

BILL ANALYSIS

H.B. 1366
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1366 amends the Civil Practice and Remedies Code to except an interlocutory appeal in a suit brought under the Family Code from a provision establishing that certain interlocutory appeals stay the commencement of a trial in the trial court pending resolution of the appeal.

H.B. 1366 amends the Family Code to specify that a waiver of the issuance or service of process executed by a party to a suit for the dissolution of a marriage is required to be sworn before a notary public who is not an attorney in the suit.

H.B. 1366 shortens the deadline by which a party to a suit affecting the parent-child relationship referred to an associate judge or an associate judge for juvenile matters, as applicable, must file a written request for a de novo hearing before the referring court with the clerk of the referring court from not later than the seventh to not later than the third working day after the date the party receives notice of the substance of the applicable associate judge's report containing the judge's findings, conclusions, or recommendations. The bill shortens the deadline by which a party to such a suit affecting the parent-child relationship in which another party has filed a request for a de novo hearing must file a request for a de novo hearing before the referring court from not later than the seventh to not later than the third working day after the date the initial request was filed. The bill shortens the deadline by which a party to a suit affecting the parent-child relationship referred to an associate judge for child support cases must file notice requesting a de novo hearing before the referring court with the clerk of the referring court from not later than the seventh to not later than the third working day after the date the associate judge signs the proposed order or judgment.

EFFECTIVE DATE

September 1, 2013.