

AN ACT

relating to the appointment and duties of an associate judge in the 229th Judicial District.

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

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. ASSOCIATE JUDGES IN DUVAL COUNTY

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

Sec. 54.1132. QUALIFICATIONS. To be eligible for appointment as an associate judge, a person must:

(1) be a resident of this state and Duval County; and

(2) meet the requirements and qualifications to serve as a judge of the court to which the person is appointed.

Sec. 54.1133. COMPENSATION. (a) An associate judge is entitled to the compensation set by the Duval County Commissioners Court.

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

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

Sec. 54.1134. PRIVATE PRACTICE. A part-time associate

1 judge may engage in the private practice of law, unless restricted
2 on a finding that it is not in the public interest by the appointing
3 judge.

4 Sec. 54.1135. TERMINATION OF SERVICES. (a) An associate
5 judge serves at the will of the judge of the 229th District Court.

6 (b) This section does not apply to an associate judge
7 appointed under Section 201.001, Family Code.

8 Sec. 54.1136. REFERRAL OF CASE. (a) The appointing judge
9 may refer to an associate judge any aspect of a civil or criminal
10 case involving a matter over which the referring court has
11 jurisdiction in Duval County.

12 (b) After notice to all parties of the time and place of
13 hearing, an associate judge may preside over any hearing,
14 including:

15 (1) for a civil case, proceedings involving:

16 (A) a temporary order in an action or suit for
17 support by one spouse against another;

18 (B) a motion or suit to modify a temporary or
19 final order;

20 (C) temporary orders in a suit affecting the
21 parent-child relationship;

22 (D) an application for a temporary injunction
23 related to temporary possession or use of property;

24 (E) habeas corpus, including any hearing
25 authorized by the Family Code;

26 (F) a motion to transfer;

27 (G) a motion of contempt for failure or refusal

1 to obey a temporary or final order;

2 (H) an action brought under Chapter 159, Family
3 Code;

4 (I) an action for the protection of the family;

5 (J) a matter on which the parties agree;

6 (K) a matter in which a party is entitled to a
7 default judgment;

8 (L) a divorce action in which a waiver of
9 citation is on file;

10 (M) a friendly suit; and

11 (N) any other matter in the jurisdiction of the
12 court, including a pretrial motion, discovery, summary judgment,
13 and other matters governed by the Texas Rules of Civil Procedure;
14 and

15 (2) for a criminal case, proceedings involving:

16 (A) a negotiated plea of guilty or nolo
17 contendere;

18 (B) a bond forfeiture;

19 (C) a pretrial motion;

20 (D) a postconviction writ of habeas corpus;

21 (E) an examining trial; and

22 (F) any other matter that the judge considers
23 proper.

24 (c) A judge may not refer to an associate judge any criminal
25 case for trial on the merits in which a jury trial has been
26 requested.

27 (d) Unless a party files a written objection to the

1 associate judge hearing the trial, the appointing judge may refer
2 to an associate judge a trial on the merits. If an objection is
3 filed, the trial on the merits shall be heard by the referring
4 court.

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

7 (f) An associate judge may not conduct a contested trial on
8 the merits to terminate parental rights unless the affected parties
9 give written consent to the contested trial by the associate judge.
10 Unless written consent is given by the affected parties to a
11 contested trial on the merits, any order terminating parental
12 rights issued pursuant to an associate judge's report resulting
13 from the contested trial is void.

14 (g) On appointment of an associate judge, any pending or
15 future cases may be referred to the associate judge.

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

19 (b) The order of referral may limit the power or duties of an
20 associate judge.

21 Sec. 54.1138. POWERS. Except as limited by an order of
22 referral, an associate judge may:

- 23 (1) conduct a hearing;
24 (2) hear evidence;
25 (3) compel production of relevant evidence;
26 (4) rule on admissibility of evidence;
27 (5) issue summons for the appearance of witnesses;

- 1 (6) examine witnesses;
2 (7) swear witnesses for hearings;
3 (8) make findings of fact on evidence;
4 (9) formulate conclusions of law;
5 (10) recommend the judgment to be made in a case;
6 (11) regulate all proceedings in a hearing before the
7 associate judge;
8 (12) rule on all criminal pretrial motions; and
9 (13) perform any act and take any measure necessary
10 and proper for the efficient performance of the associate judge's
11 duties.

