

1-1 By: Zaffirini S.B. No. 536
1-2 (In the Senate - Filed January 30, 2019; February 21, 2019,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 15, 2019, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 15, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Fallon	X		
1-13	Hall	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to associate judges for guardianship proceedings and
1-20 protective services proceedings in certain courts.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 54A, Government Code, is amended by
1-23 adding Subchapter D to read as follows:

1-24 SUBCHAPTER D. ASSOCIATE JUDGE FOR GUARDIANSHIP PROCEEDINGS AND
1-25 PROTECTIVE SERVICES PROCEEDINGS IN CERTAIN COURTS

1-26 Sec. 54A.301. DEFINITIONS. In this subchapter:

1-27 (1) "Guardianship proceeding" has the meaning
1-28 assigned by Section 1002.015, Estates Code.

1-29 (2) "Office of court administration" means the Office
1-30 of Court Administration of the Texas Judicial System.

1-31 (3) "Protective services proceeding" means a
1-32 proceeding commenced under Chapter 48, Human Resources Code.

1-33 (4) "Ward" has the meaning assigned by Section
1-34 1002.030, Estates Code.

1-35 Sec. 54A.302. APPLICABILITY. This subchapter applies only
1-36 with respect to:

1-37 (1) a county court with jurisdiction over guardianship
1-38 proceedings or protective services proceedings; and

1-39 (2) a statutory county court with jurisdiction over:

1-40 (A) guardianship proceedings, other than a court
1-41 created by statute and designated as a statutory probate court
1-42 under Chapter 25; or

1-43 (B) protective services proceedings.

1-44 Sec. 54A.303. APPLICABILITY OF OTHER LAW; CONSTRUCTION OF
1-45 SUBCHAPTER. (a) Subchapter C applies to an associate judge
1-46 appointed under this subchapter except to the extent of a conflict
1-47 with this subchapter.

1-48 (b) Nothing in this subchapter limits the authority of a
1-49 court to which this subchapter applies to issue an order under Title
1-50 3, Estates Code, or Chapter 48, Human Resources Code.

1-51 Sec. 54A.304. APPOINTMENT. (a) The presiding judge of
1-52 each administrative judicial region, after conferring with the
1-53 judges of courts to which this subchapter applies in the region,
1-54 shall determine whether those courts require the appointment of a
1-55 full-time or part-time associate judge to assist the courts in
1-56 conducting:

1-57 (1) guardianship proceedings, including with
1-58 conducting annual reviews of guardianships; or

1-59 (2) protective services proceedings.

1-60 (b) If the presiding judge of an administrative judicial
1-61 region determines under Subsection (a) that the courts described by

2-1 that subsection require the appointment of an associate judge, the
 2-2 presiding judge shall appoint an associate judge from a list of
 2-3 applicants who submitted an application to the office of court
 2-4 administration and meet the qualifications prescribed by Section
 2-5 54A.305. Before making the appointment, the presiding judge must
 2-6 provide the list to each judge of a court from which guardianship
 2-7 proceedings or protective services proceedings will be referred to
 2-8 the associate judge. Each of those judges and the presiding judge
 2-9 of the statutory probate courts may recommend to the presiding
 2-10 judge of the administrative judicial region who will make the
 2-11 appointment one or more of the listed applicants for appointment.

2-12 (c) Before reappointing an associate judge appointed under
 2-13 Subsection (b), a presiding judge of an administrative judicial
 2-14 region must notify each judge of a court from which guardianship
 2-15 proceedings or protective services proceedings will be referred to
 2-16 the associate judge of the presiding judge's intent to reappoint
 2-17 the associate judge for another term. Each of those judges and the
 2-18 presiding judge of the statutory probate courts may submit to the
 2-19 presiding judge of the administrative judicial region who intends
 2-20 to make the reappointment a recommendation on whether the associate
 2-21 judge should be reappointed.

2-22 (d) An associate judge appointed under this subchapter is
 2-23 appointed to serve the courts to which this subchapter applies in
 2-24 the administrative judicial region the appointing presiding judge
 2-25 serves that are specified by that presiding judge. Two or more
 2-26 presiding judges of administrative judicial regions may jointly
 2-27 appoint one or more associate judges under this subchapter to serve
 2-28 specified courts to which this subchapter applies in the presiding
 2-29 judges' regions.

2-30 Sec. 54A.305. QUALIFICATIONS. (a) To be eligible for
 2-31 appointment as an associate judge under this subchapter, a person
 2-32 must:

2-33 (1) be a citizen of the United States;
 2-34 (2) be a resident of this state for the two years
 2-35 preceding the date of appointment; and

2-36 (3) be:
 2-37 (A) eligible for assignment under Section [74.054](#)
 2-38 because the person is named on the list of retired and former judges
 2-39 maintained by the presiding judge of the administrative judicial
 2-40 region under Section [74.055](#);

2-41 (B) eligible for assignment under Section
 2-42 [25.0022](#) by the presiding judge of the statutory probate courts; or

2-43 (C) licensed to practice law in this state and
 2-44 have at least four years of experience in guardianship proceedings
 2-45 or protective services proceedings before the date of appointment
 2-46 as a practicing attorney in this state or a judge of a court in this
 2-47 state.

