

1 AN ACT

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

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

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

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

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

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

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

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

16 (4) "Ward" has the meaning assigned by Section
17 1002.030, Estates Code.

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

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

22 (2) a statutory county court with jurisdiction over:

23 (A) guardianship proceedings, other than a court
24 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 each
11 administrative judicial region, after conferring with the judges of
12 courts to which this subchapter applies in the region, shall
13 determine whether those courts require the appointment of a
14 full-time or part-time associate judge to assist the courts with
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 the courts described by Subsection (a) require
21 the appointment of an associate judge, the presiding judge shall
22 appoint an associate judge from a list of applicants who submit an
23 application to the office of court administration and meet the
24 qualifications prescribed by Section 54A.305. Before making the
25 appointment, the presiding judge must provide the list to each
26 judge of a court from which guardianship proceedings or protective
27 services proceedings will be referred to the associate judge. Each

1 of those judges and the presiding judge of the statutory probate
2 courts may recommend to the presiding judge of the administrative
3 judicial region one or more of the listed applicants for
4 appointment.

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

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

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

- 25 (1) be a citizen of the United States;
26 (2) be a resident of this state for the two years
27 preceding the date of appointment; and

1 (3) be:

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

6 (B) eligible for assignment under Section
7 25.0022 by the presiding judge of the statutory probate courts; or

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

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

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

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

27 Sec. 54A.307. COMPENSATION OF ASSOCIATE JUDGE. (a) An

1 associate judge appointed under this subchapter is entitled to a
2 salary in an amount equal to 90 percent of the salary paid to a
3 district judge as set by the General Appropriations Act.

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

5 (1) money available from the federal government;

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

9 (3) a combination of money specified by Subdivisions
10 (1) and (2).

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

14 (1) the appointing presiding judge of the
15 administrative judicial region shall determine the host county of
16 an associate judge appointed to serve in one administrative
17 judicial region; and

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

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

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

1 Sec. 54A.309. METHODS OF REFERRAL. (a) Guardianship
2 proceedings or protective services proceedings shall be referred to
3 an associate judge appointed under this subchapter by a general
4 order issued by the judge of each court the associate judge is
5 appointed to serve.

6 (b) A general order issued under this section may be amended
7 or withdrawn at any time by the judge of the court issuing the
8 order.

9 (c) In lieu of a general order, the judge of a court the
10 associate judge is appointed to serve by order may refer a specific
11 guardianship proceeding or a specific protective services
12 proceeding to 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 return a complex guardianship proceeding to the referring court for
16 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 the personnel needed to assist an associate
7 judge in implementing and administering this subchapter.

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

9 (1) money available from the federal government;

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

13 (3) a combination of money specified by Subdivisions
14 (1) and (2).

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

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

22 (2) addressing the training needs and resource
23 requirements of associate judges;

24 (3) conducting annual performance evaluations for
25 associate judges and other personnel appointed under this
26 subchapter based on written personnel performance standards
27 adopted by the presiding judges and performance information

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

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

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

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

19 Sec. 54A.314. FUNDING AND PERSONNEL. (a) The office of
20 court administration may:

21 (1) contract for available county and federal money
22 from any available source; and

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

26 (b) The presiding judges of the administrative judicial
27 regions and counties may contract for federal money available from

1 any source to reimburse the costs and salaries of the associate
2 judges and personnel appointed under this subchapter and may also
3 use public or private grants.

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

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

15 (b) If an associate judge appointed under this subchapter is
16 temporarily unable to perform the associate judge's official duties
17 because of absence resulting from family circumstances, illness,
18 injury, disability, or military service, or if a vacancy occurs in
19 the position of associate judge, the presiding judge of the
20 administrative judicial region, or the presiding judges of the
21 administrative judicial regions by majority vote, as applicable, in
22 which the associate judge serves or the vacancy occurs may appoint a
23 visiting associate judge to perform the duties of the associate
24 judge during the period the associate judge is unable to perform the
25 associate judge's duties or until another associate judge is
26 appointed to fill the vacancy.

27 (c) A person is not eligible for appointment under this

1 section unless the person has served for at least two years before
2 the date of appointment as an associate judge under this
3 subchapter, a district judge, a statutory county court judge, or a
4 statutory probate judge.

5 (d) A visiting associate judge appointed under this
6 section:

7 (1) is subject to each provision of this subchapter
8 that applies to an associate judge appointed under this subchapter;

9 (2) is entitled to compensation in the amount
10 determined by a majority vote of the presiding judges of the
11 administrative judicial regions using money available under this
12 subchapter; and

13 (3) is not considered a state employee for any
14 purpose.

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

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

20 Sec. 54A.317. IMMUNITY. An associate judge appointed under
21 this subchapter has the judicial immunity of a district judge. All
22 existing immunity granted an associate judge by law, express or
23 implied, continues in full force and effect.

24 SECTION 2. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 79 was passed by the House on April 13, 2021, by the following vote: Yeas 147, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 79 on May 28, 2021, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 79 was passed by the Senate, with amendments, on May 25, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor