

BILL ANALYSIS

C.S.H.B. 2927
By: Schofield
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that potentially thousands of Texans who have gone before an associate judge who signed a final order in their case may not actually have a final judgment if the referring court never signed the order, creating concern that those cases could be reopened at any time. C.S.H.B. 2927 seeks to remedy this situation by allowing an associate judge to render certain final orders.

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.H.B. 2927 amends the Family Code to authorize an associate judge to render a final order in a suit affecting the parent-child relationship if the parties waive the right to a de novo hearing before the court that referred the suit to the associate judge and to specify that such a waiver is made in writing before the start of a hearing conducted by the associate judge. The bill establishes that such a rendered order that is signed by the associate judge constitutes an order of the referring court and makes the date that such an order is signed by an associate judge the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court. The bill establishes that such an order signed by an associate judge before May 1, 2017, is a final order rendered as of the date the order was signed and that the legislature ratifies such an order.

C.S.H.B. 2927 establishes that the following types of final orders rendered and signed by an associate judge, if a party does not request a de novo hearing before the referring court, become final after the expiration of the prescribed period for filing a request for such a hearing: a final order agreed to in writing as to both form and substance by all parties, a final default order, or a final order in a case in which a party properly files an unrevoked waiver that waives notice to the party of the final hearing or waives the party's appearance at the final hearing.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2927 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 201.007(a) and (c), Family Code, are amended to read as follows:

(a) Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue a summons for:
 - (A) the appearance of witnesses; and
 - (B) the appearance of a parent who has failed to appear before an agency authorized to conduct an investigation of an allegation of abuse or neglect of a child after receiving proper notice;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend an order to be rendered in a case;
- (11) regulate all proceedings in a hearing before the associate judge;
- (12) order the attachment of a witness or party who fails to obey a subpoena;
- (13) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 201.013;
- (14) without prejudice to the right to a de novo hearing before the referring court [~~of appeal~~] under Section 201.015, render and sign:
 - (A) a final order agreed to in writing as to both form and substance by all parties;
 - (B) a final default order;
 - (C) a temporary order; or
 - (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;
- (15) take action as necessary and proper for the efficient performance of the associate

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 201.007, Family Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue a summons for:
 - (A) the appearance of witnesses; and
 - (B) the appearance of a parent who has failed to appear before an agency authorized to conduct an investigation of an allegation of abuse or neglect of a child after receiving proper notice;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend an order to be rendered in a case;
- (11) regulate all proceedings in a hearing before the associate judge;
- (12) order the attachment of a witness or party who fails to obey a subpoena;
- (13) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 201.013;
- (14) without prejudice to the right to a de novo hearing before the referring court [~~of appeal~~] under Section 201.015 and subject to Subsection (c), render and sign:
 - (A) a final order agreed to in writing as to both form and substance by all parties;
 - (B) a final default order;
 - (C) a temporary order; or
 - (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;
- (15) take action as necessary and proper for the efficient performance of the associate

judge's duties; and
(16) render and sign a final order that includes a waiver of the right to a de novo hearing before the referring court under [of appeal pursuant to] Section 201.015.

(c) An order described by Subsection (a)(14) or (16) that is rendered and signed by an associate judge constitutes an order of the referring court.

SECTION 2. Section 201.013(b), Family Code, is amended.

SECTION 3. Section 201.014(a), Family Code, is amended.

SECTION 4. Section 201.016(c), Family Code, is amended to read as follows:

(c) The date an agreed order, ~~[or] a default order, or a final order that includes a waiver of the right to a de novo hearing before the referring court under Section 201.015~~ is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

SECTION 5. The changes in law made by this Act apply to a final order signed by an associate judge before, on, or after the effective date of this Act.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each

judge's duties; and
(16) render and sign a final order if the parties waive [that includes a waiver of] the right to a de novo hearing before the referring court under [of appeal pursuant to] Section 201.015 in writing before the start of a hearing conducted by the associate judge.

(c) A final order described by Subsection (a)(14) becomes final after the expiration of the period described by Section 201.015(a) if a party does not request a de novo hearing in accordance with that section.

An order described by Subsection (a)(14) or (16) that is rendered and signed by an associate judge constitutes an order of the referring court.

(e) An order signed before May 1, 2017, by an associate judge under Subsection (a)(16) is a final order rendered as of the date the order was signed.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Section 201.016(c), Family Code, is amended to read as follows:

(c) The date an agreed order, ~~[or] a default order, or a final order described by Section 201.007(a)(16)~~ is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

SECTION 5. (a) The change in law made by this Act to Section 201.007(a), Family Code, applies only to a final order signed by an associate judge on or after the effective date of this Act.

(b) Notwithstanding Subsection (a) of this section, Section 201.007(e), Family Code, as added by this Act, applies to an order signed by an associate judge under Section 201.007(a)(16), Family Code, before May 1, 2017. The legislature ratifies such an order.

SECTION 6. Same as introduced version.

house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.