2-48 (b) An associate judge appointed under this subchapter to
 2-49 serve in one administrative judicial region shall, during the term
 2-50 of appointment, reside in that region or in a county adjacent to
 2-51 that region. An associate judge appointed to serve in two or more
 2-52 administrative judicial regions may reside anywhere in the regions.

2-53 Sec. 54A.306. TERM OF APPOINTMENT; TERMINATION. (a) An
 2-54 associate judge appointed under this subchapter serves for a term
 2-55 of four years from the date the associate judge is appointed and
 2-56 qualifies for office.

2-57 (b) The appointment of an associate judge for a term does
 2-58 not affect the at-will employment status of the associate judge. An
 2-59 appointing presiding judge of an administrative judicial region or
 2-60 the successor presiding judge of the region may terminate the
 2-61 associate judge's appointment at any time.

2-62 Sec. 54A.307. COMPENSATION OF ASSOCIATE JUDGE. (a) An
 2-63 associate judge appointed under this subchapter is entitled to a
 2-64 salary that is 90 percent of the salary paid to a district judge as
 2-65 set by the General Appropriations Act.

2-66 (b) The associate judge's salary shall be paid from:

2-67 (1) money available from the state and federal
 2-68 governments as provided by this subchapter;

2-69 (2) county money available for payment of officers'

3-1 salaries, subject to the approval of the commissioners courts of
 3-2 the counties in which the associate judge serves; or
 3-3 (3) a combination of money specified by Subdivisions
 3-4 (1) and (2).

3-5 Sec. 54A.308. DESIGNATION AND RESPONSIBILITIES OF HOST
 3-6 COUNTY. (a) Subject to the approval of the commissioners court of
 3-7 the proposed host county:

3-8 (1) the appointing presiding judge of the
 3-9 administrative judicial region shall determine the host county of
 3-10 an associate judge appointed under this subchapter to serve in one
 3-11 administrative judicial region; and

3-12 (2) the appointing presiding judges of the
 3-13 administrative judicial regions shall by majority vote determine
 3-14 the host county of an associate judge appointed under this
 3-15 subchapter to serve in more than one administrative judicial
 3-16 region.

3-17 (b) The host county shall provide an adequate courtroom and
 3-18 quarters, including furniture, necessary utilities, and telephone
 3-19 equipment and service, for the associate judge and other personnel
 3-20 assisting the associate judge.

3-21 (c) Except as provided by Section 54A.305(b), an associate
 3-22 judge is not required to reside in the host county.

3-23 Sec. 54A.309. METHODS OF REFERRAL. Guardianship
 3-24 proceedings or protective services proceedings shall be referred to
 3-25 an associate judge appointed under this subchapter by:

3-26 (1) a general order issued by the judge of each court
 3-27 the associate judge is appointed to serve; or

3-28 (2) in the absence of an order described by
 3-29 Subdivision (1), a general order issued by the presiding judge or
 3-30 judges of the administrative judicial region or regions who
 3-31 appointed the associate judge.

3-32 Sec. 54A.310. GENERAL POWERS OF ASSOCIATE JUDGE. (a) On
 3-33 the motion of a party or the associate judge, an associate judge may
 3-34 refer a complex guardianship proceeding back to the referring court
 3-35 for final disposition after recommending temporary orders for the
 3-36 protection of a ward.

3-37 (b) An associate judge may:

3-38 (1) render and sign any pretrial order; and

3-39 (2) recommend to the referring court any order after a
 3-40 trial on the merits.

3-41 Sec. 54A.311. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED
 3-42 ORDER OR JUDGMENT. If a request for a de novo hearing before the
 3-43 referring court is not timely filed or the right to a de novo
 3-44 hearing before the referring court is waived, the proposed order or
 3-45 judgment of the associate judge for the guardianship proceeding or
 3-46 protective services proceeding becomes the order or judgment of the
 3-47 referring court by operation of law without ratification by the
 3-48 referring court.

3-49 Sec. 54A.312. PERSONNEL. (a) The appointing presiding
 3-50 judge of an administrative judicial region or appointing presiding
 3-51 judges of the administrative judicial regions, by majority vote, as
 3-52 applicable, may appoint personnel as needed to assist an associate
 3-53 judge in implementing and administering the provisions of this
 3-54 subchapter.

3-55 (b) The salaries of the personnel shall be paid from:

3-56 (1) money available from the state and federal
 3-57 governments as provided by this subchapter;

3-58 (2) county money available for payment of officers'
 3-59 salaries, subject to the approval of the commissioners courts of
 3-60 the counties in which the associate judge serves; or

3-61 (3) a combination of money specified by Subdivisions
 3-62 (1) and (2).

