

By: Gonzalez Toureilles

H.B. No. 2501

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain suits affecting the parent-child relationship
3 referred to an associate judge.

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

5 SECTION 1. Section 201.009(e), Family Code, is amended to
6 read as follows:

7 (e) On a request for a de novo hearing [~~appeal of the~~
8 ~~associate judge's report or proposed order~~], the referring court
9 may consider testimony or other evidence in the record, if the
10 record is taken by a court reporter, in addition to witnesses or
11 other matters presented under Section 201.015.

12 SECTION 2. Sections 201.011(a), (b), (c), and (d), Family
13 Code, are amended to read as follows:

14 (a) The associate judge's report may contain the associate
15 judge's findings, conclusions, or recommendations and may be in the
16 form of [~~, including~~] a proposed order. The associate judge's
17 report must be in writing in the form directed by the referring
18 court. [~~The form may be a notation on the referring court's docket~~
19 ~~sheet.~~]

20 (b) After a hearing, the associate judge shall provide the
21 parties participating in the hearing with a signed and dated copy
22 [~~notice of the substance~~] of the associate judge's report,
23 including any [~~The notice may be given in the form of a~~] proposed
24 order.

1 (c) A copy of the report [~~Notice~~] may be given to the
2 parties:

3 (1) in open court [~~, by an oral statement or a copy of~~
4 ~~the associate judge's written report, including any proposed~~
5 ~~order~~];

6 (2) by certified mail, return receipt requested; or

7 (3) by facsimile transmission.

8 (d) [~~The associate judge shall certify the date of mailing~~
9 ~~of notice by certified mail or the date of the facsimile~~
10 ~~transmission.~~] There is a rebuttable presumption that the copy of
11 the report [~~notice~~] is received on the date stated on:

12 (1) the signed return receipt, if the copy of the
13 report [~~notice~~] was provided by certified mail; or

14 (2) the confirmation page produced by the facsimile
15 machine, if the copy of the report [~~notice~~] was provided by
16 facsimile transmission.

17 SECTION 3. The heading to Section 201.012, Family Code, is
18 amended to read as follows:

19 Sec. 201.012. NOTICE OF RIGHT TO DE NOVO HEARING BEFORE
20 REFERRING COURT [~~APPEAL~~].

21 SECTION 4. Section 201.012(a), Family Code, is amended to
22 read as follows:

23 (a) Notice of the right to a de novo hearing before [~~of~~
24 ~~appeal to the judge of~~] the referring court shall be given to all
25 parties.

26 SECTION 5. Section 201.013, Family Code, is amended to read
27 as follows:

1 Sec. 201.013. ORDER OF COURT. (a) Pending a de novo hearing
2 before [~~appeal of the associate judge's report, including any~~
3 ~~proposed order, to~~] the referring court, a proposed order or
4 judgment [~~the decisions and recommendations~~] of the associate judge
5 is [~~are~~] in full force and effect and is [~~are~~] enforceable as an
6 order or judgment of the referring court, except for orders
7 providing for the appointment of a receiver.

8 (b) Except as provided by Section 201.007(c), if a request
9 for a de novo hearing before [~~an appeal to~~] the referring court is
10 not timely filed or the right to a de novo hearing before [~~an appeal~~
11 ~~to~~] the referring court is waived, the proposed order or judgment
12 [~~findings and recommendations~~] of the associate judge becomes
13 [~~become~~] the order or judgment of the referring court only on the
14 referring court's signing the proposed [~~an~~] order or judgment
15 [~~conforming to the associate judge's report~~].

16 (c) An order by an associate judge for the temporary
17 detention or incarceration of a witness or party shall be presented
18 to the referring court on the day the witness or party is detained
19 or incarcerated. The referring court, without prejudice to the
20 right to a de novo hearing [~~of appeal~~] provided by Section 201.015,
21 may approve the temporary detention or incarceration or may order
22 the release of the party or witness, with or without bond, pending a
23 de novo hearing [~~appeal~~]. If the referring court is not immediately
24 available, the associate judge may order the release of the party or
25 witness, with or without bond, pending a de novo hearing [~~appeal~~] or
26 may continue the person's detention or incarceration for not more
27 than 72 hours.

1 SECTION 6. Section 201.014, Family Code, is amended to read
2 as follows:

3 Sec. 201.014. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED
4 ORDER OR JUDGMENT [~~REPORT~~]. Unless a party files a written request
5 for a de novo hearing before the referring court [~~notice of appeal~~],
6 the referring court may:

7 (1) adopt, modify, or reject the associate judge's
8 [~~report, including any~~] proposed order or judgment;

9 (2) hear further evidence; or

10 (3) recommit the matter to the associate judge for
11 further proceedings.

