

1 HB144
2 181161-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 07-FEB-17

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, with the approval of the
9 Director of the Administrative Office of Courts,
10 district court judges may appoint court referees to
11 handle certain juvenile and child support cases
12 under the jurisdiction of the juvenile court or the
13 district court, including certain child support
14 enforcement cases initiated by the Department of
15 Human Resources pursuant to Title IV-D of the
16 Social Security Act in which the Child Support
17 Division of the department is providing some sort
18 of assistance in establishing paternity, obtaining
19 support, or securing compliance with a support
20 order. Existing law does not expressly authorize
21 the appointment of court referees to hear child
22 support enforcement cases that are domestic
23 relations cases under the jurisdiction of the
24 circuit court.

25 This bill would authorize the appointment of
26 court referees to hear certain child support
27 enforcement cases over which the domestic relations

1 division of the circuit court has jurisdiction.
2 This bill would authorize the court referee to hear
3 child support enforcement cases, including cases
4 initiated after the entry of a final judgment in a
5 divorce case in which the Department of Human
6 Resources is providing assistance pursuant to Title
7 IV-D of the Social Security Act.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to court referees; to amend Section
14 12-17-330 of the Code of Alabama 1975, to authorize the
15 appointment of court referees to hear child support
16 enforcement cases that are domestic relations cases under the
17 jurisdiction of the circuit court; to establish a procedure by
18 which the child support case would be heard; to specify the
19 duties of the court referee; and to provide for review of the
20 findings in each case by a circuit court judge.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 12-17-330, Code of Alabama 1975,
23 is amended to read as follows:

24 "§12-17-330.

25 ~~"District court judges may appoint, with the~~
26 ~~approval of the Administrative Director of Courts, referees to~~

1 ~~serve in connection with juvenile cases. Referees must be~~
2 ~~licensed to practice law in this state.~~

3 "(a) Appointment of Referees. The Administrative
4 Director of Courts may authorize one or more referee positions
5 in any judicial circuit on either a full-time or a part-time
6 basis upon submission of a written request by the presiding
7 circuit court judge and upon consideration of funding and the
8 number of child support enforcement cases in the domestic
9 relations division of the circuit court, including cases
10 initiated by the Department of Human Resources pursuant to
11 Title IV-D of the Social Security Act. Once the Administrative
12 Director of Courts approves the request, the presiding judge
13 of the circuit court may appoint an attorney the judge
14 believes to be qualified to fill the position, subject to the
15 approval of the Administrative Director of Courts. The amount
16 to be paid the referee and the manner of payment shall be
17 determined by the Administrative Director of Courts.

18 "(b) Cases Handled by Referees. The presiding judge
19 of the circuit court may direct that the referee hear child
20 support enforcement cases, including cases initiated by the
21 Department of Human Resources pursuant to Title IV-D of the
22 Social Security Act after the entry of a final judgment in a
23 divorce case, unless any of the following occurs:

24 "(1) The referee has agreed to hear certain child
25 support enforcement cases pursuant to an agreement or a
26 contract.

1 "(2) The hearing in a particular case is one to
2 determine whether the case will be transferred for criminal
3 prosecution.

4 "(3) The hearing involves the termination of
5 parental rights as defined in subdivision (17) of Section
6 12-15-301.

7 "(4) A party objects to a hearing being held by a
8 referee.

9 "(c) Duties of Referees. Referees shall perform one
10 or more of the following duties in child support enforcement
11 cases:

12 "(1) Take testimony in hearings.

13 "(2) Evaluate evidence and make findings of fact and
14 recommendations to determine paternity and to establish and
15 enforce child support orders.

16 "(3) Accept voluntary acknowledgments of
17 child-support liability or paternity and stipulated agreements
18 setting the amount of child support to be paid.

19 "(4) Prepare a default order upon a showing that
20 process has been served on the defendant and that the
21 defendant failed to respond to service in accordance with the
22 Alabama Rules of Civil Procedure.

23 "(5) Order genetic tests in contested paternity
24 cases without the necessity of obtaining an order from a
25 judge.

