

By: Guillen

H.B. No. 3304

A BILL TO BE ENTITLED

AN ACT

relating to the appointment and duties of a judicial master 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. MASTERS IN DUVAL COUNTY

Sec. 54.1081. 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 master to perform the duties authorized by this subchapter.

Sec. 54.1082. QUALIFICATIONS. To be eligible for appointment as a master, 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. 54.1083. COMPENSATION. (a) A master 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 a master appointed under Section 201.001, Family Code.

Sec. 54.1084. PRIVATE PRACTICE. The master may engage in the private practice of law, unless restricted by the appointing

1 judge or the commissioners court.

2 Sec. 54.1085. TERMINATION OF SERVICES. (a) A master
3 serves at the will of the judge of the 229th District Court.

4 (b) This section does not apply to a master appointed under
5 Section 201.001, Family Code.

6 Sec. 54.1086. REFERRAL OF CASE. (a) The appointing judge
7 may refer to a master any aspect of a civil or criminal case
8 involving a matter over which the referring court has jurisdiction
9 in Duval County.

10 (b) After notice to all parties of the time and place of
11 hearing, a master may preside over any hearing, including:

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

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

15 (B) a motion or suit to modify a temporary or
16 final order;

17 (C) temporary orders in a suit affecting the
18 parent-child relationship;

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

21 (E) habeas corpus, including any hearing
22 authorized by the Family Code;

23 (F) a motion to transfer;

24 (G) a motion of contempt for failure or refusal
25 to obey a temporary or final order;

26 (H) an action brought under Chapter 159, Family
27 Code;

1 (I) an action for the protection of the family;
2 (J) a matter on which the parties agree;
3 (K) a matter in which a party is entitled to a
4 default judgment;
5 (L) a divorce action in which a waiver of
6 citation is on file;
7 (M) a friendly suit; and
8 (N) any other matter in the jurisdiction of the
9 court, including a pretrial motion, discovery, summary judgment,
10 and other matters governed by the Texas Rules of Civil Procedure;
11 and

12 (2) for a criminal case, proceedings involving;
13 (A) a negotiated plea of guilty or nolo
14 contendere;
15 (B) a bond forfeiture;
16 (C) a pretrial motion;
17 (D) a post conviction writ of habeas corpus;
18 (E) an examining trial; and
19 (F) any other matter that the judge considers
20 proper.

21 (c) A judge may not refer to a master any criminal case for
22 trial on the merits in which a jury trial has been requested..

23 (d) Unless a party files a written objection to the master
24 hearing the trial, the appointing judge may refer to a master a
25 trial on the merits. If an objection is filed, the trial on the
26 merits shall be heard by the referring court.

27 (e) A trial on the merits is a final adjudication from which

1 an appeal may be taken to a court of appeals.

2 (f) A master may not conduct a contested trial on the merits
3 to terminate parental rights unless the affected parties give
4 written consent to the contested trial by the master. Unless
5 written consent is given by the affected parties to a contested
6 trial on the merits, any order terminating parental rights issued
7 pursuant to a master's report resulting from the contested trial is
8 void.

9 (g) On appointment of a master, any pending or future cases
10 may be referred to the master.

11 Sec. 54.1087. ORDER OF REFERRAL. (a) To refer cases to a
12 master, the referring court must issue an order of referral.

13 (b) The order of referral may limit the power of duties of a
14 master.

15 Sec. 54.1088. POWERS. Except as limited by an order of
16 referral, a master may:

- 17 (1) conduct a hearing;
- 18 (2) hear evidence;
- 19 (3) compel production of relevant evidence;
- 20 (4) rule on admissibility of evidence;
- 21 (5) issue summons for the appearance of witnesses;
- 22 (6) examine witnesses;
- 23 (7) swear witnesses for hearings;
- 24 (8) make findings of fact on evidence;
- 25 (9) formulate conclusions of law;
- 26 (10) recommend the judgment to be made in a case;
- 27 (11) regulate all proceedings in a hearing before the

1 master;

2 (12) rule on all criminal pretrial motions; and

3 (13) perform any act and take any measure necessary
4 and proper for the efficient performance of the master's duties.

5 Sec. 54.1089. ATTENDANCE OF BAILIFF. A bailiff shall
6 attend a hearing held by a master if directed by the referring
7 court.

8 Sec. 54.1090. WITNESS. (a) A witness appearing before a
9 master is subject to the penalties for perjury provided by law.

10 (b) A referring court may issue attachment against and may
11 fine or imprison a witness whose failure to appear before a master
12 after being summoned or whose refusal to answer questions has been
13 certified to the court.

