

Amend CSSB 683 (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 54.604, Government Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) The appointment of the associate judge terminates if:

(1) ~~[the appointing judge vacates the judge's office;~~
~~[-2-]~~ the associate judge becomes a candidate for election to public office; or

(2) [-3-] the commissioners court does not appropriate funds in the county's budget to pay the salary of the associate judge.

(e) If an associate judge serves a single court and the appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment.

(f) If an associate judge serves two courts and one of the appointing judges vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment or the judge of the other court served by the associate judge terminates that employment as provided by Subsection (c).

(g) If an associate judge serves more than two courts and an appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless:

(1) if no successor judge has been elected or appointed, the majority of the judges of the other courts the associate judge serves vote to terminate that employment; or

(2) if a successor judge has been elected or appointed, the majority of the judges of the courts the associate judge serves, including the successor judge, vote to terminate that employment as provided by Subsection (b).

(h) Notwithstanding the powers of an associate judge provided by Section 54.610, an associate judge whose employment continues as provided by Subsection (e), (f), or (g) after the judge

of a court served by the associate judge vacates the judge's office may perform administrative functions with respect to that court, but may not perform any judicial function, including any power prescribed by Section 54.610, with respect to that court until a successor judge is appointed or elected.

SECTION _____. Section 54.610, Government Code, is amended to read as follows:

Sec. 54.610. POWERS OF ASSOCIATE JUDGE. (a) Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue a summons for the appearance of witnesses;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend an order to be rendered in a case;
- (11) regulate all proceedings in a hearing before the associate judge; ~~and~~

(12) take action as necessary and proper for the efficient performance of the associate judge's duties;

(13) order the attachment of a witness or party who fails to obey a subpoena;

(14) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 54.616;

(15) without prejudice to the right to a de novo hearing under Section 54.618, render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order;

(C) a temporary order;

(D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final

hearing or waives the party's appearance at the final hearing;

(E) an order specifying that the court clerk shall issue:

(i) letters testamentary or of administration; or

(ii) letters of guardianship; or

(F) an order for inpatient or outpatient mental health, mental retardation, or chemical dependency services; and

(16) sign a final order that includes a waiver of the right to a de novo hearing in accordance with Section 54.618.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

(c) An order described by Subsection (a)(15) that is rendered and signed by an associate judge constitutes an order of the referring court. The judge of the referring court shall sign the order not later than the 30th day after the date the associate judge signs the order.

(d) An answer filed by or on behalf of a party who previously filed a waiver described in Subsection (a)(15)(D) revokes that waiver.

SECTION _____. Section 54.612, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e) to read as follows:

(a) A court reporter may be provided ~~[is not required]~~ during a hearing held by an associate judge appointed under this subchapter unless required by other law. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing, if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the ~~[The]~~ record ~~[of a hearing before an associate judge]~~ may be preserved by any means approved by the referring court.

(e) On a request for a de novo hearing, the referring court may consider testimony or other evidence in the record, if the record is taken by a court reporter, in addition to witnesses or other matters presented under Section 54.618.

SECTION _____. Section 54.614, Government Code, is amended to read as follows:

Sec. 54.614. REPORT. (a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations. The associate judge shall prepare a written report in the form directed by the referring court, including in the form of:

(1) [~~-. The form may be~~] a notation on the referring court's docket sheet; or

(2) a proposed order.

(b) After a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report, including any proposed order.

(c) Notice may be given to the parties:

(1) in open court, by an oral statement or a copy of the associate judge's written report; [~~or~~]

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

(3) by facsimile transmission.

(d) There is a rebuttable presumption that notice is received [~~The associate judge shall certify the date of mailing of notice by certified mail. Notice is considered given~~] on the [~~third day after the~~] date stated on:

(1) the signed return receipt, if notice was provided by certified mail; or

(2) the confirmation page produced by the facsimile machine, if notice was provided by facsimile transmission [~~of mailing~~].

(e) After a hearing conducted by an associate judge, the associate judge shall send the associate judge's signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

SECTION _____. The heading to Section 54.615, Government Code, is amended to read as follows:

Sec. 54.615. NOTICE OF RIGHT TO DE NOVO HEARING BEFORE REFERRING COURT [~~APPEAL~~].

SECTION _____. Section 54.615(a), Government Code, is amended to read as follows:

(a) An associate judge shall give all parties notice of the right to a de novo hearing before [~~of appeal to the judge of~~] the referring court.

SECTION _____. Section 54.616, Government Code, is amended to read as follows:

Sec. 54.616. ORDER OF COURT. (a) Pending a de novo hearing before [~~appeal of the associate judge's report to~~] the referring court, a proposed order or judgment [~~the decisions and recommendations~~] of the associate judge has [~~judge's report have~~] the force and effect, and is [~~are~~] enforceable as, an order or judgment of the referring court, except for an order [~~orders~~] providing for [~~incarceration or for~~] the appointment of a receiver.

(b) Except as provided by Section 54.610(c), if a request for a de novo hearing before [~~If an appeal to~~] the referring court is not timely filed or the right to a de novo hearing before [~~an appeal to~~] the referring court is waived, the proposed order or judgment [~~findings and recommendations~~] of the associate judge becomes [~~become~~] the order or judgment of the referring court at the time the judge of the referring court signs the proposed [~~an~~] order or judgment [~~conforming to the associate judge's report~~].

SECTION _____. Section 54.617, Government Code, is amended to read as follows:

Sec. 54.617. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT [~~REPORT~~]. (a) Unless a party files a written request for a de novo hearing before the referring court [~~notice of appeal~~], the referring court may:

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

(2) hear further evidence; or

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

(b) The judge of the referring court shall sign a proposed order or judgment the court adopts as provided by Subsection (a)(1)

not later than the 30th day after the date the associate judge signed the order or judgment.

SECTION _____. Section 54.618, Government Code, is amended to read as follows:

Sec. 54.618. DE NOVO HEARING BEFORE ~~[APPEAL TO]~~ REFERRING COURT. (a) A party may request a de novo hearing before the referring court ~~[appeal an associate judge's report]~~ by filing with the clerk of the referring court a written request ~~[notice of appeal]~~ not later than the seventh working ~~[third]~~ day after the date the party receives notice of the substance of the associate judge's report as provided by Section 54.614.

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

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

(d) Notice of a request for a de novo hearing before ~~[an appeal to]~~ the referring court must be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

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

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

of the parties agree to a later date.

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

(h) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, motion for judgment notwithstanding the verdict, or other post-trial motion.

(i) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

SECTION _____. Section 54.619, Government Code, is amended to read as follows:

Sec. 54.619. APPELLATE REVIEW. (a) A party's failure to request a de novo hearing before ~~[Failure to appeal to]~~ the referring court or a party's waiver of the right to request a de novo hearing before ~~[, by waiver or otherwise, the approval by]~~ the referring court ~~[of an associate judge's report]~~ does not deprive the ~~[a]~~ party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Except as provided by Subsection (c), the ~~[The]~~ date the judge of a referring court signs an order or judgment is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

(c) The date an order described by Section 54.610(a)(15) is signed by an associate judge is the controlling date for the purpose of an appeal to or a request for other relief relating to the order from a court of appeals or the supreme court.

SECTION _____. The changes in law made by this Act to Chapter 54, Government Code, apply to a matter referred to a statutory probate court associate judge on or after the effective date of this Act. A matter referred to a statutory probate court associate judge before the effective date of this Act is governed by the law in effect on the date the matter was referred to the associate judge, and the former law is continued in effect for that purpose.