

BILL ANALYSIS

Senate Research Center
83R1542 KSD-F

H.B. 1366
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current procedures, an interlocutory appeal in certain types of cases stays the start of a trial pending resolution of the appeal. Interested parties assert, however, that matters involving the disposition of the marital status of spouses, division of a marital estate, and provisions relating to child custody and support necessitate moving to trial as promptly as possible.

In addition, a waiver of service of process in a suit for divorce currently must be sworn but may not be sworn before an attorney in the suit. Because other provisions of law allow an unsworn declaration to be used in lieu of a sworn declaration, there is concern that the law should be clarified to require a waiver of service in such a suit to be sworn before a notary who is not an attorney in the suit.

Interested parties also assert that the current timeline for requesting a de novo hearing on an associate judge's decision regarding certain family and juvenile matters can be lengthy and become burdensome on the parties involved.

H.B. 1366 seeks to address these issues by amending current law relating to interlocutory orders, waivers of service, and certain de novo hearings under the Family Code.

H.B. 1366 amends current law relating to certain procedures in family or juvenile law proceedings.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.014(b), Civil Practice and Remedies Code, to provide that an interlocutory appeal under Subsection (a) (relating to authorizing a person to appeal an interlocutory order of a district court, county court at law, or certain county courts), other than an appeal under Subsection (a)(4) (relating to authorizing a person to appeal an interlocutory order of a county court that grants or refuses a temporary injunction or grants or overrules a motion to dissolve a temporary injunction as provided by Chapter 65) or in a suit brought under the Family Code, stays the commencement of a trial in the trial court pending resolution of the appeal.

SECTION 2. Amends Section 6.4035(c), Family Code, to require that a waiver, notwithstanding Section 132.001 (Unsworn Declaration), Civil Practice and Remedies Code, be sworn before a notary public who is not an attorney in the suit, rather than requiring that the waiver be sworn but prohibits it from being sworn before an attorney in the suit.

SECTION 3. Amends Sections 201.015(a) and (e), Family Code, as follows:

(a) Authorizes a party to request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the third working day, rather than the seventh working day, after the date the party receives notice of the substance of the associate judge's report as provided by Section 201.011 (Report).

(e) Authorizes any other party to file a request for a de novo hearing before the referring court not later than the third working day, rather than the seventh working day, after the date the initial request was filed if a request for a de novo hearing before the referring court is filed by a party.

SECTION 4. Amends Section 201.1042(b), Family Code, to require the party requesting a de novo hearing before the referring court to file notice with the clerk of the referring court not later than the third working day, rather than the seventh working day, after the date the associate judge signs the proposed order or judgment.

SECTION 5. Amends Sections 201.317(a) and (d), Family Code, as follows:

(a) Authorizes a party to request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the third working day, rather than the seventh working day, after the date the party receives notice of the substance of the associate judge's report as provided by Section 201.313 (Report).

(d) Authorizes any other party to file a request for a de novo hearing before the referring court not later than the third working day, rather than the seventh working day, after the date the initial request was filed if a request for a de novo hearing before the referring court is filed by a party.

SECTION 6. Makes application of the change in law made by this Act to Section 51.014(b), Civil Practice and Remedies Code, prospective.

SECTION 7. Provides that the change in law made by this Act to Section 6.4035(c), Family Code, applies to a waiver of service of process executed by a party to a suit for the dissolution of a marriage on or after the effective date of this Act, regardless of whether the suit is filed before, on, or after that date.

SECTION 8. Provides that the changes in law made by this Act to Chapter 201, Family Code, apply only to a request for a de novo hearing in a case referred to an associate judge under Chapter 201, Family Code, on or after the effective date of this Act. Provides that a request for a de novo hearing in a case referred to an associate judge before the effective date of this Act is governed by the law in effect on the date the case was referred, and the former law is continued in effect for that purpose.

SECTION 9. Effective date: September 1, 2013.