14 Sec. 54.1091. REPORT TRANSMITTED TO COURT; NOTICE. (a) At
15 the conclusion of any hearing conducted by a master and on the
16 preparation of a master's report, the master shall transmit to the
17 referring court:

18 (1) all papers relating to the case; and

19 (2) the master's signed and dated report.

20 (b) After the master's report has been signed, the master
21 shall give notice of the substance of the report to the parties
22 participating in the hearing.

23 (c) The master's report may contain the master's finding,
24 conclusions, or recommendations. The master's report must be in
25 writing in a form as the referring court may direct. The form may be
26 a notation on the referring court's docket sheet.

27 (d) The notice required under Subsection (b) may be given in

1 open court or may be given by certified mail, return receipt
2 requested. If the notice is given by certified mail, the master
3 shall certify the date of mailing and the notice is considered to
4 have been given on the third day after the date of mailing.

5 Sec. 54.1092. NOTICE OF RIGHT TO APPEAL. A master shall
6 give all parties notice of the right of appeal to the judge of the
7 referring court. The notice may be given:

8 (1) at the hearing;

9 (2) by posting the notice inside or outside of the
10 courtroom of the referring court; or

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

12 Sec. 54.1093. EFFECT OF MASTER'S REPORT PENDING
13 APPEAL. Pending appeal of the master's report to the referring
14 court, the decisions and recommendations of the master are in full
15 force and effect and are enforceable as an order of the referring
16 court, except for the orders providing for incarceration or for the
17 appointment of a receiver.

18 Sec. 54.1094. JUDICIAL ACTION ON MASTER'S REPORT. After
19 the master's report is filed, and unless the parties have filed a
20 written notice of appeal to the referring court, the referring
21 court may:

22 (1) adopt, approve, or reject the master's report;

23 (2) hear further evidence; or

24 (3) recommit the matter for further proceedings as the
25 referring court considers proper and necessary in the particular
26 circumstances of the case.

27 Sec. 54.1095. DECREE OR ORDER OF COURT. If an appeal to the

1 referring court is not filed or the right to an appeal to the
2 referring court is waived, the findings and the recommendations of
3 the master become the decree or order of the referring court only on
4 the referring court's signing an order or decree conforming to the
5 master's report.

6 Sec. 54.1096. APPEAL TO REFERRING COURT. (a) Any party is
7 entitled to a hearing by the judge of the referring court if, not
8 later than three days, computed in the manner provided by Rule 4,
9 Texas Rules of Civil Procedure, after the master gives the notice
10 required by Section 54.1091, an appeal of the master's report is
11 filed with the referring court.

12 (b) The first day of the appeal time to the referring courts
13 begins on the day after the day on which the master gives the notice
14 required by Section 54.1091.

15 (c) An appeal to the referring court shall be in writing and
16 must specify the findings and conclusions of the master to which the
17 party objects. The appeal is limited to the findings and
18 conclusions specified in the written appeal.

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

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

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

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

4 (h) Prior to any hearing before a master, the parties may
5 waive the right of appeal to the referring court. The waiver may be
6 in writing or on the record.

7 Sec. 54.1097. APPELLATE REVIEW. (a) Failure to appeal to
8 the referring court, by waiver or otherwise, on the approval by the
9 referring court of a master's report does not deprive any party of
10 the right to appeal to or request for other relief from a court of
11 appeals or the supreme court.

12 (b) The date of the signing of an order or judgement by the
13 referring court is the controlling date for the purposes of appeal
14 to or request for other relief from a court of appeals or the
15 supreme court.

16 Sec. 54.1098. JURY TRIAL DEMANDED. If a jury trial is
17 demanded and a jury fee paid in a trial on the merits, the master
18 shall refer any matters requiring a jury back to the referring court
19 for a full trial before the court and jury.

20 Sec. 54.1099. INAPPLICABILITY OF SUBCHAPTER TO MASTERS
21 APPOINTED UNDER RULE 171. Masters appointed by the referring court
22 under Rule 171, Texas Rules of Civil Procedure, have all the duties
23 and powers set forth in the order of appointment and are not
24 governed by this subchapter.

25 Sec. 54.1100. IMMUNITY. A master appointed under this
26 subchapter has the judicial immunity of a district judge.

27 Sec. 54.1101. COURT REPORTER. (a) A court reporter is not

1 required during a hearing held by a master appointed under this
2 subchapter.

3 (b) A party, the master, or the referring court may provide
4 for a court reporter during the hearing. The record may be
5 preserved by any other means approved by the master.

6 (c) The referring court or master may impose on a party as
7 costs the expense of preserving the record.

8 Sec. 54.1102. FEES. (a) A defendant convicted of an
9 offense in a case before a master shall pay a fee of \$25 for the
10 services of the master.

11 (b) A plaintiff in a case before the master shall pay a fee
12 of \$25 for the services of the master.

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