

Question

The district judge did not file a written order of referral to the associate judge as required by Texas law. Under Texas Family Code § 201.006(a), an associate judge may act only on matters referred to them by a written order of referral from the referring court. The referral is a jurisdictional prerequisite for the associate judge's authority to act. See *In re A.L.M.-F.*, 593 S.W.3d 271, 282 (Tex. 2019) ("The Family Code requires a written order of referral for an associate judge to act, and the absence of such an order deprives the associate judge of authority to act."). Because there was no written order of referral, the associate judge lacked jurisdiction to take any action in the case. Any orders or actions taken by the associate judge in the absence of jurisdiction are void, not merely voidable. If a district judge takes up a case, makes an order (without a hearing or hearing evidence) and deprives one party of his fundamental rights to property and liberty interest in his children, and then resets the case to be heard by the associate judge a week later, if he doesn't file an order of referral, can this error be waived, and if the associate judge takes action in the absence of an order of referral, is the actions void? Explain why the actions are void and it's not waivable since it's jurisdictional supported by caselaw.

Answer (Texas)

Short response

An associate judge in Texas lacks jurisdiction to act on a case unless there is a written order of referral from the referring court, as required by Texas Family Code § 201.006(a); this requirement is jurisdictional and cannot be waived. Any actions or orders taken by the associate judge in the absence of such a referral are void, not merely voidable.

Summary

Under Texas law, specifically Texas Family Code § 201.006(a), a written order of referral from the district judge is a mandatory jurisdictional prerequisite for an associate judge to act in a case. The absence of such an order deprives the associate judge of authority, rendering any actions or orders taken by the associate judge void, and this defect cannot be cured by waiver or consent of the parties.

This jurisdictional requirement is strictly enforced by Texas courts, as confirmed by both statutory language and case law. The rationale is that the legislature intended to limit the authority of associate judges to only those matters expressly referred to them in writing, ensuring procedural safeguards and protecting fundamental rights. Therefore, if a district judge fails to issue a written order of referral and the associate judge proceeds to act, those actions are without legal effect and cannot be validated by the parties' conduct or failure to object.

Background and Relevant Law

Legislative Framework

The controlling statutory provision is Texas Family Code § 201.006(a), which mandates that a district judge referring a case to an associate judge must render either an individual order of referral or a general order specifying the class and type of cases to be heard by the associate judge. This statutory requirement is not merely procedural but is a jurisdictional prerequisite for the associate judge's authority to act. The statute's language is unequivocal: without a written order of referral, the associate judge has no authority to preside over or make determinations in the case. The legislative intent is to ensure that the associate judge's jurisdiction is clearly and formally established by the referring court, thereby protecting the parties' rights and the integrity of the judicial process ([Tex. Fam. Code § 201.006](#)).

Case Law

Texas appellate courts have consistently interpreted the written order of referral requirement as jurisdictional. In particular, the Texas Supreme Court in *In re A.L.M.-F.* held that the Family Code requires a written order of referral for an associate judge to act, and the absence of such an order deprives the associate judge of authority to act. The court further clarified that this is not a mere procedural defect but a jurisdictional one, meaning that any action taken by the associate judge without a written order of referral is void, not merely voidable (*In re A.L.M.-F.*, 593 S.W.3d 271, 282 (Tex. 2019)).

Additional appellate authority, such as *In re Laurie*, reinforces the importance of clear and specific orders and notice in the context of associate judge proceedings. While *In re Laurie* primarily addresses deficiencies in notice, it underscores the necessity of compliance with statutory requirements for referral and notice, further supporting the jurisdictional nature of the written order of referral requirement (*In re Laurie* (Tex. App. May 31, 2024)).

Analysis

The Jurisdictional Nature of the Referral Requirement

The statutory text of Texas Family Code § 201.006(a) is clear: a written order of referral is required for an associate judge to have authority over a case. The statute provides two mechanisms for referral: an individual order for a specific case or a general order covering a class or type of cases. The absence of either form of written referral means the associate judge has no jurisdiction to act.

The Texas Supreme Court's decision in *In re A.L.M.-F.* is directly on point. The Court held that the requirement of a written order of referral is jurisdictional, not procedural. This means that the associate judge's

authority to act is entirely dependent on the existence of a valid written referral. If the referral is missing, any action taken by the associate judge is a nullity—void ab initio—and has no legal effect. The Court’s reasoning is rooted in the statutory language and the legislative intent to limit the authority of associate judges to only those matters expressly referred to them by the district court (In re A.L.M.-F., 593 S.W.3d 271, 282 (Tex. 2019)).

Void Versus Voidable Actions

The distinction between void and voidable actions is critical. A void action is one taken without jurisdiction and is a legal nullity from the outset; it cannot be ratified, validated, or waived by the parties. In contrast, a voidable action is one taken with jurisdiction but subject to challenge due to procedural or substantive error; such defects can be waived if not timely raised.

Here, the absence of a written order of referral is a jurisdictional defect, rendering the associate judge’s actions void. This is not a defect that can be cured by the parties’ failure to object, by their participation in the proceedings, or by any subsequent ratification. The Texas Supreme Court in In re A.L.M.-F. explicitly rejected the notion that the parties’ conduct could confer jurisdiction on the associate judge in the absence of a written referral (In re A.L.M.-F., 593 S.W.3d 271, 282 (Tex. 2019)).

