provision of this chapter that
8 applies to an associate judge [~~a child support master~~] serving
9 under a regular appointment under this subchapter. A visiting
10 associate judge [~~master~~] appointed under this section is entitled
11 to compensation to be determined by a majority vote of the presiding
12 judges of the administrative judicial regions through use of funds
13 under this subchapter [~~Section 201.105(b)~~]. A visiting associate
14 judge is not considered to be a state employee for any purpose.

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

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 201.2042. APPEAL TO REFERRING COURT. (a) Except as

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) If an associate judge appointed under this subchapter is
23 temporarily unable to perform the associate judge's official duties
24 because of absence resulting from family circumstances, illness,
25 injury, disability, or military service, or if there is a vacancy in
26 the position of associate judge, the presiding judge of the
27 administrative judicial region in which the associate judge serves

1 or the vacancy occurs may appoint a visiting associate judge to
2 perform the duties of the associate judge during the period the
3 associate judge is unable to perform the associate judge's duties
4 or until another associate judge is appointed to fill the vacancy.

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

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

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

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

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

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

1 the following:

- 2 (1) county judge;
- 3 (2) county commissioner;
- 4 (3) district clerk;
- 5 (4) domestic relations officer;
- 6 (5) associate judge for Title IV-D cases [~~master~~]; and
- 7 (6) district court judge.

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

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

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

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

19 SECTION 29. This Act takes effect September 1, 2003.