

BILL ANALYSIS

C.S.S.B. 1233
By: Rodríguez
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that, while it is possible for an associate judge appointed under certain provisions of the Family Code to commit an abuse of discretion that would potentially be subject to a writ of mandamus if committed by a judge of a district or county court, the courts of appeals are not authorized to issue writs of mandamus against such associate judges, among others. C.S.S.B. 1233 seeks to remedy this inconsistency.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.S.B. 1233 amends the Government Code to authorize each court of appeals for a court of appeals district to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a statutory county court or statutory probate county court in the court of appeals district and against an associate judge of a district or county court appointed by a judge under certain Family Code provisions in the court of appeals district for the judge who appointed the associate judge.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1233 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Section 22.221(b), Government Code, is amended to read as follows:
(b) Each court of appeals for a court of

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 22.221(b), Government Code, is amended to read as follows:
(b) Each court of appeals for a court of

appeals district may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against [a]:

(1) a judge of a district or county court in the court of appeals district; [ø]

(2) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or

(3) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of appeals district for the judge who appointed the associate judge.

SECTION 2.

(See below.)

Section 22.221(b), Government Code, as amended by this Act, applies only to a suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, on or after the effective date of this Act. A suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

appeals district may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against [a]:

(1) a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district; [ø]

(2) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or

(3) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of appeals district for the judge who appointed the associate judge.

SECTION 2.

(a) Section 22.221(b)(1), Government Code, as amended by this Act, applies only to a proceeding seeking a writ of mandamus filed in a court of appeals under Section 22.221, Government Code, on or after the effective date of this Act. A proceeding seeking a writ of mandamus filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(b) Section 22.221(b)(3), Government Code, as amended by this Act, applies only to a suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, on or after the effective date of this Act. A suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. Same as engrossed version.