Waiver and Jurisdiction

Because the requirement of a written order of referral is jurisdictional, it cannot be waived. Jurisdictional defects are not subject to waiver, estoppel, or consent. Even if all parties participate in the proceedings before the associate judge and fail to object to the lack of a written referral, the associate judge’s actions remain void. This principle is well-established in Texas law and is reaffirmed by the statutory language and the Supreme Court’s interpretation in In re A.L.M.-F.

The rationale for this strict approach is to protect the fundamental rights of the parties, particularly in cases involving property and liberty interests, such as child custody and parental rights. The legislature has determined that only a properly referred associate judge may exercise judicial authority in these sensitive matters, and any deviation from this requirement undermines the legitimacy of the proceedings.

Application to the Scenario

In the scenario presented, the district judge made an order affecting fundamental rights without a hearing and then reset the case to be heard by the associate judge a week later, but failed to issue a written order of referral. Under Texas Family Code § 201.006(a), the associate judge had no jurisdiction to act in the absence of a written referral. Any actions or orders issued by the associate judge in this context are void and have no legal effect.

Moreover, this jurisdictional defect cannot be waived by the parties. Even if neither party objected to the associate judge’s authority or participated fully

in the proceedings, the lack of a written order of referral is fatal to the associate judge's jurisdiction. The actions taken are void, not merely voidable, and may be challenged at any time, including on direct appeal or by collateral attack.

Supporting Case Law

The Texas Supreme Court's decision in *In re A.L.M.-F.* is the leading authority on this issue. The Court held that the Family Code's requirement of a written order of referral is jurisdictional and that the absence of such an order deprives the associate judge of authority to act. The Court further clarified that actions taken without jurisdiction are void, not voidable, and cannot be cured by waiver or consent (*In re A.L.M.-F.*, 593 S.W.3d 271, 282 (Tex. 2019)).

The appellate decision in [*In re Laurie*](#), while focused on notice, reinforces the importance of strict compliance with statutory requirements in associate judge proceedings. The court noted that deficiencies in the order and notice rendered the proceedings ineffective, supporting the broader principle that statutory requirements for referral and notice are essential to the validity of associate judge actions ([*In re Laurie*](#) (Tex. App. May 31, 2024)).

Exceptions and Caveats

There are no exceptions in the provided authorities that would allow the associate judge to act without a written order of referral. The statutory language is mandatory, and the Texas Supreme Court has interpreted it as a jurisdictional prerequisite. No case law in the provided materials suggests that the requirement can be waived or that actions taken in the absence of a written referral can be validated by the parties' conduct.

It is important to note that while the requirement is jurisdictional, the form of the order of referral may vary. The statute allows for either an individual order for a specific case or a general order covering a class or type of cases. However, in the absence of any written order—individual or general—the associate judge has no authority to act.

Conclusion

In summary, Texas law is clear that a written order of referral from the referring court is a jurisdictional prerequisite for an associate judge to act in a case. The absence of such an order deprives the associate judge of authority, rendering any actions or orders void and without legal effect. This jurisdictional defect cannot be waived by the parties, and any actions taken by the associate judge in the absence of a written referral are subject to challenge at any time. The statutory language of Texas Family Code § 201.006(a) and the Texas Supreme Court's decision in *In re A.L.M.-F.* provide unequivocal support for this conclusion. The strict enforcement of this requirement serves to protect the fundamental rights of the parties and the integrity of the judicial process.

Legal Authorities

[In re Laurie](#)

Texas Court of Appeals

Extract

As to actual notice, the October 19, 2023 order contained at least two deficiencies that rendered it ineffective in providing Laurie with notice. The order stated, in relevant part, that 'the Court sets the above-styled and numbered cause for a court proceeding before this Court.' First, the term 'court proceeding' is insufficiently specific to apprise an ordinary reader of the nature of the proceeding for purposes of determining whether it was a trial on the merits and therefore subject to objection. Section 201.005 of the Texas Family Code explicitly governs the time frame for objecting to 'an associate judge hearing a trial on the merits,' where 'trial on the merits' is defined as 'any final adjudication from which an appeal may be taken to a court of appeals.' Tex. Fam. Code § 201.005(b)-(c).

Summary

The passage highlights deficiencies in the notice provided to Laurie, specifically the lack of specificity in the order regarding the nature of the proceeding. This supports the proposition that a written order of referral is necessary for an associate judge to have jurisdiction, as the absence of such an order or proper notice renders the associate judge's actions void. The passage emphasizes the importance of clear and specific notice, which aligns with the requirement for a written order of referral under Texas Family Code § 201.006(a).

[Tex. Fam. Code § 201.006 Tex. Fam. Code § 201.006 Order of Referral](#)

Extract

In referring a case to an associate judge, the judge of the referring court shall render: an individual order of referral; or a general order of referral specifying the class and type of cases to be heard by the associate judge.

Summary

A judge of the referring court must render either an individual or a general order of referral when referring a case to an associate judge. This requirement is a jurisdictional prerequisite, meaning that without such an order, the associate judge lacks the authority to act on the case. The absence of a written order of referral, therefore, results in the associate judge's actions being void due to lack of jurisdiction.

This memo was compiled by Vincent AI based on vLex materials available as of October 01, 2025. [View full answer on vLex](#)