

CIVIL PRACTICE AND REMEDIES CODE

TITLE 7. ALTERNATE METHODS OF DISPUTE RESOLUTION

CHAPTER 151. TRIAL BY SPECIAL JUDGE

Sec. 151.001. REFERRAL BY AGREEMENT. On agreement of the parties, in civil or family law matters pending in a district court, statutory probate court, or statutory county court, the judge in whose court the case is pending may order referral of the case as provided by this chapter and shall stay proceedings in the judge's court pending the outcome of the trial. Any or all of the issues in the cases, whether an issue of fact or law, may be referred.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Amended by Acts 1989, 71st Leg., ch. 2, Sec. 4.06(a), eff. Aug. 28, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 49 (H.B. 231), Sec. 1, eff. September 1, 2005.

Sec. 151.002. MOTION FOR REFERRAL. Each party to the action must file in the court in which the case is filed a motion that:

- (1) requests the referral;
- (2) waives the party's right to trial by jury;
- (3) states the issues to be referred;
- (4) states the time and place agreed on by the parties for the trial; and
- (5) states the name of the special judge, the fact that the special judge has agreed to hear the case, and the fee the judge is to receive as agreed on by the parties.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Sec. 151.003. QUALIFICATIONS OF JUDGE. The special judge must be a retired or former district court, statutory county court, statutory probate court, or appellate court judge who:

- (1) has served as a judge for at least four years in a district court, statutory county court, statutory probate court, or appellate court;
- (2) has developed substantial experience in the judge's area of specialty;

(3) has not been removed from office or resigned while under investigation for discipline or removal; and

(4) annually demonstrates completion in the past calendar year of at least five days of continuing legal education in courses approved by the state bar or the supreme court.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 4.06(a), eff. Aug. 28, 1989;
Acts 1989, 71st Leg., ch. 179, Sec. 2(a), eff. Sept. 1, 1989; Acts 1991,
72nd Leg., ch. 33, Sec. 1, eff. April 19, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1049 (H.B. 1923), Sec. 1, eff.
September 1, 2015.

Sec. 151.004. REFERRAL ORDER ENTERED. An order of referral must specify the issue referred and the name of the special judge. An order of referral may designate the time and place for trial and the time for filing of the special judge's report. The clerk of the court shall send a copy of the order to the special judge.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 4.06(a), eff. Aug. 28, 1989.

Sec. 151.005. PROCEDURE. Rules and statutes relating to procedure and evidence in the referring judge's court apply to a trial under this chapter.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 49 (H.B. 231), Sec. 2, eff. September 1,
2005.

Sec. 151.006. POWERS OF SPECIAL JUDGE. (a) A special judge shall conduct the trial in the same manner as a court trying an issue without a jury.

(b) While serving as a special judge, the special judge has the powers of the referring judge except that the special judge may not hold a person in contempt of court unless the person is a witness before the special judge.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 4.06(a), eff. Aug. 28, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 49 (H.B. 231), Sec. 3, eff. September 1, 2005.

Sec. 151.007. REPRESENTATION BY ATTORNEY. A party has the right to be represented by an attorney at the trial held as provided by this chapter.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Sec. 151.008. COURT REPORTER REQUIRED. To maintain a record of the proceedings at the hearing, the special judge shall provide a court reporter who meets the qualifications prescribed by law for court reporters in the referring judge's court.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 4.06(a), eff. Aug. 28, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 49 (H.B. 231), Sec. 4, eff. September 1, 2005.

Sec. 151.009. FEES AND COSTS. (a) The parties, in equal shares, shall pay:

- (1) the special judge's fee; and
- (2) all administrative costs, including the court reporter's fee, related to the trial.

(b) A cost for a witness called by a party or any other cost related only to a single party's case shall be paid by the party who incurred the cost.

(c) The state or a unit of local government may not pay any costs related to a trial under this chapter.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Sec. 151.010. RESTRICTIONS. Unless otherwise ordered by the referring judge, a trial under this chapter may not be held in a public courtroom, and a public employee may not be involved in the trial during regular working hours.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 675 (H.B. 2435), Sec. 1, eff.
September 1, 2009.

Sec. 151.011. SPECIAL JUDGE'S VERDICT. The special judge's verdict must comply with the requirements for a verdict by the court. The verdict stands as a verdict of the referring judge's court. Unless otherwise specified in an order of referral, the special judge shall submit the verdict not later than the 60th day after the day the trial adjourns.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 49 (H.B. 231), Sec. 5, eff. September 1, 2005.

Sec. 151.012. NEW TRIAL. If the special judge does not submit the verdict within the time period provided by Section 151.011, the court may grant a new trial if:

- (1) a party files a motion requesting the new trial;
- (2) notice is given to all parties stating the time and place that a hearing will be held on the motion; and
- (3) the hearing is held.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Sec. 151.013. RIGHT TO APPEAL. The right to appeal is preserved. An appeal is from the order of the referring judge's court as provided by the Texas Rules of Civil Procedure and the Texas Rules of Appellate Procedure.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 3.16(a), eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 49 (H.B. 231), Sec. 6, eff. September 1, 2005.