

CHAPTER 667

S.B. No. 1270

An Act relating to the appointment, qualifications, compensation, powers, and duties of a master in certain district courts in Dallas County, to assessment of court costs, and to procedures and use of the master's findings; repealing Chapter 638, Acts of the 64th Legislature, Regular Session, 1975 (Article 2338-9b.2, Vernon's Texas Civil Statutes).

Be it enacted by the Legislature of the State of Texas:

SECTION 1. APPLICATION OF ACT. This Act applies only to the district courts in Dallas County that are required by law to give preference to family law cases.

SECTION 2. APPOINTMENT OF MASTER. (a) Each judge of a court subject to this Act may appoint, with the approval of a majority of the judges subject to this Act, a full-time or part-time master to serve his court.

(b) A master appointed under this Act serves at the pleasure of the judges and may be terminated by a majority of the judges.

SECTION 3. QUALIFICATIONS. To be eligible for appointment as a master, a person must:

- (1) be a resident of this state;
- (2) have been licensed to practice law in this state for at least four years; and
- (3) meet the qualifications for appointment as a district judge.

SECTION 4. COMPENSATION. (a) A master appointed under this Act is entitled to the compensation set by the commissioners court. The compensation shall be paid from the general fund of the county.

(b) If the judge determines that the nonprevailing party is financially able to pay all or part of the costs of the master's salary, the judge may tax all or part of the master's salary as costs against the nonprevailing party.

SECTION 5. CASES THAT MAY BE REFERRED. A judge of a court subject to this Act may refer to a master any civil cases involving a matter over which the court has jurisdiction, including:

- (1) a hearing for a temporary order in a divorce action or suit for support by one spouse against another;
- (2) a motion or suit to modify a temporary or final order;
- (3) a suit affecting the parent-child relationship involving temporary support, separate maintenance, temporary visitation, or temporary conservatorship;
- (4) an application for a temporary injunction involving temporary possession or use of property;
- (5) a habeas corpus action, including any necessary hearing authorized by the Family Code;
- (6) a motion to transfer a matter that is pending before or after a final order is entered in the original action;
- (7) a motion for contempt for failure or refusal to obey a temporary or final order;
- (8) an action brought under the Uniform Reciprocal Enforcement of Support Act (Chapter 21, Family Code);
- (9) an action brought by the Texas Department of Human Resources;
- (10) a divorce action in which a waiver of citation is on file;
- (11) a matter on which the parties agree;
- (12) a matter in which a party is entitled to a default judgment; and
- (13) any other matter referred by the judge that is in the court's jurisdiction, including pretrial motions, discovery, summary judgments, and other matters governed by the Texas Rules of Civil Procedure.

SECTION 6. ORDER OF REFERRAL. (a) To refer a case to a master, a judge must issue an order of referral specifying the master's duties.

(b) The order of referral may:

- (1) limit the powers of a master and direct the master to report only on specific issues, do particular acts, or receive and report on evidence only;
- (2) set the time and place for the hearing;
- (3) prescribe a closing date for the hearing; and
- (4) provide a date for the filing of the master's report.

SECTION 7. POWERS. Except as limited by an order of referral, a master to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend the judgment to be made or that an interlocutory order be entered in a case;
- (11) regulate proceedings in a hearing;
- (12) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral; and
- (13) preside over a trial on the merits, if all parties consent.

SECTION 8. NOTICE OF HEARING. Before a master holds a hearing, each party shall be given notice of the time and place of the hearing as provided by the Texas Rules of Civil Procedure.

SECTION 9. WITNESS. (a) A witness who appears before a master and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and has the authority of a district court to fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

SECTION 10. PAPERS TRANSMITTED TO JUDGE. At the conclusion of a hearing, a master shall transmit to the referring judge any papers relating to the case, including the master's findings and a statement that notice of the findings and of the right to a hearing before the judge has been given to any party, principal, minor, and the parent, guardian, or custodian of any principal who is a minor.

SECTION 11. JUDICIAL ACTION ON MASTER'S REPORT. (a) A referring court may adopt, approve, modify, correct, reject, reverse, or recommit for further information a master's report.

(b) If the master recommends a judgment, the court may approve the recommendation or hear further evidence before rendering a judgment.

SECTION 12. HEARING BEFORE JUDGE. (a) After receiving notice of the master's findings, any party, principal, or a minor or the minor's parent, guardian, or custodian is entitled to a hearing before the judge of the referring court.

(b) Notice of the right to a hearing before the judge may be given at the hearing before the magistrate or otherwise as the referring court directs.

(c) A request for a hearing must be filed with the referring court not later than the fifth day after the date the master's findings are signed by the master. The request must state specifically the findings and conclusions of the master that are objected to, and the hearing shall be limited to those findings and conclusions.

(d) The referring court must hold the hearing not later than the 30th day after the date the request was filed. The parties may present witnesses as in a hearing de novo.

SECTION 13. DECREE OF COURT. If a hearing before the judge is not requested or the right to a hearing is waived, the findings and recommendations of the master become the decree of the court on adoption by an order of the judge.

SECTION 14. MASTER'S FINDING ENFORCEABLE AS COURT ORDER. Until the review provided by Section 11 of this Act or the hearing provided by Section 12 of this Act occurs, the decisions and recommendations of the master, when entered as an order of the court, are in full force and effect and are enforceable as an order of the court.

SECTION 15. JURY TRIAL DEMAND. If a jury trial is demanded in a case, the master may conduct a hearing for a temporary order or for other matters that are not the subject of a jury determination. The master shall refer the other aspects of the case back to the referring court for a full hearing before the court and jury. The hearing is subject to the usual rules of the court.

SECTION 16. JUDICIAL IMMUNITY. A master appointed under this Act has the same judicial immunity as a district judge.

SECTION 17. COURT PERSONNEL. (a) A bailiff is not required to attend a hearing held by a master appointed under this Act, but a party, the master, or the referring judge may provide a bailiff for the hearing.

(b) A court reporter is not required to attend a hearing held by a master appointed under this Act, but a party, the master, or the referring judge may provide a court reporter for a hearing.

(c) The judge shall tax the expenses of the bailiff and of the court reporter as costs of court.

SECTION 18. REFEREE. A master appointed under this Act may serve as a referee under Subsection (g) of Section 51.04 and Section 54.10, Family Code.

SECTION 19. REPEALER. Chapter 638, Acts of the 64th Legislature, Regular Session, 1975 (Article 2338-9b.2, Vernon's Texas Civil Statutes), is repealed.

SECTION 20. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 2, 1985, by the following vote: Yeas 31, Nays 0; Senate concurred in House amendment on May 27, 1985, by the following vote: Yeas 31, Nays 0; passed the House, with amendment, on May 21, 1985, by the following vote: Yeas 143, Nays 0, two present not voting.

Approved: June 14, 1985

Effective: Immediately