

## **BILL ANALYSIS**

C.S.S.B. 1444  
By: West  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the current process for requests for de novo hearings on orders rendered by associate judges appointed in child protection cases does not adequately ensure that these cases are resolved efficiently and that this inefficiency can delay a child's ability to find permanency. C.S.S.B. 1444 seeks to make certain changes to and promote efficiency in this process.

### **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. 1444 amends the Family Code to include the relevant appointed associate judge among the entities with whom a party requesting a de novo hearing before the referring court in a child protection case is required to file notice. The bill requires proceedings relating to such a request to be given precedence over other pending matters to the extent necessary to ensure the court reaches a decision promptly. The bill prohibits a party from requesting a de novo hearing on a default judgment or on an agreed order.

C.S.S.B. 1444 requires the referring court, after notice to the parties, to hold a de novo hearing on an associate judge's proposed final order or judgment following a trial on the merits under statutory provisions relating to a final order for a child under Department of Family Protective Services care and not later than the 45th day after the date the initial request for a de novo hearing is filed. The bill establishes that, unless the referring court has rendered an order disposing of the request for a de novo hearing within such period, the request is considered denied by the referring court. The bill 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 the 30th day after the date the initial request for a de novo hearing is filed, to file a petition for a writ of mandamus to compel the referring court to hold the hearing. The bill makes the date the request for a de novo hearing is considered denied due to the referring court not disposing of the request within the appropriate period the controlling date for the purpose of an appeal to, or a request for other relief from, a court of appeals or the Supreme Court of Texas, with certain exceptions.

C.S.S.B. 1444 repeals Sections 201.014(b) and 201.2041(b), Family Code, relating to the effect a request for a de novo hearing before the referring court has on the finality, for certain purposes, of certain proposed orders or judgments rendered by an associate judge.

## EFFECTIVE DATE

September 1, 2017.

## COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1444 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 201.2042, Family Code, is amended by amending Subsection (b) and adding Subsections (c) through (h) to read as follows:

(b) The party requesting a de novo hearing before the referring court shall file notice with the referring court, ~~and~~ the clerk of the referring court, and the associate judge.

(c) A party may not request a de novo hearing on a default judgment or an agreed order.

(d) A request for a de novo hearing under this section must specify the issues to be presented to the referring court. If the request for a de novo hearing fails to specify the issues, the referring court shall deny the relief requested and refuse to schedule a de novo hearing.

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

(f) After notice to the parties, the referring court shall hold a de novo hearing on an associate judge's proposed order or judgment following a trial on the merits and not later than the 45th day after the date the initial request for a de novo hearing is filed. Unless the referring court has rendered an order disposing of the request for a de novo hearing within the period provided by this subsection, the request for a de novo hearing is considered denied by the referring court.

(g) If the referring court has not held a de novo hearing on an associate judge's proposed order or judgment on or before the 30th day after the date the initial request for a de novo hearing is filed, a party may file a petition for a writ of mandamus to compel the referring court to hold the hearing

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 201.2042, Family Code, is amended by amending Subsection (b) and adding Subsections (c) through (g) to read as follows:

(b) The party requesting a de novo hearing before the referring court shall file notice with the referring court, ~~and~~ the clerk of the referring court, and the associate judge.

(c) A party may not request a de novo hearing on a default judgment or an agreed order.

(d) Proceedings under this section shall be given precedence over other pending matters to the extent necessary to ensure the court reaches a decision promptly.

(e) After notice to the parties, the referring court shall hold a de novo hearing on an associate judge's proposed ~~order or judgment~~ **final order or judgment** following a trial on the merits under Subchapter E, Chapter 263, and not later than the 45th day after the date the initial request for a de novo hearing is filed. Unless the referring court has rendered an order disposing of the request for a de novo hearing within the period provided by this subsection, the request for a de novo hearing is considered denied by the referring court.

(f) If the referring court has not held a de novo hearing on an associate judge's proposed order or judgment on or before the 30th day after the date the initial request for a de novo hearing is filed, a party may file a petition for a writ of mandamus to compel the referring court to hold the hearing

required by Subsection (f).

(h) Except as provided by Section 201.016, 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 supreme court.

SECTION 2. Sections 201.014(b) and 201.2041(b), Family Code, are repealed.

SECTION 3. The changes in law made by this Act apply only to a request for a de novo hearing that is filed on or after the effective date of this Act. A request for a de novo hearing filed before the effective date of this Act is governed by the law in effect on the date the request was filed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2017.

required by Subsection (e).

(g) Except as provided by Section 201.016, the date the request for a de novo hearing is considered denied under Subsection (e) is the controlling date for the purpose of an appeal to, or a request for other relief from, a court of appeals or the supreme court.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.