

2020 Regular Session

SENATE BILL NO. 99

BY SENATOR MCMATH

COURTS. Creates the office of the commissioner of the 22nd Judicial District Family Court.
(8/1/20)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 13:721 and 722, relative to the Twenty-Second Judicial District Court; to provide for an additional commissioner for the Twenty-Second Judicial District Court; to authorize commissioners to preside over cases involving criminal and civil matters including domestic violence matters; to provide for the salary of commissioners; to provide for the duties and powers of the commissioners; to provide for temporary orders and recommendations for final judgments; to provide for delays to challenge the findings of a commissioner; to provide the procedure for challenging the findings of a commissioner; to reaffirm the jurisdiction and authority of the district judges to accept, reject, or modify the findings and recommendations of the commissioners; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:721 and 722 are hereby amended and reenacted to read as follows:

§721. ~~Commissioner~~ **Commissioners** for the Twenty-Second Judicial District Court
A. There ~~is~~ **are** hereby created ~~one office~~ **two offices** of commissioner for the Twenty-Second Judicial District Court.

1 B. The ~~commissioner~~ **commissioners** shall be selected by a majority of the
 2 judges of the Twenty-Second Judicial District and may be removed from office by
 3 a majority of those judges. There shall be no term of such office. ~~A commissioner~~
 4 **The commissioners** shall serve at the pleasure of the court. Additionally, the
 5 ~~commissioner~~ **commissioners** may be subject to removal from office for any reason
 6 for which a district judge may be removed.

7 C. The ~~commissioner~~ **commissioners** shall have jurisdiction over criminal
 8 **and civil** matters. **The jurisdiction over criminal and civil matters shall include**
 9 **matters of domestic violence.**

10 D. The provisions of this Section shall not affect or limit the jurisdiction of
 11 a district judge **in the Twenty-Second Judicial District Court** as provided by law.

12 E.(1) Subject to the other provisions of this Subsection, the ~~commissioner~~
 13 **commissioners** shall have all of the powers as are enumerated below. The powers
 14 of the ~~commissioner~~ **commissioners** shall not be inconsistent with the constitution
 15 and laws of this state, the constitution and laws of the United States, or the rules of
 16 the Twenty-Second Judicial District Court. The ~~commissioner~~ **commissioners** shall
 17 perform such duties as are assigned by the Twenty-Second Judicial District Court,
 18 in accordance with the rules which shall be prescribed by the elected judges of the
 19 court.

20 ~~(2)~~**(1)**The powers of the ~~commissioner~~ **commissioners** when hearing criminal
 21 matters may include but shall not be limited to the power to:

22 (a) Administer oaths and affirmations.

23 (b) Take acknowledgments, affidavits, and depositions.

24 (c) Act on **misdemeanor and** felony charges through arraignment; however,
 25 the commissioner shall not accept **guilty** pleas ~~of guilty on or sign orders disposing~~
 26 ~~of felony charges.~~

27 ~~(d) Hear preliminary motions prior to filing the bill of information or~~
 28 ~~indictment and make recommendations to the district judge.~~

29 ~~(e) Act on misdemeanor charges including accepting pleas in misdemeanor~~

1 ~~cases preliminary to trial on the merits and conduct evidentiary hearings of~~
2 ~~misdemeanor cases. A trial on the merits in a misdemeanor case shall be tried by the~~
3 ~~commissioner only upon the written consent of the defendant and the expressed~~
4 ~~waiver of the defendant's right to have his case heard by a district court judge.~~

5 ~~(f)~~**(d)** Fix bail.

6 ~~(g)~~**(e)** Review probable cause affidavits within forty-eight hours of
7 warrantless arrests.

8 ~~(h)~~**(f)** Conduct seventy-two hour hearings.

9 ~~(i)~~**(g)** Sign waivers of extradition only upon the written consent of the
10 defendant and the expressed waiver of the defendant's right to have his extradition
11 heard by a district court.

12 ~~(j)~~**(h)** Supervise defendants sentenced under the provisions of the ~~drug court~~
13 **specialty courts** in accordance with the policies set down by the judges of the
14 Twenty-Second Judicial District Court.

15 ~~(k)~~**(i)** Supervise all conditions of bail bonds.

16 ~~(l)~~**(j)** Supervise special conditions of protective orders, domestic violence
17 **matters**, and any other ~~probation bond~~ **conditions**.

