

BILL ANALYSIS

C.S.H.B. 3785
By: Capriglione
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest a need to improve transparency in the judicial process involving associate judges in certain family law cases and proceedings. C.S.H.B. 3785 seeks to address this issue by requiring a court reporter to be provided during certain cases involving an associate judge and relating to child custody and parental termination matters and by allowing certain family law proceedings heard by an associate judge to be electronically recorded as an alternative to requiring recording by a court reporter.

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. 3785 amends the Family Code to revise the provision authorizing a court reporter to be provided during a hearing held by an associate judge in a suit affecting the parent-child relationship by replacing that authorization and related provisions with a requirement that a court reporter be provided in such a hearing or that the proceedings be recorded with a good quality electronic audio recording device. The bill requires a court reporter to be provided when the associate judge presides over child custody and parental termination matters.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3785 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. Section 201.004, Family Code, is amended by adding Subsection (e) to read as follows:

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

(e) A resident of the county served by the associate judge may file with the State Commission on Judicial Conduct a petition for removal of the associate judge. If the commission finds the associate judge abused the judge's discretion or acted in bad faith against a party before the associate judge, the commission may terminate the employment of the associate judge for the court served by the associate judge. An associate judge's employment termination does not prevent a de novo appeal of the associate judge's ruling to any district court in the county.

SECTION 2. Section 201.009, Family Code, is amended to read as follows:

Sec. 201.009. COURT REPORTER; RECORD. ~~In [(a) A court reporter may be provided during]~~ a hearing held by an associate judge appointed under this chapter, a court reporter must be provided or the proceedings must be recorded with a good quality electronic audio recording device. ~~[A court reporter is required to be provided when the associate judge presides over a jury trial or a contested final termination hearing.]~~

~~[(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing, if one is not otherwise provided.]~~

~~[(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.]~~

~~[(d) The referring court or associate judge may tax the expense of preserving the record under Subsection (c) as costs.]~~

~~[(e) On a request for a de novo hearing, the referring court may consider testimony or other evidence in the record in addition to witnesses or other matters presented under Section 201.015.]~~

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

SECTION 1. Section 201.009, Family Code, is amended to read as follows:

Sec. 201.009. COURT REPORTER; RECORD. ~~In [(a) A court reporter may be provided during]~~ a hearing held by an associate judge appointed under this chapter, a court reporter must be provided or the proceedings must be recorded with a good quality electronic audio recording device. A court reporter is required to be provided when the associate judge presides over a jury trial or child custody and parental termination matters ~~[a contested final termination hearing].~~

~~[(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing, if one is not otherwise provided.]~~

~~[(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.]~~

~~[(d) The referring court or associate judge may tax the expense of preserving the record under Subsection (c) as costs.]~~

~~[(e) On a request for a de novo hearing, the referring court may consider testimony or other evidence in the record in addition to witnesses or other matters presented under Section 201.015.]~~

SECTION 2. Same as introduced version.