12 SECTION 7. Section 201.015, Family Code, is amended to read
13 as follows:

14 Sec. 201.015. DE NOVO HEARING BEFORE [~~APPEAL TO~~] REFERRING
15 COURT. (a) After an associate judge has rendered a proposed order
16 or judgment, a [~~A~~] party may request a de novo hearing before the
17 referring court [~~appeal an associate judge's report~~] by filing with
18 the clerk of the referring court a written request [~~notice of~~
19 ~~appeal~~] not later than the seventh [~~third~~] day after the date [~~the~~
20 ~~party receives notice of the substance of~~] the associate judge
21 signs the proposed order or judgment [~~judge's report as provided by~~
22 ~~Section 201.011~~].

23 (b) A request for a de novo hearing under this section must
24 specify the issues that will be presented to the referring court.
25 [~~An appeal to the referring court must be in writing specifying the~~
26 ~~findings and conclusions of the associate judge to which the party~~
27 ~~objects. The appeal is limited to the specified findings and~~

1 ~~conclusions.]~~

2 (c) The hearing before [~~On appeal to~~] the referring court is
3 [~~, the parties may present witnesses as in a hearing~~] de novo on the
4 issues specified [~~raised~~] in the request for hearing [~~appeal~~].
5 [~~The court may also consider the record from the hearing before the~~
6 ~~associate judge, including the charge to and verdict returned by a~~
7 ~~jury, if the record was taken by a court reporter.]~~

8 (d) Notice of a request for a de novo hearing before [~~an~~
9 ~~appeal to~~] the referring court shall be given to the opposing
10 attorney under Rule 21a, Texas Rules of Civil Procedure.

11 (e) If a request for a de novo hearing before [~~an appeal to~~]
12 the referring court is filed by a party, any other party may file a
13 request for a de novo hearing before [~~an appeal to~~] the referring
14 court not later than the seventh day after the date the initial
15 request [~~appeal~~] was filed.

16 (f) The referring court, after notice to the parties, shall
17 hold a de novo hearing [~~on all appeals~~] not later than the 30th day
18 after the date on which the initial request for a de novo hearing
19 [~~appeal~~] was filed with the clerk of the referring court.

20 (g) Before the start of a hearing by an associate judge, the
21 parties may waive the right of a de novo hearing before [~~appeal to~~]
22 the referring court in writing or on the record.

23 (h) The denial [~~Denial~~] of relief to a party after a de novo
24 hearing [~~an appeal~~] under this section or a party's waiver of the
25 right to a de novo hearing before [~~appeal to~~] the referring court
26 does not affect the right of a party to file a motion for new trial,
27 motion for judgment notwithstanding the verdict, or other

1 post-trial motion.

2 (i) A party may not demand a second jury in a de novo hearing
3 before the referring court if the associate judge's [~~on appeal of an~~
4 ~~associate judge's report, including any~~] proposed order or judgment
5 resulted [~~, resulting~~] from a jury trial.

6 SECTION 8. Section 201.016(a), Family Code, is amended to
7 read as follows:

8 (a) A party's failure [~~Failure~~] to request a de novo hearing
9 before [~~appeal to~~] the referring court or a party's waiver of the
10 right to request a de novo hearing before [~~, by waiver or otherwise,~~
11 ~~the approval by~~] the referring court [~~of an associate judge's~~
12 ~~report~~] does not deprive the [~~a~~] party of the right to appeal to or
13 request other relief from a court of appeals or the supreme court.

14 SECTION 9. Section 201.1041, Family Code, is amended to
15 read as follows:

16 Sec. 201.1041. JUDICIAL ACTION ON ASSOCIATE JUDGE'S
17 PROPOSED ORDER OR JUDGMENT [~~REPORT~~]. (a) If a request for a de novo
18 hearing before [~~an appeal to~~] the referring court is not timely
19 filed or the right to a de novo hearing before the referring court
20 [~~appeal~~] is waived, a proposed order or judgment [~~recommendation~~]
21 of the associate judge, other than a proposed order or judgment
22 providing for [~~recommendation of~~] enforcement by contempt or [~~a~~
23 ~~recommendation of~~] the immediate incarceration of a party, shall
24 become the [~~an~~] order or judgment of the referring court by
25 operation of law without ratification by the referring court.

26 (b) An associate judge's proposed order or judgment
27 providing for [~~report that recommends~~] enforcement by contempt or

1 the immediate incarceration of a party becomes an order of the
2 referring court only if:

3 (1) the referring court signs an order adopting the
4 associate judge's proposed order or judgment [~~recommendation~~]; and

5 (2) the order or judgment meets the requirements of
6 Section 157.166.