18 **(2) The powers of the commissioners when hearing civil matters include**
19 **the power to:**

20 **(a) Administer oaths and affirmations.**

21 **(b) Take acknowledgments, affidavits, and depositions.**

22 **(c) Review and act on protective order filings, and domestic violence**
23 **matters, which may include issuance of temporary restraining orders pending**
24 **a hearing on the matter.**

25 **(d) Conduct protective order hearings and make recommendations for**
26 **the issuance of preliminary and permanent injunctions.**

27 **(e) Act on family court ex parte and emergency orders.**

28 ~~F.(1) When a misdemeanor case, with the written consent of the defendant~~
29 ~~and the expressed waiver of the defendant's right to have his case heard by a district~~

1 court judge, is referred to the commissioner by rule of court or assigned to the
2 commissioner by a judge of the Twenty-Second Judicial District Court, the
3 commissioner shall receive all evidence and prepare a written report of his findings
4 which shall contain the following elements:

5 (a) ~~A statement of the pleadings.~~

6 (b) ~~A statement of the facts as found by the commissioner.~~

7 (c) ~~An opinion based on the pleadings and facts.~~

8 (d) ~~A judgment as he determines should be rendered with the~~
9 ~~recommendation to the judge that it be made the judgment of the court.~~

10 (2) ~~In such a case, the commissioner shall file a report containing proposed~~
11 ~~findings and recommendations with the court, and a copy shall be promptly provided~~
12 ~~to all parties or their counsel of record either at the hearing or by mail.~~

13 (3) ~~Any party, within ten days after filing the report, may traverse such~~
14 ~~findings or recommendations in writing in such manner as shall be specified by the~~
15 ~~rules of the district court.~~

16 (4) ~~If exceptions to the report are timely filed within ten days, the judge may~~
17 ~~set the exceptions for hearing within thirty days, may hear argument on the~~
18 ~~exceptions and decide the exceptions on the record and evidence previously made~~
19 ~~before the commissioner.~~

20 (5) ~~The judge may accept, reject, or modify in whole or in part the findings~~
21 ~~or recommendations made by the commissioner and also may receive further~~
22 ~~evidence or recommit the matter to the commissioner with instructions or may hear~~
23 ~~the case de novo and enter judgment.~~

24 **F. The commissioners shall additionally have the same authority vested**
25 **in hearing officers as outlined and established by R.S. 46:236.5, which includes**
26 **but is not limited to handling domestic violence, custody, and child support**
27 **matters.**

28 **G. Any party who disagrees with a judgment or ruling of a commissioner**
29 **may object and request a hearing before a judge, according to the procedure**

1 established in the Twenty-Second Judicial District Court Appendices to the
2 Louisiana District Court Rules.

3 (1) A timely filed objection shall be heard by the judge to whom the
4 matter was originally allotted.

5 (2) The judge may decide the objection based on the record of the
6 proceedings before the commissioner or may receive further evidence and rule
7 based on that evidence, or may recommit the matter to the commissioner with
8 instructions.

9 (3) If no objection is made within the time and manner established by
10 court rules, the order shall become a final judgment of the court and shall be
11 signed by a judge as a final judgment and appealable as a final judgment.

12 §722. Commissioners: qualifications; salary and benefits; restrictions on
13 employment; office space; supplies; equipment; employees

14 A. The qualifications for the office of commissioner for the Twenty-Second
15 Judicial District Court shall be the same as the qualifications for office for a district
16 court judges: judge, however, there shall be no requirement of prior residency
17 within the state or district as a prerequisite to office.

18 B. The salary of the commissioner commissioners shall be set by a majority
19 of the elected judges of the Twenty-Second Judicial District Court and shall not
20 exceed ~~seventy-two thousand five hundred dollars~~ eighty-five percent of a state
21 district court judge's salary per annum. ~~A commissioner may be a member of the~~
22 ~~Parochial Employees' Retirement System. A commissioner may be reimbursed for~~
23 ~~his expenses as provided for by court rule.~~

24 C. A commissioner shall be a full-time employee of the Twenty-Second
25 Judicial District Court. A commissioner shall not engage in any outside business,
26 occupation, or employment that is inconsistent with the expeditious, proper, and
27 impartial performance of ~~his~~ their duties as judicial officer, nor shall ~~he~~ they engage
28 in the practice of law. Any question regarding the conduct of any outside business,
29 occupation, or employment by the commissioner shall be resolved by a majority of

1 the elected judges of the Twenty-Second Judicial District Court. The provisions of
 2 this Subsection shall not abrogate or supersede any provisions of the ~~Rules for~~
 3 ~~Lawyer Disciplinary Enforcement~~ **Louisiana Rules of Professional Conduct** or the
 4 Code of Judicial Conduct **as** applicable to judges ~~and or~~ attorneys.

5 D. Office space for the ~~commissioner~~ **commissioners** may be provided by
 6 the Twenty-Second Judicial District Court, out of funds available to the court.

