

BILL ANALYSIS

Senate Research Center
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H.B. 3192
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Jurisprudence
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Engrossed

DIGEST AND PURPOSE

Texas law limits the number of civil cases or aspects of a civil case that may be referred by a judge of a district court. In Bexar County, there is a resulting backlog of cases in the district courts. H.B. 3192 authorizes a district court judge in Bexar County to appoint an associate judge on a full-time or part-time basis to hear certain civil cases and sets forth provisions regarding the qualifications and powers of such associate judges.

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 Chapter 54, Government Code, by adding Subchapter T, as follows:

SUBCHAPTER T. CIVIL LAW ASSOCIATE JUDGES IN BEXAR COUNTY

Sec. 54.1051. APPOINTMENT. (a) Authorizes the judges of the district courts in Bexar County to appoint a full-time or part-time associate judge to hear any civil matter within the jurisdiction of the district court.

(b) Authorizes an associate judge to be appointed to serve more than one court with the approval of the judge of each court to which the associate judge is appointed to serve.

(c) Authorizes an associate judge appointed under Section 201.001 (Appointment), Family Code, to also be appointed under this section at the same rate of compensation received for appointment under the Family Code.

Sec. 54.1052. QUALIFICATIONS. Requires an associate judge to have the same qualifications as required for a judge of a district court in Bexar County.

Sec. 54.1053. ORDER OF APPOINTMENT. Requires the order appointing an associate judge to be entered in the minutes of the district court.

Sec. 54.1054. COMPENSATION. Requires an associate judge to be paid a salary as determined by the Commissioners Court of Bexar County.

Sec. 54.1055. JUDICIAL IMMUNITY. Provides that an associate judge appointed under this subchapter has the same judicial immunity as a district judge.

Sec. 54.1056. TERMINATION OF EMPLOYMENT. (a) Provides that an associate judge who serves only one court serves at the will of the judge of that court.

(b) Authorizes the employment of an associate judge who serves two courts to be terminated by the judge of either of the courts served.

(c) Authorizes the employment of an associate judge who serves more than two courts to be terminated by a majority of the judges of the courts served.

(d) Requires a judge seeking to terminate an associate judge's employment to sign a written order of termination.

Sec. 54.1057. **CASES THAT MAY BE REFERRED.** (a) Authorizes a judge of a district court served by an associate judge appointed under this subchapter to refer to the associate judge a civil case or part of a civil case brought under the civil jurisdiction of the district court.

(b) Authorizes an associate judge to preside over a trial on the merits, regardless of whether the trial is before a jury.

Sec. 54.1058. **OBJECTION TO APPOINTMENT.** (a) Authorizes the judge of a district court, unless a party files a written objection, to refer a trial on the merits to an associate judge.

(b) Provides that if a party files an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the case, the court is required to assign the matter for trial without referring the case to an associate judge.

Sec. 54.1059. **METHOD OF REFERRAL.** Authorizes a case to be referred to an associate judge as provided by published local rules or by written orders.

Sec. 54.1060. **DUTIES AND POWERS.** (a) Sets forth an associate judge's authority, except as limited by an order of referral.

(b) Authorizes an order of referral to limit the use or power of an associate judge.

Sec. 54.1061. **JURY.** Requires an associate judge to conduct a full hearing according to the usual rules applicable to a jury trial if a jury is demanded in a case referred to an associate judge.

Sec. 54.1062. **COURT REPORTER.** (a) Authorizes a referring judge to require a reporter at any hearing.

(b) Requires a court reporter to be provided when an associate judge presides over a jury or nonjury trial on the merits.

(c) Authorizes the referring court, on appeal from an associate judge's report on proposed orders, to consider testimony or other evidence in the record.

Sec. 54.1063. **FAILURE TO COMPLY WITH SUMMONS OR OATH.** Authorizes an associate judge, if an attorney, party, witness, or other person fails to comply with a summons or order, to certify that failure in writing to the referring district court for appropriate action.

Sec. 54.1064. **PERJURY.** (a) Provides that a witness appearing before an associate judge is subject to the penalties of perjury as provided by Chapter 37 (Perjury and Other Falsification), Penal Code.

(b) Provides that a witness referred to a court under Section 54.1063 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing

before the district court.