3-63 Sec. 54A.313. SUPERVISION, TRAINING, AND EVALUATION OF
 3-64 ASSOCIATE JUDGES. (a) The office of court administration shall
 3-65 assist the presiding judges of the administrative judicial regions
 3-66 in:

3-67 (1) monitoring associate judges' compliance with job
 3-68 performance standards, uniform practices adopted by the presiding
 3-69 judges, and federal and state laws and policies;

4-1 (2) addressing the training needs and resource
 4-2 requirements of associate judges;

4-3 (3) conducting annual performance evaluations for
 4-4 associate judges and other personnel appointed under this
 4-5 subchapter based on written personnel performance standards
 4-6 adopted by the presiding judges and performance information
 4-7 solicited from the referring courts and other relevant persons; and

4-8 (4) receiving, investigating, and resolving
 4-9 complaints about particular associate judges or the associate judge
 4-10 program under this subchapter based on a uniform process adopted by
 4-11 the presiding judges.

4-12 (b) The office of court administration shall develop
 4-13 procedures and a written evaluation form to be used by the presiding
 4-14 judges in conducting the annual performance evaluations under
 4-15 Subsection (a)(3).

4-16 (c) The office of court administration shall develop
 4-17 caseload standards for associate judges to ensure adequate
 4-18 staffing.

4-19 (d) Each judge of a court that refers guardianship
 4-20 proceedings or protective services proceedings to an associate
 4-21 judge under this subchapter may submit to the appropriate presiding
 4-22 judges or the office of court administration information on the
 4-23 associate judge's performance during the preceding year based on a
 4-24 uniform process adopted by the presiding judges.

4-25 Sec. 54A.314. STATE AND FEDERAL MONEY; OTHER PERSONNEL.

4-26 (a) The office of court administration may:

4-27 (1) contract for available county, state, and federal
 4-28 money from any available source; and

4-29 (2) employ personnel, including investigators,
 4-30 auditors, court coordinators, and other judicial staff, necessary
 4-31 to implement and administer this subchapter.

4-32 (b) Personnel appointed under this section are state
 4-33 employees for all purposes, including accrual of leave time,
 4-34 insurance benefits, retirement benefits, and travel regulations.

4-35 (c) The presiding judges of the administrative judicial
 4-36 regions, state agencies, and counties may contract for federal
 4-37 money available from any source to reimburse costs and salaries
 4-38 associated with associate judges and personnel appointed under this
 4-39 section and may also use available state money and public or private
 4-40 grants.

4-41 (d) The presiding judges of the administrative judicial
 4-42 regions and the office of court administration in cooperation with
 4-43 other agencies shall take action necessary to maximize the amount
 4-44 of federal money available to fund the use of associate judges under
 4-45 this subchapter.

4-46 Sec. 54A.315. ASSIGNMENT OF JUDGES AND APPOINTMENT OF
 4-47 VISITING ASSOCIATE JUDGES. (a) This subchapter does not limit the
 4-48 authority of a presiding judge of an administrative judicial region
 4-49 to assign a judge eligible for assignment under Chapter 74 to assist
 4-50 in processing guardianship proceedings or protective services
 4-51 proceedings in a reasonable time.

4-52 (b) If an associate judge appointed under this subchapter is
 4-53 temporarily unable to perform the associate judge's official duties
 4-54 because of absence resulting from family circumstances, illness,
 4-55 injury, disability, or military service, or if a vacancy occurs in
 4-56 the position of associate judge, the presiding judge of the
 4-57 administrative judicial region, or the presiding judges of the
 4-58 administrative judicial regions by majority vote, as applicable, in
 4-59 which the associate judge serves or the vacancy occurs may appoint a
 4-60 visiting associate judge to perform the duties of the associate
 4-61 judge during the period the associate judge is unable to perform the
 4-62 associate judge's duties or until another associate judge is
 4-63 appointed to fill the vacancy.

4-64 (c) A person is not eligible for appointment under this
 4-65 section unless the person has served as an associate judge under
 4-66 this subchapter, a district judge, a statutory county court judge,
 4-67 or a statutory probate judge for at least two years before the date
 4-68 of appointment.

4-69 (d) A visiting associate judge appointed under this

5-1 section:
5-2 (1) is subject to each provision of this subchapter
5-3 that applies to an associate judge serving under a regular
5-4 appointment under this subchapter;
5-5 (2) is entitled to compensation, to be determined by a
5-6 majority vote of the presiding judges of the administrative
5-7 judicial regions, through use of money available under this
5-8 subchapter; and
5-9 (3) is not considered a state employee for any
5-10 purpose.
5-11 (e) Section 2252.901 does not apply to the appointment of a
5-12 visiting associate judge under this section.
5-13 Sec. 54A.316. LIMITATION ON LAW PRACTICE. An associate
5-14 judge appointed under this subchapter may not engage in the private
5-15 practice of law.
5-16 Sec. 54A.317. IMMUNITY. An associate judge appointed under
5-17 this subchapter has the judicial immunity of a district judge. All
5-18 existing immunity granted an associate judge by law, express or
5-19 implied, continues in full force and effect.
5-20 SECTION 2. This Act takes effect September 1, 2019.

5-21

* * * * *