7 E. Any employee of the office of ~~commissioner~~ **the commissioners** shall be
 8 hired only upon the prior approval of employment by a majority of the elected judges
 9 of the court pursuant to adopted rules or the specific order of the court ~~and may be~~
 10 ~~a member of the Parochial Employees' Retirement System.~~

11 F. The salaries, related benefits, and expenses of the ~~commissioner~~
 12 **commissioners**, and the salaries and related benefits of the employees of the
 13 ~~commissioner~~ **commissioners**, the costs of the equipment and supplies of the
 14 ~~commissioner~~ **commissioners** and his **their** employees, and other costs of
 15 implementing this Section and R.S. 13:721 shall be paid from funds available to the
 16 Twenty-Second Judicial District Court.

17 G. The sources of funding for the ~~commissioner~~ **commissioners** and his **their**
 18 offices and employees shall include but shall not be limited to the following sources:

19 (1) Subject to the other provisions of this Section, there is hereby imposed an
 20 additional fee on all persons convicted in the Twenty-Second Judicial District Court
 21 of felony, misdemeanor, and traffic offenses. The amount of the additional fees shall
 22 be set by the judges of the Twenty-Second Judicial District Court sitting en banc.
 23 The amount of the additional fee in felony cases shall not exceed one hundred
 24 dollars. The amount of the additional fee in misdemeanor and traffic cases shall not
 25 exceed seven dollars and fifty cents.

26 (2) The additional fees created in this Section shall be collected by the
 27 sheriffs in the same manner as all other criminal court costs. All additional fees
 28 collected under this Section shall be remitted by the sheriffs to the ~~police juries of~~
 29 ~~the parishes of St. Tammany and Washington~~ **government of the parishes of St.**

1 **Tammany and Washington** and deposited into special accounts. These funds are
 2 to be used by the parishes, only when authorized by court order from the chief judge
 3 of the Twenty-Second Judicial District Court, to defray the costs and expenses
 4 incurred pursuant to the provisions of this Section and other related judicial
 5 expenditures.

6 (3) If any part of the provisions of this Section become dependent upon
 7 monies from the general fund of the respective parishes, the provisions of this
 8 Section and of R.S. 13:721 shall terminate if the parish ~~police juries fail~~ **fails** to
 9 appropriate sufficient monies to provide for the continuation of the office of
 10 ~~commissioner~~ **the commissioners** for the Twenty-Second Judicial District Court.

11 H. The ~~commissioner~~ **commissioners** shall use the title of commissioner in
 12 the performance of ~~his~~ **their** duties under the provisions of this Section and R.S.
 13 13:721.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Yoursheka George.

DIGEST

SB 99 Original

2020 Regular Session

McMath

Present law creates the office of the commissioner for the 22nd JDC and provides that the commissioner shall be selected and may be removed by a majority of the judges of the court.

Proposed law retains present law but adds an additional commissioner for the 22nd JDC.

Present law provides that there is no set term for the office of the commissioner. Present law provides that the qualifications for the office of the commissioner for the Twenty-Second Judicial District Court shall be the same as the qualifications for the office for district court judge.

Proposed law retains present law and adds that there be no requirement of prior residency within the state or district as a prerequisite to office.

Present law provides that the commissioner shall have jurisdiction over criminal matters.

Proposed law provides that the commissioners shall have jurisdiction over criminal and civil matters including domestic violence matters.

Present law grants the commissioner the authority to administer oaths and affirmations, take acknowledgments, affidavits, and depositions, act on felony charges through arraignment, hear preliminary motions and make recommendations to the judge, handle misdemeanor cases from arraignment to conviction with the defendant's written consent and waiver of his right to have his case heard by a district judge, fix bail, review probable cause affidavits, conduct seventy-two hour hearings, sign waivers of extradition, supervise defendants sentenced under the provisions of the drug court, supervise conditions of bail bonds and

special conditions of protective orders, domestic violence, and any other probation condition. Present law does not allow the commissioner to accept guilty pleas or sign orders disposing felony charges.

Proposed law retains present law but removes the commissioner's authority to hear preliminary motions prior to filing the bill of information or indictment and make recommendations to the district judge.

Present law grants the commissioner authority to accept guilty pleas in misdemeanor cases. Present law requires the commissioner to submit a report to the court that contains the following:

- (1) A statement of the pleadings.
- (2) A statement of the facts as found by the commissioner.
- (3) An opinion based on the pleadings and facts.
- (4) A judgment as he determines should be rendered with the recommendation to the judge that it be made the judgment of the court.

Present law grants the judge the authority to accept, reject, or modify in whole or in part the findings or recommendations made by the commissioner.

Proposed law removes the commissioners' authority to accept guilty pleas in misdemeanor cases.

Proposed law grants the commissioners the same authority vested in hearing officers as outlined and established by R.S. 46:236.5, including handling matters including domestic violence, custody and child support matters.

Present law provides that the commissioner's salary shall not exceed seventy-two thousand five hundred dollars per annum.

Proposed law provides that a commissioner's salary shall not exceed 85% of a state district court judge's salary per annum.

Effective August 1, 2020.

(Amends R.S. 13:721 and 722)