12 Sec. 54.1139. ATTENDANCE OF BAILIFF. A bailiff shall
13 attend a hearing held by an associate judge if directed by the
14 referring court.

15 Sec. 54.1140. WITNESS. (a) A witness appearing before an
16 associate judge is subject to the penalties for perjury provided by
17 law.

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

22 Sec. 54.1141. REPORT TRANSMITTED TO COURT; NOTICE. (a) At
23 the conclusion of any hearing conducted by an associate judge and on
24 the preparation of an associate judge's report, the associate judge
25 shall transmit to the referring court:

- 26 (1) all papers relating to the case; and
27 (2) the associate judge's signed and dated report.

1 (b) After the associate judge's report has been signed, the
2 associate judge shall give notice of the substance of the report to
3 the parties participating in the hearing.

4 (c) The associate judge's report may contain the associate
5 judge's finding, conclusions, or recommendations. The associate
6 judge's report must be in writing in a form as the referring court
7 may direct. The form may be a notation on the referring court's
8 docket sheet.

9 (d) The notice required under Subsection (b) may be given in
10 open court or may be given by certified mail, return receipt
11 requested. If the notice is given by certified mail, the associate
12 judge shall certify the date of mailing and the notice is considered
13 to have been given on the third day after the date of mailing.

14 Sec. 54.1142. NOTICE OF RIGHT TO APPEAL. An associate judge
15 shall give all parties notice of the right of appeal to the judge of
16 the referring court. The notice may be given:

17 (1) at the hearing;

18 (2) by posting the notice inside or outside the
19 courtroom of the referring court; or

20 (3) as otherwise directed by the referring court.

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

27 Sec. 54.1144. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT.

1 After the associate judge's report is filed, and unless the parties
2 have filed a written notice of appeal to the referring court, the
3 referring court may:

4 (1) adopt, approve, or reject the associate judge's
5 report;

6 (2) hear further evidence; or

7 (3) recommit the matter for further proceedings as the
8 referring court considers proper and necessary in the particular
9 circumstances of the case.

10 Sec. 54.1145. DECREE OR ORDER OF COURT. If an appeal to the
11 referring court is not filed or the right to an appeal to the
12 referring court is waived, the findings and the recommendations of
13 the associate judge become the decree or order of the referring
14 court only on the referring court's signing an order or decree
15 conforming to the associate judge's report.

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

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

25 (c) An appeal to the referring court shall be in writing and
26 must specify the findings and conclusions of the associate judge to
27 which the party objects. The appeal is limited to the findings and

1 conclusions specified in the written appeal.

2 (d) On appeal to the referring court, the parties may
3 present witnesses as in a hearing de novo on the issues raised in
4 the appeal.

5 (e) Notice of any appeal to the referring court shall be
6 given to opposing counsel in the manner provided by Rule 21a, Texas
7 Rules of Civil Procedure.

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

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

14 (h) Prior to any hearing before an associate judge, the
15 parties may waive the right of appeal to the referring court. The
16 waiver may be in writing or on the record.

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

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

26 Sec. 54.1148. JURY TRIAL DEMANDED. If a jury trial is
27 demanded and a jury fee paid in a trial on the merits, the associate

1 judge shall refer any matters requiring a jury back to the referring
2 court for a full trial before the court and jury.

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

8 Sec. 54.1150. IMMUNITY. An associate judge appointed under
9 this subchapter has the judicial immunity of a district judge.

10 Sec. 54.1151. COURT REPORTER. (a) A court reporter is not
11 required during a hearing held by an associate judge appointed
12 under this subchapter.

13 (b) A party, the associate judge, or the referring court may
14 provide for a court reporter during the hearing. The record may be
15 preserved by any other means approved by the associate judge.

16 (c) The referring court or associate judge may impose on a
17 party as costs the expense of preserving the record.

18 SECTION 2. This Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 3304 was passed by the House on May 6, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 3304 on May 28, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 3304 was passed by the Senate, with amendments, on May 26, 2003, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor