

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1444
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In matters related to child protection, Chapter 201, Subchapter C, Family Code, confers special authority on the state's regional presiding judges to appoint an associate judge to hear cases in a district or statutory county court. As a matter of judicial policy, this occurs mostly in rural counties, although Harris County does have a child protection court. Section 201.204 states that an associate judge appointed under Subchapter C may render any appropriate pre-trial and posttrial order, including an order terminating parental rights.

All orders issued by associate judges who are appointed under Chapter 201 are subject to de novo review by a referring court. Section 201.015 governs de novo review of orders issued by all associate judges. Section 201.015(f) requires that a de novo hearing be held by the 30th day after the date on which the initial hearing request was filed with the clerk of the referring court.

A problem arises in a child protection case when a de novo appeal is filed concerning a court's final order in a suit affecting the parent-child relationship filed by the department. Appellate decisions have held that the 30-day deadline in Section 201.015(f) is not jurisdictional, rendering ineffective the deadline for a court to issue a final order in the child protective services case designed to establish permanency for a child. If the referring court fails to hear the de novo, and the party entitled to the de novo review fails to file a mandamus with the referring court, the practical effect is to place the case and the child in legal limbo because the case cannot move forward and the child cannot exit foster care.

To enable the more efficient resolution of de novo appeals in child protection cases, and thereby help children find permanency more quickly, S.B. 1444 makes a number of changes to Section 201.2042 (De Novo Hearing Before Referring Court) of the Texas Family Code. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1444 amends current law relating to de novo hearings in child protection cases.

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 201.2042, Family Code, by amending Subsection (b) and adding Subsections (c) through (h), as follows:

- (b) Requires the party requesting a de novo hearing before the referring court to file notice with the referring court, the clerk of the referring court, and the associate judge.
- (c) Prohibits a party from requesting a de novo hearing on a default judgment or an agreed order.
- (d) Requires that a request for a de novo hearing under this section specify the issues to be presented to the referring court. Requires the referring court, if the request for a de

novo hearing fails to specify the issues, to deny the relief requested and refuse to schedule a de novo hearing.

(e) Requires that proceedings under this section be given precedence over other pending matters to the extent necessary to ensure the court reaches a decision promptly.

(f) Requires the referring court, after notice to the parties, to hold a de novo hearing on an associate judge's proposed order or judgment following a trial on the merits by a certain date. Provides that the request for a de novo hearing, unless the referring court has rendered an order disposing of the request for a de novo hearing within the period provided by this subsection, is considered denied by the referring court.

(g) Authorizes a party, if the referring court has not held a de novo hearing on an associate judge's proposed order or judgment on or before a certain date, to file a petition for a writ of mandamus to compel the referring court to hold the hearing required by Subsection (f).

(h) Provides that, except as provided by Section 201.016 (Appellate Review), the date the request for a de novo hearing is considered denied under Subsection (f) is the controlling date for the purpose of an appeal to, or a request for other relief from, a court of appeals or the Texas supreme court.

SECTION 2. Repealers: Sections 201.014(b) (relating to an order or judgment rendered by an associate judge that meets requirements and is considered a final order) and 201.2041(b) (relating to a proposed order or judgment rendered by an associate judge in a certain suit), Family Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.