

## **BILL ANALYSIS**

Senate Research Center  
80R14787 KKA-F

H.B. 2501  
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Jurisprudence  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Chapter 201, Family Code, has been repeatedly amended over the years and lacks clarity and understanding of certain provision relating to suits affecting the parent-child relationship referred to an associate judge. It is necessary to clarify certain terms and procedural matters.

H.B. 2501 authorizes a party to request a de novo hearing before the referring court not later than the seventh working day after the date the party receives notice of the substance of the associate judge's report. The bill provides that the denial of relief to a party after a de novo hearing or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, motion for judgment, notwithstanding the verdict, or other post-trial motion. The bill also provides that regardless of whether a de novo hearing is requested before the referring court a proposed order or judgment rendered by an associate judge that meets certain requirements is considered a final order.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 201.009(e), Family Code, to provide that the referring court, on a request for a de novo hearing, rather than on appeal of the associate judge's report or proposed order, is authorized to consider certain testimony and evidence.

SECTION 2. Amends Sections 201.011(a), (b), and (d), Family Code, as follows:

- (a) Authorizes the associate judge's report to be in the form of a proposed order. Deletes existing text authorizing the form to be a notation on the referring court's docket sheet.
- (b) Requires the associate judge, after a hearing, to provide the parties participating in the hearing notice of the substance of the associate judge's report, including any proposed order. Deletes existing text providing that the notice may be given in the form of a proposed order.
- (d) Deletes existing text requiring the associate judge to certify the date of mailing of notice by certified mail or the date of the facsimile transmission.

SECTION 3. Amends the heading to Section 201.012, Family Code, to read as follows:

Sec. 201.012. NOTICE OF RIGHT TO DE NOVO HEARING BEFORE REFERRING COURT.

SECTION 4. Amends Section 201.012(a), Family Code, to require notice of the right to a de novo hearing before, rather than the right to an appeal to the judge of, the referring court to be given to all parties.

SECTION 5. Amends Section 201.013, Family Code, as follows:

Sec. 201.013. ORDER OF COURT. (a) Provides that pending a de novo hearing before the referring court, a proposed order or judgment, rather than the decisions and recommendations, of the associate judge is in full force and effect and is, rather than are, enforceable as an order or judgment of the referring court, except for an order, rather than orders, providing for the appointment of a receiver. Deletes existing text regarding an appeal of the associate judge's report, including any proposed order.

(b) Provides that, except as provided by Section 201.007(c), if a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing, rather than appeal, before the referring court is waived, the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment. Deletes existing text as it relates to the referring court's signing an order conforming the associate judges report. Makes conforming changes.

(c) Makes conforming changes.

SECTION 6. Amends Section 201.014, Family Code, as follows:

Sec. 201.014. New heading: JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. (a) Creates this subsection from existing text. Makes conforming changes.

(b) Provides that regardless of whether a party files a written request for a de novo hearing before the referring court, a proposed order or judgment rendered by an associate judge in a suit filed by the Department of Family and Protective Services that meets the requirements of Section 263.104(d) (describing a final order) is considered a final order for purposes of Section 263.401 (Dismissal After One Year; Extention).

SECTION 7. Amends Section 201.015, Family Code, as follows:

Sec. 201.015. New heading: DE NOVO HEARING BEFORE REFERRING COURT. (a) Authorizes a party to request a de novo hearing before the referring court by filing with the clerk of the referring court a written request, rather than notice of appeal, not later than the seventh working day, rather than third day, after the date the party receives notice of the substance of the associate judge's report as provided by Section 201.011. Makes a conforming change.

(b) Requires a request for a de novo hearing under this section to specify the issue that will be presented to the referring court. Deletes existing text requiring an appeal to the referring court to be in writing specifying the findings and conclusions of the associate judge to which the party objects. Deletes existing text providing that an appeal is limited to the specific findings and conclusions.

(c) Authorizes the parties in the de novo hearing before the referring court to present witnesses on the issues specified, rather than raised, in the request for hearing, rather than appeal. Makes conforming and nonsubstantive changes.

(d)-(e) Makes conforming changes.

