

BILL ANALYSIS

Senate Research Center
79R459 MFC-D

H.B. 231
By: Hartnett (Wentworth)
Jurisprudence
4/13/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, special judges under Chapter 151, Civil Practice and Remedies Code, are individuals who served as a county judge or district judge for four years and no longer hold public office. They may be practicing law or even sitting as an assigned or visiting judge.

In order to secure a special judge, the parties are required to file a motion with the judge where the original lawsuit was filed requesting appoint of a special judge. The motion is required to state the time and place of the trial and the fees to be paid and that they will be shared equally by all parties. If the motion is granted, the matter is stayed in the referring judge's court pending the outcome of the trial by the special judge. The special orders and judgment are filed with the referring judge, at the completion of the proceedings. The use of special judges is currently limited to civil and family law case in district court.

As proposed, H.B. 231 allows the use of special judges in civil and family law matters in statutory probate courts and statutory county courts as well as in district courts.

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 151.001, Civil Practice and Remedies Code, as follows:

Sec. 151.001. REFERRAL BY AGREEMENT. Authorizes the judge in whose court the case is pending, rather than filed, on agreement of the parties in civil or family law matters pending in a district court, to order referral of the case as provided by this chapter and to stay proceedings in the judge's court pending the outcome of the trial.

SECTION 2. Amends Section 151.005, Civil Practice and Remedies Code, as follows:

Sec. 151.005. PROCEDURE. Provides that rules and statutes relating to procedure and evidence in the referring judge's court, rather than district court, apply to a trial under this chapter.

SECTION 3. Amends Section 151.006(b), Civil Practice and Remedies Code, as follows:

(b) Provides that the special judge has the powers of the referring judge, rather than a district judge, except that the special judge may not hold a person in contempt of court unless the person is a witness before the special judge. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 151.008, Civil Practice and Remedies Code, to make conforming changes.

SECTION 5. Amends Section 151.011, Civil Practice and Remedies Code, to make conforming changes.

SECTION 6. Amends Section 151.013, Civil Practice and Remedies Code, as follows:

Sec. 151.013. RIGHT TO APPEAL. Provide that an appeal is from the order of the referring judge's court as provided by the Texas Rules of Civil Procedure and the Texas rules of Appellate Procedure.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2005.