

House Bill 79
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 under Chapter 25; or
 - (B) protective services proceedings.

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

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

Sec. 54A.304. APPOINTMENT. (a) The presiding judge of each administrative judicial region, after conferring with the

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judges of courts to which this subchapter applies in the region, shall determine whether those courts require the appointment of a full-time or part-time associate judge to assist the courts with conducting:

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

(2) protective services proceedings.

(b) If the presiding judge of an administrative judicial region determines the courts described by Subsection (a) require the appointment of an associate judge, the presiding judge shall appoint an associate judge from a list of applicants who submit an application to the office of court administration and meet the qualifications prescribed by Section 54A.305. Before making the appointment, the presiding judge must provide the list to each judge of a court from which guardianship 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 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 a recommendation on whether the associate judge should be reappointed.

(d) An associate judge appointed under this subchapter serves

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the courts to which this subchapter applies in the administrative judicial region that are specified by the appointing 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;

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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.

Sec. 54A.307. COMPENSATION OF ASSOCIATE JUDGE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An associate judge may:

(1) render and sign any pretrial order; and

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

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

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the associate judge for the guardianship proceeding or protective services proceeding becomes the order or judgment of the referring court by operation of law without ratification by the referring court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Personnel employed 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 the costs and salaries of the associate judges and personnel appointed under this subchapter and may also use available state money and public or private grants.

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

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

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

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

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

(1) is subject to each provision of this subchapter that applies

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(c) 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 which the associate judge serves or the vacancy occurs may appoint a visiting associate judge to perform the duties of the associate judge during the period the associate judge is unable to perform the associate judge's duties or until another associate judge is appointed to fill the vacancy.

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to an associate judge appointed under this subchapter;
(2) is entitled to compensation in the amount determined by a majority vote of the presiding judges of the administrative judicial regions using money available under this subchapter;
and
(3) is not considered a state employee for any purpose.
(e) Section 2252.901 does not apply to the appointment of a visiting associate judge under this section.
Sec. 54A.316. LIMITATION ON LAW PRACTICE. An associate judge appointed under this subchapter may not engage in the private practice of law.
Sec. 54A.317. IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a district judge. All existing immunity granted an associate judge by law, express or implied, continues in full force and effect.

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

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SECTION 2. Same as House version.

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