

By: Rose, Cook of Navarro

H.B. No. 1294

A BILL TO BE ENTITLED

AN ACT

relating to permissive interlocutory appeals in civil actions.

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

SECTION 1. Section 51.014, Civil Practice and Remedies Code, is amended by amending Subsections (d), (e), and (f) and adding Subsections (d-1) and (g) to read as follows:

(d) In a civil action, other than a suit affecting the parent-child relationship or a suit for divorce, or other than a suit under general maritime law or under the Jones Act, in which the amount in controversy exceeds \$100,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, a trial [A district] court may, by [issue a] written order, permit an appeal from an [for] interlocutory order that is [appeal in a civil action] not otherwise appealable [under this section] if:

(1) ~~[the parties agree that]~~ the interlocutory order involves a controlling question of law that is determinative of the outcome and as to which there is a substantial ground for difference of opinion;

(2) an immediate appeal from the interlocutory order may materially advance the ultimate termination of the litigation; and

(3) the interlocutory order is not reviewable by petition for writ of mandamus ~~[parties agree to the order]~~.

1 (d-1) In a suit affecting the parent-child relationship, a
2 suit for divorce, a suit under general maritime law or under the
3 Jones Act, or a civil action in which the amount in controversy does
4 not exceed \$100,000, excluding interest, statutory or punitive
5 damages and penalties, and attorney's fees and costs, a trial court
6 may permit an appeal under Subsection (d) if the criteria in
7 Subdivisions (1)-(3) of that subsection are met and the parties
8 agree to an interlocutory appeal in accordance with this section.

9 (e) The order permitting an [An] appeal under Subsection (d)
10 or (d-1) must be included in the interlocutory order being
11 appealed. If the interlocutory order addresses more than one
12 question of law, the order must state which questions are subject to
13 appeal.

14 (f) An appeal under Subsection (d) or (d-1) does not stay
15 proceedings in the trial [~~district~~] court unless the parties agree
16 to a stay or [and] the trial or appellate [~~district~~] court[, ~~the~~
17 ~~court of appeals, or a judge of the court of appeals~~] orders a stay
18 [~~of the proceedings~~]. If the trial or appellate court orders a stay
19 of proceedings in the trial court, the stay expires on the date set
20 by the court in accordance with this section. The stay must expire
21 not later than the 18-month anniversary of the date on which the
22 trial court signs the interlocutory order being appealed and may
23 not be extended beyond that date. If more than one interlocutory
24 appeal is allowed in the same civil action under Subsection (d) or
25 (d-1), the cumulative length of all stays granted under this
26 section may not exceed 18 months unless otherwise agreed by the
27 parties.

1 (g) An appellate court may, in its discretion, accept an
2 appeal permitted by Subsection (d) or (d-1) if the appealing party
3 files in [(f) ~~If application is made to~~] the court of appeals
4 having [~~that has~~] appellate jurisdiction over the action a motion
5 for leave to appeal [~~not later than the 10th day after the date an~~
6 interlocutory order under Subsection (d) is entered, the appellate
7 court may permit an appeal to be taken from that order]. The motion
8 must be filed in the court of appeals not later than the 20th day
9 after the date the trial court signs the order permitting the
10 appeal. If the court of appeals grants leave to appeal, the
11 appealing party must pursue the appeal in accordance with the
12 procedures set forth in the Texas Rules of Appellate Procedure for
13 an accelerated appeal. The date the court of appeals enters the
14 order accepting the appeal starts the time for filing the notice of
15 appeal.

16 SECTION 2. The change in law made by this Act does not apply
17 to an action filed before the effective date of this Act. An action
18 filed before the effective date of this Act is governed by the law
19 in effect immediately before that date, and that law is continued in
20 effect for that purpose.

21 SECTION 3. This Act takes effect September 1, 2005.