

By: Zaffirini
(Murr)

S.B. No. 536

A BILL TO BE ENTITLED

AN ACT

relating to associate judges for guardianship proceedings and protective services proceedings in certain courts.

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

SECTION 1. Chapter 54A, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ASSOCIATE JUDGE FOR GUARDIANSHIP PROCEEDINGS AND PROTECTIVE SERVICES PROCEEDINGS IN CERTAIN COURTS

Sec. 54A.301. DEFINITIONS. In this subchapter:

(1) "Guardianship proceeding" has the meaning assigned by Section 1002.015, Estates Code.

(2) "Office of court administration" means the Office of Court Administration of the Texas Judicial System.

(3) "Protective services proceeding" means a proceeding commenced under Chapter 48, Human Resources Code.

(4) "Ward" has the meaning assigned by Section 1002.030, Estates Code.

Sec. 54A.302. APPLICABILITY. This subchapter applies only with respect to:

(1) a county court with jurisdiction over guardianship proceedings or protective services proceedings; and

(2) a statutory county court with jurisdiction over:
(A) guardianship proceedings, other than a court created by statute and designated as a statutory probate court

1 under Chapter 25; or

2 (B) protective services proceedings.

3 Sec. 54A.303. APPLICABILITY OF OTHER LAW; CONSTRUCTION OF
4 SUBCHAPTER. (a) Subchapter C applies to an associate judge
5 appointed under this subchapter except to the extent of a conflict
6 with this subchapter.

7 (b) Nothing in this subchapter limits the authority of a
8 court to which this subchapter applies to issue an order under Title
9 3, Estates Code, or Chapter 48, Human Resources Code.

10 Sec. 54A.304. APPOINTMENT. (a) The presiding judge of
11 each administrative judicial region, after conferring with the
12 judges of courts to which this subchapter applies in the region,
13 shall determine whether those courts require the appointment of a
14 full-time or part-time associate judge to assist the courts in
15 conducting:

16 (1) guardianship proceedings, including with
17 conducting annual reviews of guardianships; or

18 (2) protective services proceedings.

19 (b) If the presiding judge of an administrative judicial
20 region determines under Subsection (a) that the courts described by
21 that subsection require the appointment of an associate judge, the
22 presiding judge shall appoint an associate judge from a list of
23 applicants who submitted an application to the office of court
24 administration and meet the qualifications prescribed by Section
25 54A.305. Before making the appointment, the presiding judge must
26 provide the list to each judge of a court from which guardianship
27 proceedings or protective services proceedings will be referred to

the associate judge. Each of those judges and the presiding judge of the statutory probate courts may recommend to the presiding judge of the administrative judicial region who will make the appointment one or more of the listed applicants for appointment.

(c) Before reappointing an associate judge appointed under Subsection (b), a presiding judge of an administrative judicial region must notify each judge of a court from which guardianship proceedings or protective services proceedings will be referred to the associate judge of the presiding judge's intent to reappoint the associate judge for another term. Each of those judges and the presiding judge of the statutory probate courts may submit to the presiding judge of the administrative judicial region who intends to make the reappointment a recommendation on whether the associate judge should be reappointed.

(d) An associate judge appointed under this subchapter is appointed to serve the courts to which this subchapter applies in the administrative judicial region the appointing presiding judge serves that are specified by that presiding judge. Two or more presiding judges of administrative judicial regions may jointly appoint one or more associate judges under this subchapter to serve specified courts to which this subchapter applies in the presiding judges' regions.

Sec. 54A.305. QUALIFICATIONS. (a) To be eligible for appointment as an associate judge under this subchapter, a person must:

(1) be a citizen of the United States;

(2) be a resident of this state for the two years

preceding the date of appointment; and

(3) be:

(A) eligible for assignment under Section 74.054 because the person is named on the list of retired and former judges maintained by the presiding judge of the administrative judicial region under Section 74.055;

(B) eligible for assignment under Section 25.0022 by the presiding judge of the statutory probate courts; or

(C) licensed to practice law in this state and have at least four years of experience in guardianship proceedings or protective services proceedings before the date of appointment as a practicing attorney in this state or a judge of a court in this state.