26 "(6) Enter orders relating to the administration of
27 the docket of the circuit court to which the referee is

1 assigned without the necessity of obtaining a signature of a
2 judge.

3 "(d) Duty to Inform Parties of Right to Object to
4 Referee. Before conducting a hearing in a child support case,
5 including a case in which the Department of Human Resources is
6 assisting in seeking enforcement pursuant to Title IV-D, the
7 referee shall inform all of the parties that the referee is
8 not a judge and that the hearing may be conducted before a
9 judge if any party objects to the hearing being held by the
10 referee.

11 "(e) Written Findings and Recommendations of the
12 Referee. The referee shall make written findings and
13 recommendations as follows:

14 "(1) After conducting a hearing in a child support
15 case, if the referee has made a decision at the conclusion of
16 the hearing, the referee shall immediately reduce his or her
17 findings and recommendations to writing and then transmit
18 those written findings and recommendations to the clerk of the
19 circuit court for filing and to the circuit court judge
20 presiding over the case for his or her signature pursuant to
21 subsection (g). If the parties are present at the hearing,
22 copies of the written findings and recommendations shall be
23 given to the parties in open court. The written findings and
24 recommendations shall contain a notice that any party has a
25 right to request a rehearing within 14 days of the date those
26 findings and recommendations were filed in the office of the
27 circuit clerk.

1 "(2) If the referee has not made a decision on the
2 matter at the conclusion of the hearing or if the parties are
3 not present in open court, the referee, within three business
4 days of making his or her decision, shall transmit his or her
5 written findings and recommendations to the circuit clerk for
6 filing and to the circuit court judge presiding over the case
7 for his or her signature pursuant to subsection (g). Once the
8 clerk files the written findings and recommendations, the
9 clerk shall send to the parties, by first class mail, copies
10 of the findings and recommendations containing a notice
11 informing them that they have the right to request a rehearing
12 within 14 days of the date the findings and recommendations
13 were filed in the office of the circuit clerk.

14 "(3) Notice to a party represented by counsel shall
15 be given to counsel rather than the party and the notice shall
16 be sufficient as notice to the party unless the circuit court
17 orders otherwise.

18 "(f) Rehearing Before the Circuit Court. A rehearing
19 before a circuit court judge concerning the matter heard by
20 the referee shall be scheduled if any party files a written
21 request therefor within the time frames provided in subsection
22 (e). Once a rehearing is scheduled, the parties shall be
23 notified of the date, time, and the place of the rehearing.
24 Notice to a party represented by counsel shall be given to
25 counsel, and this notice shall be sufficient unless the
26 circuit court orders otherwise. When an adequate record has
27 been made in the proceeding before the referee, the judge

1 shall review the record before rehearing and may admit new
2 evidence at the rehearing. If the record is not adequate, the
3 rehearing shall be de novo.

4 "(g) Ratification by the Judge. The findings and
5 recommendations of the referee shall become the order of the
6 circuit court when ratified by the original signature of the
7 circuit court judge presiding over the case.

8 "(h) Matters Before the Referee Needing Immediate
9 Action. If a matter before a referee requires immediate
10 action, the referee shall state in his or her written findings
11 and recommendations why the recommendations should be
12 effective immediately. These matters for immediate action may
13 include, but are not limited to, matters of contempt, the
14 physical safety of the child, or the safety of others, or when
15 the personal liberty of the child may be infringed. In such
16 event, the written recommendations of the referee shall be
17 effective and binding, upon the consent of the parties, for a
18 period not exceeding 72 hours. In the event the parties do not
19 consent to immediate action, the recommendations shall be
20 reviewed immediately by a circuit court judge, who may order
21 an appropriate temporary order based on the findings and
22 recommendations, which order will be effective for a period
23 not exceeding 72 hours. In any event, the findings and
24 recommendations of the referee and any temporary orders in a
25 matter needing immediate attention shall be reviewed by the
26 circuit court judge presiding over the case within 72 hours
27 after being made. Upon such review, the judge shall rescind,

1 modify, or continue the order in effect and conduct further
2 proceedings as may be permitted under subsection (f)."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.