

SENATE BILL NO. 51

BY SENATOR MIZELL AND REPRESENTATIVES BACALA, BUTLER,
DUBUISSON, FREIBERG, FRIEMAN, LAFLEUR, ROBERT OWEN
AND WHITE

1 AN ACT

2 To amend and reenact R.S. 13:721 and 722, relative to the Twenty-Second Judicial District
3 Court; to provide for an additional commissioner for the Twenty-Second Judicial
4 District Court; to authorize commissioners to preside over cases involving domestic
5 violence; to authorize commissioners to preside over civil cases; to provide for the
6 residency requirements of the commissioners; to provide for the salary of
7 commissioners; to provide for the duties and powers of the commissioners; to
8 provide for temporary orders and recommendations for final judgments; to provide
9 for procedure and delays to request a hearing before a district court judge to traverse
10 the recommendations of the commissioner; to reaffirm the jurisdiction and authority
11 of the district judges to accept, reject, or modify the findings or recommendations of
12 the commissioners; to provide for appeals; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

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

15 §721. ~~Commissioner~~ **Commissioners** for the Twenty-Second Judicial District Court

16 A. There ~~is~~ **are** hereby created ~~one office~~ **two offices** of commissioner for the
17 Twenty-Second Judicial District Court.

18 B. The ~~commissioner~~ **commissioners** shall be selected by a majority of the
19 judges of the Twenty-Second Judicial District and may be removed from office by
20 a majority of those judges. There shall be no term of such office. ~~A~~ **Each**
21 commissioner shall serve at the pleasure of the court. Additionally, the ~~commissioner~~
22 **commissioners** may be subject to removal from office for any reason for which a
23 district judge may be removed.

24 C. The ~~commissioner~~ **commissioners** shall have jurisdiction over criminal,

1 civil, and domestic violence matters.

2 D. The provisions of this Section shall not affect or limit the jurisdiction of
3 a district judge as provided by law.

4 E.(1) Subject to the other provisions of this Subsection, the ~~commissioner~~
5 commissioners shall have all of the powers as are enumerated below. The powers
6 of the ~~commissioner~~ commissioners shall not be inconsistent with the constitution
7 and laws of this state, the constitution and laws of the United States, or the rules of
8 the Twenty-Second Judicial District Court. The ~~commissioner~~ commissioners shall
9 perform such duties as are assigned by the Twenty-Second Judicial District Court,
10 in accordance with the rules which shall be prescribed by the elected judges of the
11 court.

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

14 (a) Administer oaths and affirmations.

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

16 (c) Act on misdemeanor and felony charges through arraignment; however,
17 the ~~commissioner~~ commissioners shall not accept guilty pleas, ~~of guilty on or sign~~
18 ~~orders disposing of felony charges.~~

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

21 ~~(e) Act on misdemeanor charges including accepting pleas in misdemeanor~~
22 ~~cases preliminary to trial on the merits and conduct evidentiary hearings of~~
23 ~~misdemeanor cases. A trial on the merits in a misdemeanor case shall be tried by the~~
24 ~~commissioner only upon the written consent of the defendant and the expressed~~
25 ~~waiver of the defendant's right to have his case heard by a district court judge.~~

26 ~~(f)~~(d) Fix bail.

27 ~~(g)~~(e) Review probable cause affidavits within forty-eight hours of
28 warrantless arrests.

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

30 ~~(i)~~(g) Sign waivers of extradition only upon the written consent of the

1 defendant and the expressed waiver of the defendant's right to have his extradition
2 heard by a district court.

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

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

7 ~~(j)~~**(j)** Supervise special conditions of protective orders, domestic violence,
8 and any other probation conditions.

9 **(k) Review and act on petitions for protective orders and matters of**
10 **domestic violence, including the issuance of temporary orders of protection and**
11 **temporary restraining orders, until such time as hearings may be conducted on**
12 **the matters.**

13 **(l) Conduct hearings regarding protective orders and make**
14 **recommendations to the appropriate district judge for the issuance of a**
15 **preliminary or permanent injunction.**

16 **(3) The powers of the commissioners when hearing civil matters may**
17 **include but shall not be limited to the power to:**

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

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

20 **(c) Review and act on petitions for protective orders and matters of**
21 **domestic violence, including the issuance of temporary orders of protection and**
22 **temporary restraining orders, until such time as hearings may be conducted on**
23 **the matters.**

24 **(d) Conduct hearings regarding protective orders and make**
25 **recommendations to the appropriate district judge for the issuance of a**
26 **preliminary or permanent injunction.**

27 **(e) Accept and review emergency cases and grant temporary ex parte**
28 **orders pursuant to Code of Civil Procedure Article 3945, until such time as a**
29 **hearing on a rule to show cause can be conducted.**

30 ~~F.(1) When a misdemeanor case, with the written consent of the defendant~~

1 and the expressed waiver of the defendant's right to have his case heard by a district
2 court judge, is referred to the commissioner by rule of court or assigned to the
3 commissioner by a judge of the Twenty-Second Judicial District Court, the
4 commissioner shall receive all evidence and prepare a written report of his findings
5 which shall contain the following elements:

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

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

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

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

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

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

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

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

25 **F. The commissioners shall have the same authority as hearing officers,**
26 **including but not limited to presiding over cases of domestic violence, child**
27 **custody, and child support matters, as provided in R.S. 46:236.5.**

28 **G.(1) A litigant may object to a judgment or ruling of a commissioner**
29 **and request a hearing before a district judge according to the procedure**
30 **established by the Twenty-Second Judicial District Court Appendices to the**

1 **Louisiana District Court Rules.**

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

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

7 **(4) If no objection is made within the time and manner established by**
8 **court rules, the order shall become a final judgment of the court and shall be**
9 **signed by the district judge assigned to the case.**

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

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

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

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

1 provisions of the Rules ~~for Lawyer Disciplinary Enforcement~~ of Professional
2 Conduct applicable to attorneys or the Louisiana Code of Judicial Conduct
3 applicable to judges ~~and attorneys~~.

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

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

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

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

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

25 (2) The additional fees created in this Section shall be collected by the
26 sheriffs in the same manner as all other criminal court costs. All additional fees
27 collected under this Section shall be remitted by the sheriffs to the ~~police juries~~
28 governing authorities of the parishes of St. Tammany and Washington and
29 deposited into special accounts. These funds are to be used by the parishes, only
30 when authorized by court order from the chief judge of the Twenty-Second Judicial

1 District Court, to defray the costs and expenses incurred pursuant to the provisions
2 of this Section and other related judicial expenditures.

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

8 H. The ~~commissioner~~ **commissioners** shall use the title of commissioner in
9 the performance of ~~his~~ **their** duties under the provisions of this Section and R.S.
10 13:721.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____