

By: Zerwas

H.B. No. 2800

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of associate judges in the district courts in Waller County.

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

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

SUBCHAPTER CC. CIVIL, JUVENILE, AND CRIMINAL LAW ASSOCIATE JUDGES

IN WALLER COUNTY

Sec. 54.1401. APPOINTMENT. (a) A judge of a district court in Waller County may determine that one or more full-time or part-time associate judges are needed to serve the court.

(b) The judge shall issue an order reflecting that determination and specifying the number of associate judges and support staff needed.

(c) Subject to the determination of need by the district court and the approval of the commissioners court of the county, a judge may appoint one or more associate judges and support staff to serve the judge's court.

(d) District judges may act together to appoint associate judges to serve their courts.

Sec. 54.1402. QUALIFICATIONS. To be eligible for appointment as an associate judge, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state

1 for at least four years.

2 Sec. 54.1403. ORDER OF APPOINTMENT. The order appointing  
3 an associate judge must be entered in the minutes of each court  
4 making the order and must state:

5 (1) the associate judge's name and state bar  
6 identification number;

7 (2) the name of each court the associate judge will  
8 serve; and

9 (3) the date the associate judge's service is to begin.

10 Sec. 54.1404. COMPENSATION. The commissioners court shall  
11 set the compensation for associate judges and support staff and  
12 determine the total amount the county will pay as compensation for  
13 associate judges and support staff.

14 Sec. 54.1405. JUDICIAL IMMUNITY. An associate judge  
15 appointed under this subchapter has the same judicial immunity as  
16 the district court judges.

17 Sec. 54.1406. TERMINATION OF EMPLOYMENT. (a) An associate  
18 judge who serves a single court serves at the will of the judge of  
19 that court.

20 (b) The employment of an associate judge who serves two  
21 courts may be terminated by either of the judges of those courts.

22 (c) The employment of an associate judge who serves more  
23 than two courts may be terminated by a majority of the judges of  
24 those courts.

25 (d) To terminate an associate judge's employment, the  
26 appropriate judges must sign a written order of termination. The  
27 order must state:

1           (1) the associate judge's name and state bar  
2 identification number;

3           (2) the name of the court ordering the termination;  
4 and

5           (3) the date the associate judge's services end.

6           Sec. 54.1407. WITHDRAWAL OF APPOINTMENT FOR PARTICULAR  
7 COURT. The judge of a court for which an associate judge has been  
8 appointed may withdraw the associate judge's appointment to that  
9 court by written order. The order must state:

10           (1) the associate judge's name and state bar  
11 identification number;

12           (2) the name of the court ordering the withdrawal; and

13           (3) the date the associate judge's services end as to  
14 that court.

15           Sec. 54.1408. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge  
16 may refer to an associate judge any criminal case for proceedings  
17 involving:

18           (1) a negotiated plea of guilty before the court;

19           (2) a bond forfeiture;

20           (3) a pretrial motion;

21           (4) a postconviction writ of habeas corpus;

22           (5) an examining trial; and

23           (6) any other matter the judge considers necessary and  
24 proper.

25           (b) An associate judge may preside over a trial on the  
26 merits, whether or not the trial is before a jury.

27           Sec. 54.1409. CASES THAT MAY BE REFERRED. (a) A judge may

1 refer to an associate judge any juvenile, probate, or civil case or  
2 portion of one of those cases brought:

- 3 (1) under Title 1, 2, 3, 4, or 5, Family Code;  
4 (2) in connection with Rule 308a, Texas Rules of Civil  
5 Procedure;  
6 (3) in connection with Title 7, Health and Safety  
7 Code; or  
8 (4) under the civil jurisdiction of the appointing  
9 court.

10 (b) An associate judge may preside over a trial on the  
11 merits, whether or not the trial is before a jury.

12 Sec. 54.1410. METHOD OF REFERRAL. A case may be referred as  
13 prescribed by published local rules or by written orders.

14 Sec. 54.1411. DUTIES AND POWERS. (a) Except as limited by  
15 an order of referral, an associate judge to whom a case is referred  
16 may:

- 17 (1) conduct hearings;  
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) rule on a pretrial motion;  
27 (11) recommend the rulings, orders, or judgment to be

1 made in a case;

2 (12) regulate proceedings in a hearing; and

3 (13) do any act and take any measure necessary and  
4 proper for the efficient performance of the duties required by the  
5 order of referral.