(f) Requires the referring court, after notice to the parties, to hold a de novo hearing, rather than a hearing on all appeals, not later than the 30th day after the date on which the initial request for a de novo hearing was filed with the clerk of the referring court.

(g) Makes a conforming change.

(h) Provides that the denial of relief to a party after a de novo hearing, rather than an appeal, under this section or a party's waiver of the right to a de novo hearing before, rather than appeal to, the referring court does not affect the right of a party

to file a motion for new trial, motion for judgment, notwithstanding the verdict, or other post-trial motion.

(i) Prohibits a party from demanding a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted, rather than order resulting, from a jury trial.

SECTION 8. Amends Section 201.016(a), Family Code, as follows:

(a) Provides that a party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before, the referring court does not deprive the, rather than a, party of the right to appeal to or request other relief from a court of appeals or the supreme court. Deletes existing text regarding failure to appeal to the referring court, by waiver or otherwise, the approval by the referring court of an associate judge's report.

SECTION 9. Amends Section 201.1041, Family Code, as follows:

Sec. 201.1041. New heading: JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. (a) Requires the proposed order or judgment, rather than a recommendation, of the associate judge, other than the proposed order or judgment providing for enforcement by contempt or the immediate incarceration, rather than contempt or a recommendation of immediate incarceration, of a party, if a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, to become the order or judgment of the referring court by operation of law without ratification by the referring court. Makes conforming and nonsubstantive changes.

(b) Makes conforming changes.

(c) Provides that except as provided by Subsection (b), a proposed order or judgment, rather than the decisions and recommendations, of the associate judge is in full force and effect and is enforceable as an order or judgment of the referring court pending a de novo hearing before, rather than during an appeal of the associate judge's report to, the referring court.

SECTION 10. Amends Section 201.1042, Family Code, as follows:

Sec. 201.1042. New heading: DE NOVO HEARING BEFORE REFERRING COURT.

(a) Makes a conforming change.

(b) Requires the party requesting a de novo hearing before the referring court to file notice with the clerk of the referring court not later than the seventh working day after the date the associate judge signs the proposed order or judgment, rather than with the referring clerk and the clerk of the court.

(c) Requires a respondent who timely files a request for a de novo hearing on an associate judge's proposed order or judgment providing for incarceration, rather than report recommending incarceration after a finding of contempt, to be brought before the referring court not later than the first working day after the date on which the respondent files the request for a de novo hearing. Makes conforming changes.

(d)-(f) Makes a conforming changes.

(g) Prohibits an associate judge until a de novo hearing is held, rather than until a hearing is held on a timely filed appeal, under this section and the referring court has signed, rather than rendered, an order or judgment or has ruled on a timely filed motion for new trial or a motion to vacate, correct, or reform a judgment, from holding a hearing on the respondent's compliance with conditions in the associate judge's proposed order or judgment, rather than report, for suspension of

commitment or on a motion to revoke the respondent's community supervision and suspension of commitment.

SECTION 11. Amends Section 201.111, Family Code, as follows:

Sec. 201.111. New heading: TIME TO ACT ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT THAT INCLUDES RECOMMENDED FINDING OF CONTEMPT. (a) Requires the referring court, not later than the 10th day after the date an associate judge's proposed order or judgment, rather than report, recommending a finding of contempt is signed, rather than filed, to adopt, modify, or reject the proposed order to judgment, rather than report. Deletes existing text requiring the court to approved the report.

(b) Makes a conforming change.

SECTION 12. Amends Section 201.2041, Family Code, as follows:

Sec. 201.2041. New heading: JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. (a) Provides that if a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the proposed order or judgment of the referring court by operation of law without ratification by the associate judge becomes the order or judgment of the referring court.

(b) Provides that regardless of whether a de novo hearing is requested before the referring court, a proposed order or judgment rendered by an associate judge that meets the requirements of Section 263.104(d) is considered a final order for purposes of Section 263.041.

SECTION 13. Amends Section 201.2042, Family Code, as follows:

Sec. 201.2042. New heading: DE NOVO HEARING BEFORE REFERRING COURT.  
(a)-(b) Makes a conforming changes.

SECTION 14. Provides that the changes in law made by this Act apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. Provides that a suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 15. Effective date : September 1, 2007.