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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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SB 74 Original DIGEST Mizell  
2020 Regular Session

Present law provides for the office of commissioner for the 22nd JDC (parishes of St. Tammany and Washington) and the office employs one commissioner.

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

Present law grants to the commissioner jurisdiction over certain aspects of criminal cases.

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

Present law specifies 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 fix bail.
- (5) To review probable cause affidavits within 48 hours of warrantless arrests.
- (6) To conduct 72-hour hearings.
- (7) 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.
- (8) 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.
- (9) To supervise all conditions of bail bonds.
- (10) To supervise special conditions of protective orders, domestic violence, and any other probation conditions.

Proposed law retains present law as it relates to pretrial matters once criminal charges have been filed against the defendant in a felony case.

Proposed law retains present law but adds misdemeanors to the felony cases for which the commissioners may act on pretrial criminal matters.

Present law provides that the commissioner may hear preliminary motions prior to filing of criminal felony charges and make recommendations to the district judges.

Proposed law repeals present law. Proposed law provides that the commissioners may only perform duties related to a criminal case after the defendant has been charged with a felony or misdemeanor.

Present law provides that the commissioner is not authorized to accept guilty pleas or sign orders disposing of felony cases.

Proposed law retains present law but adds misdemeanors to the criminal cases for which the commissioners may not accept guilty pleas or sign orders disposing of the criminal cases.

Present law provides that when a misdemeanor case has 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 and the case is referred to the commissioner by rule of court or assigned to him by a judge, the commissioner shall receive all evidence and prepare a written report of his findings. Present law further requires the commissioner to file his proposed findings and recommendations with the court and a copy to be mailed 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.

Proposed law repeals present law as it relates to the ability of the commissioner to preside over misdemeanor criminal trials. Proposed law requires the district court judges to preside over all criminal trials, both misdemeanor and felony.

Proposed 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 an evidentiary hearing on the matter (i.e., a rule to show cause).

Present law provides that Louisiana courts who have jurisdiction over the establishment of paternity or the establishment and enforcement of support and other domestic and family matters may appoint one or more hearing officers to hear paternity, support, and other domestic and family related matters.

Proposed law retains present law and 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 present law.

Proposed 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.

Proposed 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.

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

Proposed law retains present law but 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.

Present law provides 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. Present law further authorizes the commissioner and any of his employees to be members of the Parochial Employees' Retirement System.

Proposed law changes present 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.

Proposed law makes technical changes consistent with present law.

Effective August 1, 2020.

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