

RÉSUMÉ DIGEST

ACT 291 (SB 51)

2022 Regular Session

Mizell

Prior law provided for the office of commissioner for the 22nd JDC (parishes of St. Tammany and Washington) and that the office employ one commissioner.

New law retains prior law but provides for the employment of one additional commissioner, bringing the total to two commissioners serving the 22nd JDC.

Prior law granted to the commissioner jurisdiction over certain aspects of criminal cases.

New law retains prior law but further grants commissioners jurisdiction over certain aspects of civil cases as well. New law also specifies that the jurisdiction over criminal and civil matters shall include matters of domestic violence.

Prior law specified that the commissioner shall have certain powers related to criminal cases as follows:

- (1) To administer oaths and affirmations.
- (2) To take acknowledgments, affidavits, and depositions.
- (3) To act on felony charges through arraignment; however, the commissioner shall not accept guilty pleas or sign orders disposing of felony charges.
- (4) To hear preliminary motions prior to filing the bill of information or indictment and make recommendations to the district judge.
- (5) To act on misdemeanor charges including accepting pleas in misdemeanor cases preliminary to trial on the merits and conduct evidentiary hearings of misdemeanor cases. A trial on the merits in a misdemeanor case shall be tried by the commissioner only upon the written consent of the defendant and the expressed waiver of the defendant's right to have his case heard by a district court judge.
- (6) To fix bail.
- (7) To review probable cause affidavits within 48 hours of warrantless arrests.
- (8) To conduct 72-hour hearings.
- (9) To sign waivers of extradition only upon the written consent of the defendant and the expressed waiver of the defendant's right to have his extradition heard by a district court.
- (10) To supervise defendants sentenced under the provisions of the drug court in accordance with the policies set down by the judges of the Twenty-Second Judicial District Court.
- (11) To supervise all conditions of bail bonds.
- (12) To supervise special conditions of protective orders, domestic violence, and any other probation conditions.

New law retains prior law but adds misdemeanors to the types of felony cases for which the commissioners may act on pretrial criminal matters. New law also gives commissioners power to review and act on petitions for protective orders and restraining orders in matters of domestic violence, and to conduct hearings and make recommendations to the district judge.

Prior law provided that the commissioner is not authorized to accept guilty pleas or sign orders disposing of felony charges.

New law retains prior law but deletes the provision not authorizing the commissioner to sign orders disposing of felony charges and adds misdemeanors to the types of cases for which the commissioners may not accept guilty pleas for.

Prior law provided that the commissioner may hear preliminary motions prior to filing criminal felony charges and make recommendations to the district judges. New law deletes this provision.

Prior law provided that the commissioner may act on misdemeanor charges and conduct evidentiary hearings of misdemeanor cases and that a trial on the merits in such case shall be tried by the commissioner only upon written consent of the defendant and the expressed waiver of defendant's right to have his case heard by a district judge. New law deletes this provision.

New law, as it relates to civil cases, provides that commissioners have the following duties:

- (1) Administer oaths and affirmations.
- (2) Take acknowledgments, affidavits, and depositions.
- (3) Review and act on petitions for protective orders and matters of domestic violence, including the issuance of temporary orders of protection and temporary restraining orders, until such time as hearings may be conducted on the matters.
- (4) Conduct hearings regarding protective orders and make recommendations to the appropriate district judge for the issuance of a preliminary or permanent injunction.
- (5) Review emergency cases related to orders of temporary child custody and grant ex parte orders of child custody in certain circumstances until a district court judge can conduct a rule to show cause on the matter.

Prior law provided instruction for when a misdemeanor case is referred or assigned to the commissioner. New law repeals prior law.

Prior law required the commissioner to file his proposed findings and recommendations with the court and to mail a copy to all parties or their counsel of record; grants any party 10 days to traverse the findings or recommendations in writing; authorizes the judge to set the matter for hearing on exceptions made on the record to the findings and recommendations of the commissioner; and grants to the judge the authority to accept, reject, or modify in whole or in part the findings or recommendations of the commissioner and to receive further evidence or to recommit the matter to the commissioner with further instructions.

New law repeals prior law as it relates to the ability of the commissioner to preside over misdemeanor criminal trials.

New law provides that the two commissioners serving the 22nd JDC shall also have the same powers and duties which are currently granted to hearing officers under prior law.

New law provides that if a litigant disagrees with a judgment or ruling of a commissioner, the litigant may object and request a hearing before an elected district judge.

New law provides that, if a litigant makes a timely objection to a commissioner's ruling, the case will be heard by the district judge to whom the matter was originally allotted. The district judge may do either of the following:

- (1) The judge may decide the objection based on the record of the proceedings before the commissioner, may receive further evidence and rule based on that evidence, or may recommit the matter to the commissioner with instructions.
- (2) If no objection is made within the time and manner established by court rules, the order shall become a final judgment of the court and shall be signed by the district judge assigned to the case. The final judgment may be appealed to the court of appeals.

Prior law required the qualifications for the office of commissioner to be the same as the qualifications for the office of a district court judge.

New law retains prior law and provides that there shall be no requirement of prior residency within the district boundaries of the 22nd JDC as a prerequisite to the office of commissioner.

Prior law provided that the salary of the commissioner shall be set by a majority of the elected judges of the district but shall not exceed \$72,500 per year. Prior law further authorized the commissioner and any of his employees to be members of the Parochial Employees' Retirement System.

New law changes prior law to provide that the salary of the commissioner shall not exceed 85% of the salary of a district judge per year and removes authorization of the commissioner to be a member of the Parochial Employees' Retirement System.

Effective August 1, 2022.

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