

1 HB43  
2 196852-2  
3 By Representative Hill  
4 RFD: Judiciary  
5 First Read: 05-MAR-19  
6 PFD: 02/14/2019

1  
2 ENROLLED, An Act,

3           Relating to court referees; to amend Section  
4 12-17-330 of the Code of Alabama 1975, to authorize the  
5 appointment of court referees to hear child support cases that  
6 are domestic relations cases under the jurisdiction of the  
7 circuit court brought pursuant to Title IV-D of the Social  
8 Security Act; to establish a procedure by which the child  
9 support case would be heard; to specify the duties of the  
10 court referee; and to provide for review of the findings in  
11 each case by a circuit court judge.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15           "§12-17-330.

16           ~~"District court judges may appoint, with the~~  
17 ~~approval of the Administrative Director of Courts, referees to~~  
18 ~~serve in connection with juvenile cases. Referees must be~~  
19 ~~licensed to practice law in this state.~~

20           "(a) The Administrative Director of Courts may  
21 authorize one or more referee positions in any judicial  
22 circuit on either a full-time or a part-time basis upon  
23 submission of a written request by the presiding circuit court  
24 judge and upon consideration of funding and the number of  
25 child support cases in the domestic relations division of the

1 circuit court, including cases brought pursuant to Title IV-D  
2 of the Social Security Act. Once the Administrative Director  
3 of Courts approves the request, the presiding judge of the  
4 circuit court may appoint an attorney the judge believes to be  
5 qualified to fill the position, subject to the approval of the  
6 Administrative Director of Courts. The amount to be paid the  
7 referee and the manner of payment shall be determined by the  
8 Administrative Director of Courts.

9 "(b) The presiding judge of the circuit court may  
10 direct that the referee hear child support cases in the  
11 domestic relations division of the circuit court brought  
12 pursuant to Title IV-D of the Social Security Act unless any  
13 of the following occurs:

14 "(1) The referee has agreed to hear certain child  
15 support cases pursuant to an agreement or a contract.

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

19 "(3) The hearing involves the termination of  
20 parental rights as defined in subdivision (17) of Section  
21 12-15-301.

22 "(4) A party objects to a hearing being held by a  
23 referee.

24 "(c) Referees shall perform one or more of the  
25 following duties in child support cases in the domestic

1 relations division of the circuit court brought pursuant to  
2 Title IV-D of the Social Security Act:

3 "(1) Take testimony in hearings.

4 "(2) Evaluate evidence and make findings of fact and  
5 recommendations to determine paternity and to establish and  
6 enforce child support orders.

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

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

14 "(5) Order genetic tests in contested paternity  
15 cases without the necessity of obtaining an order from a  
16 judge.

17 "(6) Enter orders relating to the administration of  
18 the docket of the circuit court to which the referee is  
19 assigned without the necessity of obtaining a signature of a  
20 judge.

21 "(d) Before conducting a hearing in a child support  
22 case in the domestic relations division of the circuit court  
23 brought pursuant to Title IV-D of the Social Security Act, the  
24 referee shall inform all of the parties that the referee is  
25 not a judge and that the hearing may be conducted before a

1 judge if any party objects to the hearing being held by the  
2 referee.

3 "(e) The referee shall make written findings and  
4 recommendations as follows:

5 "(1) After conducting a hearing in a child support  
6 case in the domestic relations division of the circuit court  
7 brought pursuant to Title IV-D of the Social Security Act, if  
8 the referee has made a decision at the conclusion of the  
9 hearing, the referee shall immediately reduce his or her  
10 findings and recommendations to writing and then transmit  
11 those written findings and recommendations to the clerk of the  
12 circuit court for filing and to the circuit court judge  
13 presiding over the case for his or her signature pursuant to  
14 subsection (g). If the parties are present at the hearing,  
15 copies of the written findings and recommendations shall be  
16 given to the parties in open court. The written findings and  
17 recommendations shall contain a notice that any party has a  
18 right to request a rehearing within 14 days of the date those  
19 findings and recommendations were filed in the office of the  
20 circuit clerk.

21 "(2) If the referee has not made a decision on the  
22 matter at the conclusion of the hearing or if the parties are  
23 not present in open court, the referee, within three business  
24 days of making his or her decision, shall transmit his or her  
25 written findings and recommendations to the circuit clerk for

1 filing and to the circuit court judge presiding over the case  
2 for his or her signature pursuant to subsection (g). Once the  
3 clerk files the written findings and recommendations, the  
4 clerk shall send to the parties, by first class mail, copies  
5 of the findings and recommendations containing a notice  
6 informing them that they have the right to request a rehearing  
7 within 14 days of the date the findings and recommendations  
8 were filed in the office of the circuit clerk.

9 "(3) Notice to a party represented by counsel shall  
10 be given to counsel rather than the party and the notice shall  
11 be sufficient as notice to the party unless the circuit court  
12 orders otherwise.

13 "(f) A rehearing before a circuit court judge  
14 concerning the matter heard by the referee shall be scheduled  
15 if any party files a written request therefor within the time  
16 frames provided in subsection (e). Once a rehearing is  
17 scheduled, the parties shall be notified of the date, time,  
18 and the place of the rehearing. Notice to a party represented  
19 by counsel shall be given to counsel, and this notice shall be  
20 sufficient unless the circuit court orders otherwise. When an  
21 adequate record has been made in the proceeding before the  
22 referee, the judge shall review the record before rehearing  
23 and may admit new evidence at the rehearing. If the record is  
24 not adequate, the rehearing shall be de novo.

1           "(g) The findings and recommendations of the referee  
2 shall become the order of the circuit court when ratified by  
3 the original signature of the circuit court judge presiding  
4 over the case.

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

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



