

By: Zaffirini

S.B. No. 691

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. Guardianship
3 proceedings or protective services proceedings shall be referred to
4 an associate judge appointed under this subchapter by:

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

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

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

16 (b) An associate judge may:

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

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

20 Sec. 54A.311. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED
21 ORDER OR JUDGMENT. If a request for a de novo hearing before the
22 referring court is not timely filed or the right to a de novo
23 hearing before the referring court is waived, the proposed order or
24 judgment of the associate judge for the guardianship proceeding or
25 protective services proceeding becomes the order or judgment of the
26 referring court by operation of law without ratification by the
27 referring court.

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

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

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

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

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

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

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

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

23 (3) conducting annual performance evaluations for
24 associate judges and other personnel appointed under this
25 subchapter based on written personnel performance standards
26 adopted by the presiding judges and performance information
27 solicited from the referring courts and other relevant persons; and

1 (4) receiving, investigating, and resolving
2 complaints about an individual associate judge or the associate
3 judge program under this subchapter based on a uniform process
4 adopted by the presiding judges.

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

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

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

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

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

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

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

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

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

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

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

1 associate judge's duties or until another associate judge is
2 appointed to fill the vacancy.

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

8 (d) A visiting associate judge appointed under this
9 section:

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

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

16 (3) is not considered a state employee for any
17 purpose.

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

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

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

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