

By: Murr

H.B. No. 79

Substitute the following for H.B. No. 79:

By: Schofield

C.S.H.B. No. 79

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 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 state and federal  
6 governments as provided by this subchapter;

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

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

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

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

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

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

27 (c) Except as provided by Section 54A.305(b), an associate

1 judge is not required to reside in the host county.

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

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8 or withdrawn at any time by the judge of the court issuing the  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

10 (c) In lieu of a general order, the judge of a court the  
11 associate judge is appointed to serve by order may refer a specific  
12 guardianship proceeding or a specific protective services  
13 proceeding to the associate judge.

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

19 (b) An associate judge may:

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

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

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

1 protective services proceeding becomes the order or judgment of the  
2 referring court by operation of law without ratification by the  
3 referring court.

4 Sec. 54A.312. PERSONNEL. (a) The appointing presiding  
5 judge of an administrative judicial region or appointing presiding  
6 judges of the administrative judicial regions, by majority vote, as  
7 applicable, may appoint the personnel needed to assist an associate  
8 judge in implementing and administering this 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 an individual associate judge or the associate  
6 judge program under this subchapter based on a uniform process  
7 adopted by 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. FUNDING AND PERSONNEL. (a) The office of  
22 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.



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

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

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

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

21 (b) If an associate judge appointed under this subchapter is  
22 temporarily unable to perform the associate judge's official duties  
23 because of absence resulting from family circumstances, illness,  
24 injury, disability, or military service, or if a vacancy occurs in  
25 the position of associate judge, the presiding judge of the  
26 administrative judicial region, or the presiding judges of the  
27 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 for at least two years before  
8 the date of appointment as an associate judge under this  
9 subchapter, a district judge, a statutory county court judge, or a  
10 statutory probate judge.

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 appointed under this subchapter;

15 (2) is entitled to compensation in the amount  
16 determined by a majority vote of the presiding judges of the  
17 administrative judicial regions using money available under this  
18 subchapter; and

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

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

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

26 Sec. 54A.317. IMMUNITY. An associate judge appointed under  
27 this subchapter has the judicial immunity of a district judge. All

1 existing immunity granted an associate judge by law, express or  
2 implied, continues in full force and effect.

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