Sec. 54.1065. REPORT. (a) Requires an associate judge, at the conclusion of the proceedings, to transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

(b) Requires the associate judge's report to be in writing and in the form prescribed by the referring court. Authorizes the form to be a notation on the court's docket sheet or in the court's jacket.

(c) Requires an associate judge, after a hearing, to notify the parties participating in the hearing of the substance of the judge's report. Authorizes the notice to be given in the form of a proposed order.

(d) Authorizes notice required under Subsection (c) to be given using certain methods.

(e) Requires an associate judge to note in the record the date of a mailing by certified mail under Subsection (d)(2). Provides that notice is considered given on the third day after the date of the mailing.

(f) Requires an associate judge, after a hearing conducted by the associate judge, to send the signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

Sec. 54.1066. NOTICE OF RIGHT TO APPEAL. (a) Requires each party to be given notice of the right to appeal to the judge of the referring court. Sets forth methods by which the notice may be given.

(b) Provides that before the commencement of a hearing before the associate judge, a party may waive the right to appeal to the referring court in writing or on the record.

Sec. 54.1067. ORDER OF COURT. (a) Provides that, pending appeal to the referring court of the associate judge's report, including any proposed order, the decisions and recommendations of the associate judge are in full force and effect and are enforceable as an order of the referring court, except for orders providing for the appointment of a receiver.

(b) Provides that if an appeal to the referring court is not filed or the right to an appeal to the court is waived, the findings and recommendations of the associate judge become the order of the court only on the court's signing of an order conforming to the associate judge's report.

(c) Requires an order by an associate judge for the temporary detention or incarceration of a witness or party to be presented to the referring court on the date the witness or party is detained or incarcerated. Authorizes the referring court, without prejudice to the right of appeal, to approve the temporary detention or incarceration or to order the release of the party or witness, with or without bond, pending appeal. Authorizes the associate judge, if the referring court is not immediately available, to order the release of the party or witness, with or without bond, pending appeal or to continue the person's detention or incarceration for not more than 72 hours.

Sec. 54.1068. APPEAL TO REFERRING COURT. (a) Authorizes a party to appeal an associate judge's report by filing a notice of appeal not later than the third day after the date the party is given notice of the associate judge's report under Section 54.1065, unless the party has waived the party's right to appeal as provided by Section 54.1066(b).

(b) Requires an appeal to the referring court to specify in writing the findings of the associate judge to which the party objects. Provides that the appeal is limited to the specified findings and conclusions.

(c) Authorizes the parties, on appeal to the referring court, to present witnesses as in a hearing de novo on the issues raised in the appeal. Also authorizes the court to 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) Requires notice of an appeal to the referring court to be given to each opposing party or their counsel under Rule 21a, Texas Rules of Civil Procedure.

(e) Provides that if an appeal to the referring court is filed by a party, any other party is authorized to file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(f) Requires the referring court, after giving notice to each party, to conduct a hearing on each appeal not later than the 30th day after the date the initial appeal was filed with the court.

(g) Provides that denial of an appeal under this section or waiver of the right to appeal to 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.

(h) Prohibits a party from demanding a second jury on appeal of an associate judge's report, including any proposed order, resulting from a jury trial.

Sec. 54.1069. APPELLATE REVIEW. (a) Provides that failure to appeal to the referring court, by waiver or otherwise, the approval by the referring court of an associate judge's report does not deprive a party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Provides that the date that an order or judgment by the referring court is signed is the controlling date for purposes of appealing to or requesting other relief from a court of appeals or the supreme court.

Sec. 54.1070. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. Provides that unless a party files a written notice of appeal, the referring court is authorized to adopt, modify, or reject the associate judge's report, including any proposed order, hear additional evidence, or recommit the matter to the associate judge for further proceedings.

Sec. 54.1071. REFEREES. (a) Authorizes an associate judge appointed under this subchapter to serve as a referee as provided by Section 51.04(g) (Jurisdiction) or 54.10 (Hearings Before Referee), Family Code.

(b) Authorizes an associate judge appointed under this subchapter to serve as a master as provided by Section 574.0085 (Masters), Health and Safety Code.

SECTION 2. Effective date: September 1, 2001.