

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

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8 SYNOPSIS: Under existing law, with the approval of the  
9 Director of the Administrative Office of Courts,  
10 judges may appoint court referees to handle certain  
11 juvenile and child support cases under the  
12 jurisdiction of the juvenile court, including child  
13 support cases brought pursuant to Title IV-D of the  
14 Social Security Act. Existing law does not  
15 expressly authorize the appointment of court  
16 referees to hear child support cases that are  
17 domestic relations cases under the jurisdiction of  
18 the circuit court brought pursuant to Title IV-D of  
19 the Social Security Act.

20 This bill would authorize the appointment of  
21 court referees to hear child support cases brought  
22 pursuant to Title IV-D of the Social Security Act  
23 over which the domestic relations division of the  
24 circuit court has jurisdiction.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
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  
26 circuit court, including cases brought pursuant to Title IV-D  
27 of the Social Security Act. Once the Administrative Director

1 of Courts approves the request, the presiding judge of the  
2 circuit court may appoint an attorney the judge believes to be  
3 qualified to fill the position, subject to the approval of the  
4 Administrative Director of Courts. The amount to be paid the  
5 referee and the manner of payment shall be determined by the  
6 Administrative Director of Courts.

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

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

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

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

20 "(4) A party objects to a hearing being held by a  
21 referee.

22 "(c) Referees shall perform one or more of the  
23 following duties in child support cases in the domestic  
24 relations division of the circuit court brought pursuant to  
25 Title IV-D of the Social Security Act:

26 "(1) Take testimony in hearings.

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

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

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

11           "(5) Order genetic tests in contested paternity  
12 cases without the necessity of obtaining an order from a  
13 judge.

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

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

25           "(e) The referee shall make written findings and  
26 recommendations as follows:

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

17           "(2) If the referee has not made a decision on the  
18 matter at the conclusion of the hearing or if the parties are  
19 not present in open court, the referee, within three business  
20 days of making his or her decision, shall transmit his or her  
21 written findings and recommendations to the circuit clerk for  
22 filing and to the circuit court judge presiding over the case  
23 for his or her signature pursuant to subsection (g). Once the  
24 clerk files the written findings and recommendations, the  
25 clerk shall send to the parties, by first class mail, copies  
26 of the findings and recommendations containing a notice  
27 informing them that they have the right to request a rehearing

1 within 14 days of the date the findings and recommendations  
2 were filed in the office of the circuit clerk.

3 "(3) Notice to a party represented by counsel shall  
4 be given to counsel rather than the party and the notice shall  
5 be sufficient as notice to the party unless the circuit court  
6 orders otherwise.

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

19 "(g) The findings and recommendations of the referee  
20 shall become the order of the circuit court when ratified by  
21 the original signature of the circuit court judge presiding  
22 over the case.

23 "(h) If a matter before a referee requires immediate  
24 action, the referee shall state in his or her written findings  
25 and recommendations why the recommendations should be  
26 effective immediately. These matters for immediate action may  
27 include, but are not limited to, matters of contempt, the

1 physical safety of the child, or the safety of others, or when  
2 the personal liberty of the child may be infringed. In such  
3 event, the written recommendations of the referee shall be  
4 effective and binding, upon the consent of the parties, for a  
5 period not exceeding 72 hours. In the event the parties do not  
6 consent to immediate action, the recommendations shall be  
7 reviewed immediately by a circuit court judge, who may order  
8 an appropriate temporary order based on the findings and  
9 recommendations, which order will be effective for a period  
10 not exceeding 72 hours. In any event, the findings and  
11 recommendations of the referee and any temporary orders in a  
12 matter needing immediate attention shall be reviewed by the  
13 circuit court judge presiding over the case within 72 hours  
14 after being made. Upon such review, the judge shall rescind,  
15 modify, or continue the order in effect and conduct further  
16 proceedings as may be permitted under subsection (f)."

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