(b) An associate judge appointed under this subchapter to serve in one administrative judicial region shall, during the term of appointment, reside in that region or in a county adjacent to that region. An associate judge appointed to serve in two or more administrative judicial regions may reside anywhere in the regions.

Sec. 54A.306. TERM OF APPOINTMENT; TERMINATION. (a) An associate judge appointed under this subchapter serves for a term of four years from the date the associate judge is appointed and qualifies for office.

(b) The appointment of an associate judge for a term does not affect the at-will employment status of the associate judge. An appointing presiding judge of an administrative judicial region or the successor presiding judge of the region may terminate the associate judge's appointment at any time.

1 Sec. 54A.307. COMPENSATION OF ASSOCIATE JUDGE. (a) An
2 associate judge appointed under this subchapter is entitled to a
3 salary that is 90 percent of the salary paid to a district judge as
4 set by the General Appropriations Act.

5 (b) The associate judge's salary shall be paid from:

6 (1) money available from the state and federal
7 governments as provided by this subchapter;

8 (2) county money available for payment of officers'
9 salaries, subject to the approval of the commissioners courts of
10 the counties in which the associate judge serves; or

11 (3) a combination of money specified by Subdivisions
12 (1) and (2).

13 Sec. 54A.308. DESIGNATION AND RESPONSIBILITIES OF HOST
14 COUNTY. (a) Subject to the approval of the commissioners court of
15 the proposed host county:

16 (1) the appointing presiding judge of the
17 administrative judicial region shall determine the host county of
18 an associate judge appointed under this subchapter to serve in one
19 administrative judicial region; and

20 (2) the appointing presiding judges of the
21 administrative judicial regions shall by majority vote determine
22 the host county of an associate judge appointed under this
23 subchapter to serve in more than one administrative judicial
24 region.

25 (b) The host county shall provide an adequate courtroom and
26 quarters, including furniture, necessary utilities, and telephone
27 equipment and service, for the associate judge and other personnel

1 assisting the associate judge.

2 (c) Except as provided by Section 54A.305(b), an associate
3 judge is not required to reside in the host county.

4 Sec. 54A.309. METHODS OF REFERRAL. Guardianship
5 proceedings or protective services proceedings shall be referred to
6 an associate judge appointed under this subchapter by:

7 (1) a general order issued by the judge of each court
8 the associate judge is appointed to serve; or

9 (2) in the absence of an order described by
10 Subdivision (1), a general order issued by the presiding judge or
11 judges of the administrative judicial region or regions who
12 appointed the associate judge.

13 Sec. 54A.310. GENERAL POWERS OF ASSOCIATE JUDGE. (a) On
14 the motion of a party or the associate judge, an associate judge may
15 refer a complex guardianship proceeding back to the referring court
16 for final disposition after recommending temporary orders for the
17 protection of a ward.

18 (b) An associate judge may:

19 (1) render and sign any pretrial order; and

20 (2) recommend to the referring court any order after a
21 trial on the merits.

22 Sec. 54A.311. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED
23 ORDER OR JUDGMENT. If a request for a de novo hearing before the
24 referring court is not timely filed or the right to a de novo
25 hearing before the referring court is waived, the proposed order or
26 judgment of the associate judge for the guardianship proceeding or
27 protective services proceeding becomes the order or judgment of the

1 referring court by operation of law without ratification by the
2 referring court.

3 Sec. 54A.312. PERSONNEL. (a) The appointing presiding
4 judge of an administrative judicial region or appointing presiding
5 judges of the administrative judicial regions, by majority vote, as
6 applicable, may appoint personnel as needed to assist an associate
7 judge in implementing and administering the provisions of this
8 subchapter.

9 (b) The salaries of the personnel shall be paid from:

10 (1) money available from the state and federal
11 governments as provided by this subchapter;

12 (2) county money available for payment of officers'
13 salaries, subject to the approval of the commissioners courts of
14 the counties in which the associate judge serves; or

15 (3) a combination of money specified by Subdivisions
16 (1) and (2).

