

Opinion issued February 22, 2018



In The
Court of Appeals
For The
First District of Texas

NO. 01-17-00912-CV

IN RE DAVID BLOMSTROM, JR., Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, David Blomstrom, Jr., has petitioned our court for a writ of mandamus challenging an associate judge's oral denial of his motion to access the record of an in-chambers interview of his child.¹ We dismiss the petition.

¹ The underlying case is *In the Interest of D.D.B., a Child*, cause number 08-DCV-166675, pending in the 387th District Court of Fort Bend County, Texas, the Honorable Brenda G. Mullinix presiding.

Although the presiding judge of the 378th District Court is named as the respondent in the petition, the record does not contain any orders by the presiding judge. Blomstrom's complained-of denial of his motion to access the interview record was an oral ruling of an associate judge at a hearing on the motion. Neither the petition nor the record indicate any request for a de novo hearing before the presiding judge. *See* TEX. FAM. CODE § 201.015.

Effective September 1, 2017, the Texas Legislature amended Section 22.221 of the Government Code. This court's mandamus jurisdiction now encompasses associate judges who are appointed by a district or county court judge under Chapter 201 of the Texas Family Code in the court of appeals district for the judge appointing the associate judge. TEX. GOV'T CODE § 22.221(b)(3). But the amendment applies only to "a suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, on or after the effective date of this Act." Act of June 15, 2017, 85th Leg., R.S., ch. 1013, § 2(b), 2017 Tex. Sess. Law Serv. 4051.

Because the underlying suit affecting the parent-child relationship was filed on October 20, 2016, before the effective date of the amendment to Section 22.221, the amendment does not apply to this proceeding. *See id.* ("A suit filed under Chapter 45, Title 1, Title 4, or Title 5, Family Code, before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose."). We thus lack jurisdiction over the associate

judge in this mandamus proceeding. *See In re Goldberg*, No. 01-17-00673-CV, 2017 WL 5184516, at *1 (Tex. App.—Houston [1st Dist.] Nov. 9, 2017, orig. proceeding) (denying mandamus petition because lacked jurisdiction over associate judge in suit filed before amendment’s effective date); *In re Cathaleen Montelongo*, No. 14-18-00053-CV, 2018 WL 650456, at *1 (Tex. App.—Houston [14th Dist.] Feb. 1, 2018, orig. proceeding) (dismissing mandamus petition).²

Accordingly, we dismiss the petition for lack of jurisdiction.

PER CURIAM

Panel consists of Justices Bland, Lloyd, and Caughey.

² Although a court of appeals may also issue a writ of mandamus and all other writs necessary to enforce the jurisdiction of the court, Blomstrom neither argues nor does the record indicate that issuance of the writ against the associate judge is necessary to protect our jurisdiction. *See* TEX. GOV’T CODE § 22.221(a)