6 (b) An associate judge may not enter a ruling on any issue of  
7 law or fact if that ruling could result in dismissal or require  
8 dismissal of a pending criminal prosecution or civil case, but the  
9 associate judge may make findings, conclusions, and  
10 recommendations on those issues.

11 (c) An order of referral may limit the use or power of an  
12 associate judge.

13 (d) Unless limited by published local rule, by written  
14 order, or by an order of referral, an associate judge may perform  
15 all acts and take all measures necessary and proper to perform the  
16 tasks assigned in a referral.

17 (e) An associate judge may administer oaths.

18 (f) An associate judge has the jurisdiction provided by the  
19 constitution and laws of this state for magistrates and is a  
20 magistrate as defined by Article 2.09, Code of Criminal Procedure.

21 Sec. 54.1412. COURT REPORTER. (a) A court reporter need not  
22 be provided during a hearing conducted by an associate judge.

23 (b) Notwithstanding Subsection (a), a referring judge may  
24 require a reporter at any hearing.

25 Sec. 54.1413. FAILURE TO COMPLY WITH SUMMONS OR OATH. If an  
26 attorney, party, witness, or any other person fails to comply with a  
27 summons or order, the associate judge may certify in writing that

1 failure to the referring court for appropriate action.

2 Sec. 54.1414. PERJURY. (a) A witness appearing before an  
3 associate judge is subject to the penalties of perjury as provided  
4 by Chapter 37, Penal Code.

5 (b) A witness referred to the court under Section 54.1413 is  
6 subject to the same penalties and orders that may be imposed on a  
7 witness appearing in a hearing before the court.

8 Sec. 54.1415. RETURN TO REFERRING COURT; FINDINGS. At the  
9 conclusion of the proceedings, an associate judge shall transmit to  
10 the referring court any papers relating to the case, including the  
11 associate judge's findings, conclusions, orders, recommendations,  
12 or other action taken.

13 Sec. 54.1416. NOTICE OF RIGHT TO APPEAL. (a) Notice of  
14 right to appeal to the judge of the referring court shall be given  
15 to all parties.

16 (b) The notice may be given:

17 (1) by oral statement in open court; or

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

20 Sec. 54.1417. APPEAL TO REFERRING COURT. (a) A party may  
21 appeal an associate judge's report by filing a notice of appeal not  
22 later than the sixth day after the date the associate judge submits  
23 his report to the referring court under Section 54.1415.

24 (b) An appeal to the referring court must be filed with the  
25 court clerk and must specify in writing the findings of the  
26 associate judge to which the party objects.

27 (c) Notice of an appeal to the referring court shall be

1 given to all opposing parties or their counsel under Rule 21a, Texas  
2 Rules of Civil Procedure.

3 (d) If an appeal to the referring court is filed by a party,  
4 any other party may file a response to the appeal not later than the  
5 seventh day after the date the initial appeal was filed.

6 (e) The referring court, after notice to the parties, may  
7 conduct a hearing de novo on the issues raised in the appeal not  
8 later than the 30th day after the date on which the initial appeal  
9 was filed with the referring court.

10 Sec. 54.1418. COURT ACTION ON REPORT. (a) After the court  
11 receives the associate judge's report, or in the case of an appeal  
12 under Section 54.1417, after the court has decided the appeal, the  
13 court may adopt, modify, correct, reject, or reverse the associate  
14 judge's report or may recommit it for further information, as the  
15 court determines to be proper and necessary in each case.

16 (b) If a judgment has been recommended, the court may  
17 approve the recommendation and hear more evidence before making its  
18 judgment.

19 Sec. 54.1419. DECREE OR JUDGMENT. The finding and  
20 recommendations become the decree or judgment of the court when  
21 adopted and approved by an order of the judge.

22 Sec. 54.1420. MASTER IN CHANCERY. This subchapter does not  
23 prohibit a court from appointing a master in chancery as provided by  
24 Rule 171, Texas Rules of Civil Procedure.

25 Sec. 54.1421. REFEREES. (a) An associate judge appointed  
26 under this subchapter may serve as a referee as provided by Sections  
27 51.04(g) and 54.10, Family Code.

1       (b) A referee appointed under Section 51.04(g), Family  
2 Code, may be appointed to serve as an associate judge under this  
3 subchapter.

4       (c) An associate judge appointed under this subchapter may  
5 serve as a master as provided by Section 574.0085, Health and Safety  
6 Code.

7       SECTION 2. This Act takes effect September 1, 2007.