17 Sec. 54A.313. SUPERVISION, TRAINING, AND EVALUATION OF
18 ASSOCIATE JUDGES. (a) The office of court administration shall
19 assist the presiding judges of the administrative judicial regions
20 in:

21 (1) monitoring associate judges' compliance with job
22 performance standards, uniform practices adopted by the presiding
23 judges, and federal and state laws and policies;

24 (2) addressing the training needs and resource
25 requirements of associate judges;

26 (3) conducting annual performance evaluations for
27 associate judges and other personnel appointed under this

1 subchapter based on written personnel performance standards
2 adopted by the presiding judges and performance information
3 solicited from the referring courts and other relevant persons; and
4 (4) receiving, investigating, and resolving
5 complaints about particular associate judges or the associate judge
6 program under this subchapter based on a uniform process adopted by
7 the presiding judges.

8 (b) The office of court administration shall develop
9 procedures and a written evaluation form to be used by the presiding
10 judges in conducting the annual performance evaluations under
11 Subsection (a)(3).

12 (c) The office of court administration shall develop
13 caseload standards for associate judges to ensure adequate
14 staffing.

15 (d) Each judge of a court that refers guardianship
16 proceedings or protective services proceedings to an associate
17 judge under this subchapter may submit to the appropriate presiding
18 judges or the office of court administration information on the
19 associate judge's performance during the preceding year based on a
20 uniform process adopted by the presiding judges.

21 Sec. 54A.314. STATE AND FEDERAL MONEY; OTHER PERSONNEL.

22 (a) The office of court administration may:

23 (1) contract for available county, state, and federal
24 money from any available source; and

25 (2) employ personnel, including investigators,
26 auditors, court coordinators, and other judicial staff, necessary
27 to implement and administer this subchapter.

(b) Personnel appointed under this section are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

(c) The presiding judges of the administrative judicial regions, state agencies, and counties may contract for federal money available from any source to reimburse costs and salaries associated with associate judges and personnel appointed under this section and may also use available state money and public or private grants.

(d) The presiding judges of the administrative judicial regions and the office of court administration in cooperation with other agencies shall take action necessary to maximize the amount of federal money available to fund the use of associate judges under this subchapter.

Sec. 54A.315. ASSIGNMENT OF JUDGES AND APPOINTMENT OF VISITING ASSOCIATE JUDGES. (a) This subchapter does not limit the authority of a presiding judge of an administrative judicial region to assign a judge eligible for assignment under Chapter 74 to assist in processing guardianship proceedings or protective services proceedings in a reasonable time.

(b) If an associate judge appointed under this subchapter is temporarily unable to perform the associate judge's official duties because of absence resulting from family circumstances, illness, injury, disability, or military service, or if a vacancy occurs in the position of associate judge, the presiding judge of the administrative judicial region, or the presiding judges of the administrative judicial regions by majority vote, as applicable, in

1 which the associate judge serves or the vacancy occurs may appoint a
2 visiting associate judge to perform the duties of the associate
3 judge during the period the associate judge is unable to perform the
4 associate judge's duties or until another associate judge is
5 appointed to fill the vacancy.

6 (c) A person is not eligible for appointment under this
7 section unless the person has served as an associate judge under
8 this subchapter, a district judge, a statutory county court judge,
9 or a statutory probate judge for at least two years before the date
10 of appointment.

11 (d) A visiting associate judge appointed under this
12 section:

13 (1) is subject to each provision of this subchapter
14 that applies to an associate judge serving under a regular
15 appointment under this subchapter;

16 (2) is entitled to compensation, to be determined by a
17 majority vote of the presiding judges of the administrative
18 judicial regions, through use of money available under this
19 subchapter; and

20 (3) is not considered a state employee for any
21 purpose.

22 (e) Section 2252.901 does not apply to the appointment of a
23 visiting associate judge under this section.

24 Sec. 54A.316. LIMITATION ON LAW PRACTICE. An associate
25 judge appointed under this subchapter may not engage in the private
26 practice of law.

27 Sec. 54A.317. IMMUNITY. An associate judge appointed under

1 this subchapter has the judicial immunity of a district judge. All
2 existing immunity granted an associate judge by law, express or
3 implied, continues in full force and effect.

4 SECTION 2. This Act takes effect September 1, 2019.