

BILL ANALYSIS

C.S.H.B. 4128
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the 87th Legislative Session, the Texas legislature 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 classifies such associate judges and their staff as county employees. C.S.H.B. 4128 seeks to update current law regarding specialized guardianship courts by reclassifying these associate judges and their staff from county employees to state employees and providing for additional duties to be performed by the associate judges, as well as court coordinators and court investigators, so that they will be able to better serve specialized courts.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4128 amends the Government Code to include money available from the state government as a source from which salaries for associate judges for guardianship and protective services proceedings in certain courts may be paid. The bill establishes that an associate judge and the personnel appointed to assist the associate judge, if their salary is paid from money available from the state and federal government or a combination of such money and county money available for payment of officers' salaries, subject to the commissioners court approval, are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations. These provisions apply only to an associate judge appointed or applicable court personnel employed on or after the bill's effective date.

C.S.H.B. 4128 authorizes an associate judge to oversee and monitor guardianship proceedings and protective services proceedings in each court to which they are appointed and establishes that the judge's authority to oversee and monitor proceedings includes the authority to do the following:

- review the guardianship of wards and address any reporting deficiencies that are reported to the court with respect to certain guardian reporting and accounting requirements;
- obtain and review certain required annual accounts guardians file;
- address concerns about a ward's well-being; and
- take any other action the judge considers necessary to ensure the efficient administration of justice in guardianship proceedings and protective services proceedings and curtail the risk of potential abuse, fraud, or exploitation of wards under a guardianship.

C.S.H.B. 4128 authorizes the Office of Court Administration (OCA) to contract for available money, including state money, to fund the use of associate judges in certain guardianship and protective services proceedings. The bill requires the following of individuals employed to assist associate judges in those proceedings:

- a court coordinator to primarily assist the judge with administrative duties, including managing caseloads; and
- a court investigator to primarily assist the judge with certain monitoring and oversight tasks of guardianship proceedings, including by visiting wards and guardians to address any well-being concerns made known to the court and reviewing annual accounts and annual reports guardians are required to file under applicable Estates Code provisions.

C.S.H.B. 4128 authorizes the presiding judges of the administrative judicial regions, state agencies, and counties to seek federal money available from any source, available state money, and public or private grants to reimburse costs and salaries associated with the use of associate judges and associated personnel. The bill requires the presiding judges and OCA in cooperation with other state agencies and counties to take the action necessary to maximize the amount of federal money available for such purposes.

C.S.H.B. 4128 requires OCA, on request, to make available to appointed associate judges guardianship compliance specialists and other resources and assistance to assist with the oversight and monitoring of guardianship and protective services proceedings.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

C.S.H.B. 4128 differs from the introduced in minor or nonsubstantive ways by conforming to certain bill drafting conventions.