

BILL ANALYSIS

Senate Research Center
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H.B. 4128
By: Murr et al. (Zaffirini)
Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 87th Legislature, Regular Session, passed H.B. 79, which established a system of regional specialized guardianship courts similar to child protection courts, with associate judges and adequate court staff. Current law, however, classifies such associate judges and their staff as county employees. Accordingly, H.B. 4128 would enhance specialized guardianship courts by reclassifying their associate judges and staff from county employees to state employees. What's more, the bill provides for additional duties for associate judges, court coordinators, and court investigators, enabling them to better serve specialized courts.

H.B. 4128 amends current law relating to associate judges for guardianship proceedings and protective services proceedings in certain courts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54A.307, Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the associate judge's salary to be paid from:

(1) money available from the state and federal government;

(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).

(c) Provides that an associate judge whose salary is paid from money specified by Subsection (b)(1) or (3), notwithstanding any other law, is a state employee for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

SECTION 2. Amends Section 54A.310, Government Code, by adding Subsection (c), as follows:

(c) Authorizes an associate judge to oversee and monitor guardianship proceedings and protective services proceedings in each court the judge is appointed to serve in accordance with an order referring the proceedings to the associate judge under Section 54A.309 (Methods of Referral). Provides that the judge's authority to oversee and monitor proceedings under this subsection includes the authority to:

(1) review the guardianship of wards and address any reporting deficiencies of guardians under Section 1163.101 (Annual Report Required), Estates Code, and

other applicable provisions of Chapter 1163 (Annual Account and Other Exhibits and Reports), Estates Code, that are reported to the court;

(2) obtain and review annual accounts guardians are required to file under Sections 1163.001 (Initial Annual Account of Estate) and 1163.002 (Annual Account Required Until Estate Closed), Estates Code;

(3) address concerns about a ward's well-being; and

(4) take any other action the judge considers necessary to:

(A) ensure the efficient administration of justice in guardianship proceedings and protective services proceedings; and

(B) curtail the risk of potential abuse, fraud, or exploitation of wards under a guardianship.

SECTION 3. Amends Section 54A.312, Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires that the salaries of the personnel be paid from:

(1) money available from the state and federal government;

(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).

(c) Provides that personnel whose salary is paid from money specified by Subsection (b)(1) or (3), notwithstanding any other law, are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

SECTION 4. Amends Section 54A.314, Government Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (d), and (e), as follows:

(a) Authorizes the Office of Court Administration of the Texas Judicial System (OCA) to:

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

(2) for each associate judge, employ personnel, including investigators, auditors, court coordinators, and other judicial staff, necessary to implement and administer Subchapter D (Associate Judge for Guardianship Proceedings and Protective Services Proceedings in Certain Courts).

(a-1) Requires a court coordinator employed under Section 54A.314 (Funding and Personnel) to primarily assist the associate judge with administrative duties, including managing caseloads.

(a-2) Requires a court investigator employed under this section to primarily assist the associate judge with monitoring and oversight of guardianship proceedings under Section 54A.310(c), including by:

(1) visiting wards and guardians to address any well-being concerns made known to the court; and

(2) reviewing annual accounts and annual reports guardians are required to file under Chapter 1163, Estates Code.

(a-3) Provides that personnel employed under this section are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

(d) Authorizes the presiding judges of the administrative judicial regions, state agencies, and counties to seek federal money available from any source to reimburse costs and salaries associated with associate judges and personnel appointed under this section and to also use available state money and public or private grants.

(e) Requires the presiding judges of the administrative judicial regions and OCA in cooperation with other state agencies and counties to take the action necessary to maximize the amount of federal money available to fund the use of associate judges under this subchapter.

SECTION 5. Amends Section 72.122, Government Code, by adding Subsection (d), as follows:

(d) Requires OCA, on request, to make available to associate judges appointed under Subchapter D, Chapter 54A, guardianship compliance specialists and other resources and assistance under the program to assist those judges with the oversight and monitoring of guardianship and protective services proceedings in the courts the judges are appointed to serve.

SECTION 6. Provides that Sections 54A.307(c), 54A.312(c), and 54A.314(a-3), Government Code, as added by this Act, apply only to an associate judge appointed or court personnel employed on or after the effective date of this Act.

SECTION 7. Effective date: September 1, 2023.