

SUBJECT: Authorizing associate judges to hear child protection cases

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 8 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, E. Reyna, Truitt

0 nays

1 absent — A. Reyna

WITNESSES: For —Stephen B. Ables; Camile DuBose; John J. Specia; Olen Underwood

Against —None

On —Howard G. Baldwin, Jr., Office of the Attorney General

BACKGROUND: The federal Court Improvement Project (CIP) required each state court system to assess of efficiency of judicial proceedings in foster care and adoption cases and to plan improvements. The Texas Supreme Court Task Force on Foster Care, appointed in 1995, identified such problem areas as crowded dockets, multiple continuances, lack of technology supporting court operations, and lack of leadership and commitment in the judiciary. It found that children, on average, spent 40.8 months in foster care before being adopted. The 75th Legislature in 1997 directed that temporary foster care placement be reduced to 12 months, with one six-month extension for good cause.

An administrative judicial region is composed of several courts within a specified area, with a presiding judge who coordinates administrative and logistical issues relating to court and docket management.

DIGEST: HB 3706 would amend the Family Code, allowing the presiding judge of an administrative judicial region to appoint associate judges to help with child custody or protection cases in order to process these cases within a reasonable time.

Appointment of associate judges. The bill would authorize the presiding judge in the judicial region, after consultation with other family law judges, to appoint a full-time or part-time associate judge to complete child custody cases as specified in Chapters 262 and 263 (i.e., cases involving emergency removals of children from their home and placement reviews, including foster care and adoption proceedings.) An associate judge could be appointed to a court handling child protection cases, as could visiting or retired judges. An associate judge could serve in more than one court, be appointed where required, and have the appointment terminated at any time. An associate judge would be allowed to refer a complex case involving temporary orders for the protection of a child back to the referring court.

Additional authority. An associate judge would be permitted to issue an order for attachment of a witness or party who failed to obey a subpoena and an order detaining a witness or party found guilty of contempt. A proposed order would be required to be included in an associate judge's report.

Compensation and funding. Compensation would be determined by a majority vote of the judges in an administrative region, with the salary not to exceed 90 percent of that of a state district judge. The salary would be paid from county funds, supplemented by state and federal funding. The Office of Court Administration would be authorized to contract for available state and federal funds to defray these costs. The presiding judges and the Office of Court Administration would be required to cooperate with other state agencies to maximize the amount of federal money for this purpose.

Court reporter provisions. The bill would provide that a court reporter would be required for a jury trial or final termination hearing, and also may be made available for other proceedings. If the record of a case was recorded by a court reporter, it could be considered on appeal.

The bill would take effect September 1, 1999.

SUPPORTERS
SAY:

HB 3706 would help Texas deal with the serious backlog of child protection, emergency removal, foster care, and placement cases, helping Texas children in bad home situations find new families and affording them better protection in the meantime.

Legislation approved two years ago mandated that temporary placement in foster care be limited to 12 months, with one six-month extension. This has placed additional pressures on the already over-burdened court system that need to be remedied. This bill would help expedite child protection and placement cases by bringing new judicial resources to bear on the problem.

A pilot project involving three special foster care courts was begun in 1997. These courts have caused a significant reduction in caseloads several areas of the state. The special courts have been very successful in placing children in permanent homes in much less time, saving state and federal funds devoted to foster care costs. More efficient handling and processing of cases has resulted in less crowded dockets.

HB 3706 is based on the successes of these pilot special courts. The bill would authorize the appointment of associate judges to better serve the needs of children who may become lost in a placement limbo. It would provide the administrative region with flexibility to structure these courts to reflect local needs. The associate judges also would be authorized to assist in child protection cases, which would help to reduce the backlog in this area as well.

Courts with associate judges would receive initial funding from the federal CIP. While state and county funds also would be utilized, this bill would create the necessary structures to ensure that Texas receives its fair share of these federal funds. The bill also would require that an administrative judicial region coordinate with other state agencies to seek further federal funding.

**OPPONENTS
SAY:**

While adding more judges to deal with foster care and child protection cases is a worthy idea, limited state funds would be better spent in increasing resources to identify and remove from dangerous homes children in severely abusive situations. The number of child abuse cases in Texas is increasing and should be addressed. The children that are now in abusive homes have a greater, more immediate need for help from the state.

NOTES:

A companion bill, SB 1735 by Zaffirini, passed the Senate on April 22 and has been referred to the House Juvenile Justice and Family Issues Committee, which was scheduled to hear the bill on May 3.