7 (c) Except as provided by Subsection (b), a proposed order
8 or judgment [~~the decisions and recommendations~~] of the associate
9 judge is in [~~have~~] full force and effect and is [~~are~~] enforceable as
10 an order or judgment of the referring court pending a de novo
11 hearing before [~~during an appeal of the associate judge's report~~
12 ~~to~~] the referring court.

13 SECTION 10. Section 201.1042, Family Code, is amended to
14 read as follows:

15 Sec. 201.1042. DE NOVO HEARING BEFORE [~~APPEAL TO~~] REFERRING
16 COURT. (a) Except as provided by this section, Section 201.015
17 applies to a request for a de novo hearing before the referring
18 court [~~an appeal of the associate judge's recommendations~~].

19 (b) The party requesting a de novo hearing before the
20 referring court [~~appealing an associate judge's recommendation~~]
21 shall file notice with the clerk of the referring court not later
22 than the seventh day after the date the associate judge signs the
23 proposed order or judgment [~~and the clerk of the court~~].

24 (c) A respondent who timely files a request for a de novo
25 hearing on [~~an appeal of~~] an associate judge's proposed order or
26 judgment providing for [~~report recommending~~] incarceration [~~after~~
27 ~~a finding of contempt~~] shall be brought before the referring court

1 not later than the first working day after the date on which the
2 respondent files the request for a de novo hearing [~~appeal~~]. The
3 referring court shall determine whether the respondent should be
4 released on bond or whether the respondent's appearance in court at
5 a designated time and place can be otherwise assured.

6 (d) If the respondent under Subsection (c) is released on
7 bond or other security, the referring court shall condition the
8 bond or other security on the respondent's promise to appear in
9 court for a de novo hearing [~~on the appeal~~] at a designated date,
10 time, and place, and the referring court shall give the respondent
11 notice of the hearing in open court. No other notice to the
12 respondent is required.

13 (e) If the respondent under Subsection (c) is released
14 without posting bond or security, the court shall set a de novo
15 hearing [~~on the appeal~~] at a designated date, time, and place and
16 give the respondent notice of the hearing in open court. No other
17 notice to the respondent is required.

18 (f) If the referring court is not satisfied that the
19 respondent's appearance in court can be assured and the respondent
20 remains incarcerated, a de novo hearing [~~on the appeal~~] shall be
21 held as soon as practicable, but not later than the fifth day after
22 the date the respondent's request for a de novo hearing before the
23 referring court [~~notice of appeal~~] was filed, unless the respondent
24 or [~~and~~], if represented, the respondent's attorney waives [~~waive~~]
25 the accelerated hearing.

26 (g) Until a de novo hearing is held [~~on a timely filed~~
27 ~~appeal~~] under this section and [~~or~~] the referring court has signed

1 ~~[rendered]~~ an order or judgment or has ruled on a timely filed
2 motion for new trial or a motion to vacate, correct, or reform a
3 judgment, an associate judge may not hold a hearing on the
4 respondent's compliance with conditions in the associate judge's
5 proposed order or judgment ~~[report]~~ for suspension of commitment or
6 on a motion to revoke the respondent's community supervision and
7 suspension of commitment.

8 SECTION 11. Section 201.111, Family Code, is amended to
9 read as follows:

10 Sec. 201.111. TIME TO ACT ON ASSOCIATE JUDGE'S PROPOSED
11 ORDER OR JUDGMENT ~~[REPORT]~~ THAT INCLUDES RECOMMENDED FINDING OF
12 CONTEMPT. (a) Not later than the 10th day after the date an
13 associate judge's proposed order or judgment ~~[report]~~ recommending
14 a finding of contempt is signed ~~[filed]~~, the referring court shall:

15 (1) adopt, modify ~~[approve]~~, or reject the proposed
16 order or judgment ~~[report]~~;

17 (2) hear further evidence; or

18 (3) recommit the matter for further proceedings.

19 (b) The time limit in Subsection (a) does not apply if a
20 party has filed a written request for a de novo hearing before
21 ~~[notice of appeal to]~~ the referring court.

22 SECTION 12. The changes in law made by this Act apply only
23 to a suit affecting the parent-child relationship filed on or after
24 the effective date of this Act. A suit affecting the parent-child
25 relationship filed before the effective date of this Act is
26 governed by the law in effect on the date the suit was filed, and the
27 former law is continued in effect for that purpose.

1 SECTION 13. This Act takes effect September 1, 2007.