

By: Swanson

H.B. No. 2272

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to associate judges and Department of Family and  
3 Protective Services representation in child protection court  
4 proceedings.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 201.201, Family Code, is amended by  
7 amending Subsection (b-1) and adding Subsection (b-2) to read as  
8 follows:

9 (b-1) Before reappointing an associate judge appointed  
10 under Subsection (b), the presiding judge must notify each judge of  
11 the courts from which cases will be referred to the associate judge  
12 of the presiding judge's intent to reappoint the associate judge to  
13 another term. Each judge may submit to the presiding judge a  
14 recommendation on whether the associate judge should be  
15 reappointed. A presiding judge may not reappoint an associate judge  
16 to serve more than two terms.

17 (b-2) An associate judge appointed under this subchapter is  
18 not eligible for appointment to and may not serve more than two  
19 terms as an associate judge under this subchapter.

20 SECTION 2. Section 201.2021, Family Code, is amended to  
21 read as follows:

22 Sec. 201.2021. QUALIFICATIONS. (a) To be eligible for  
23 appointment under this subchapter, a person must:

24 (1) be a citizen of the United States;

1           (2) [~~7~~] have resided in this state for the two years  
2 preceding the date of appointment;

3           (3) have successfully completed at least 25 hours of  
4 continuing education in civil trial law, child welfare law, family  
5 law, or child protective investigations and child protective  
6 services programs; [~~7~~] and

7           (4) either be:

8           (A) [~~(1)~~] eligible for assignment under Section  
9 74.054, Government Code, because the person is named on the list of  
10 retired and former judges maintained by the presiding judge of the  
11 administrative region under Section 74.055, Government Code; or

12           (B) [~~(2)~~] licensed to practice law in this state  
13 and have been a practicing lawyer for at least 10 years and for at  
14 least [~~in this state, or a judge of a court in this state who is not~~  
15 ~~otherwise eligible under Subdivision (1), for the] four years in  
16 this state preceding the date of appointment.~~

17           (b) An associate judge appointed under this subchapter  
18 shall during the term of appointment reside in the [~~administrative~~  
19 ~~judicial region, or a]~~ county [~~adjacent to the region,~~] in which the  
20 court to which the associate judge is appointed is located. An  
21 associate judge appointed to serve in two or more courts  
22 [~~administrative judicial regions]~~ may reside in any county in which  
23 one of the courts is located [~~anywhere in the regions]~~.

24           (c) A person is not eligible for appointment under this  
25 subchapter if the person:

26           (1) was a state employee for the Department of Family  
27 and Protective Services or represented a party or a child in a suit

1 under Subtitle E in the five years preceding the date of  
2 appointment;

3 (2) has been removed from office by impeachment, by  
4 the supreme court, by the governor on address to the legislature, by  
5 a tribunal reviewing a recommendation of the State Commission on  
6 Judicial Conduct, or by the legislature's abolition of the judge's  
7 court; or

8 (3) resigned or retired from judicial office:

9 (A) after receiving notice from the State  
10 Commission on Judicial Conduct of the commencement of a full  
11 investigation under Section 33.022, Government Code, into an  
12 allegation or appearance of misconduct or disability of the judge;  
13 and

14 (B) before the final disposition of that  
15 investigation.

16 SECTION 3. Subchapter C, Chapter 201, Family Code, is  
17 amended by adding Sections 201.2022, 201.2045, and 201.2062 to read  
18 as follows:

19 Sec. 201.2022. CONFLICT OF INTEREST. An associate judge  
20 appointed under this subchapter may not participate in any activity  
21 a reasonable, prudent person would believe would create a conflict  
22 of interest that impairs the associate judge's ability to act  
23 impartially as an associate judge during the appointed term.

24 Sec. 201.2045. RECUSAL. An associate judge appointed under  
25 this subchapter shall recuse himself or herself from presiding over  
26 any proceeding involving a person or entity, other than the  
27 Department of Family and Protective Services, that:

1           (1) the associate judge represented in a proceeding  
2 under this code; or

3           (2) was a party to a suit under this code, other than a  
4 suit under Subtitle E, over which the associate judge presided  
5 before appointment as an associate judge under this subchapter.

6           Sec. 201.2062. COMPLAINTS ABOUT ASSOCIATE JUDGES. (a) A  
7 person may file a written complaint against an associate judge  
8 appointed under this subchapter with:

9           (1) the office of court administration or the State  
10 Commission on Judicial Conduct, in the form and manner prescribed  
11 by those agencies; or

12           (2) the regional presiding judge that appointed the  
13 associate judge, in the form and manner prescribed by the presiding  
14 judge.

15           (b) The office of court administration or the State  
16 Commission on Judicial Conduct shall forward a copy of each  
17 complaint against an associate judge appointed under this  
18 subchapter that is filed to the presiding judge that appointed the  
19 associate judge.

20           SECTION 4. Section 264.009(a), Family Code, is amended to  
21 read as follows:

22           (a) Except as provided by Subsection (b), (c), or (f), in  
23 any action under this code, the department shall be represented in  
24 court by the county attorney or criminal district attorney of the  
25 county where the action is brought, unless the district attorney  
26 [~~or criminal district attorney~~] of the county elects to provide  
27 representation. If the county attorney or criminal district

1 attorney is unable to represent the department in an action under  
2 this code because of a conflict of interest or other special  
3 circumstance, and the county has a district attorney, the district  
4 attorney of the county shall represent the department in the  
5 action.

6 SECTION 5. Section [264.009\(e\)](#), Family Code, is repealed.

7 SECTION 6. This Act takes effect September 1, 2023.