

1-1 By: Murr (Senate Sponsor - Zaffirini) H.B. No. 79
1-2 (In the Senate - Received from the House April 13, 2021;
1-3 April 13, 2021, read first time and referred to Committee on
1-4 Jurisprudence; May 22, 2021, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 22, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>PNV</u>
1-8				
1-9	<u>Huffman</u>	<u>X</u>		
1-10	<u>Hinojosa</u>	<u>X</u>		
1-11	<u>Creighton</u>	<u>X</u>		
1-12	<u>Hughes</u>	<u>X</u>		
1-13	<u>Johnson</u>	<u>X</u>		

1-14 COMMITTEE SUBSTITUTE FOR H.B. No. 79 By: Huffman

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to associate judges for guardianship proceedings and
1-18 protective services proceedings in certain courts.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Chapter 54A, Government Code, is amended by
1-21 adding Subchapter D to read as follows:

1-22 SUBCHAPTER D. ASSOCIATE JUDGE FOR GUARDIANSHIP PROCEEDINGS AND
1-23 PROTECTIVE SERVICES PROCEEDINGS IN CERTAIN COURTS

1-24 Sec. 54A.301. DEFINITIONS. In this subchapter:

1-25 (1) "Guardianship proceeding" has the meaning
1-26 assigned by Section 1002.015, Estates Code.

1-27 (2) "Office of court administration" means the Office
1-28 of Court Administration of the Texas Judicial System.

1-29 (3) "Protective services proceeding" means a
1-30 proceeding commenced under Chapter 48, Human Resources Code.

1-31 (4) "Ward" has the meaning assigned by Section
1-32 1002.030, Estates Code.

1-33 Sec. 54A.302. APPLICABILITY. This subchapter applies only
1-34 with respect to:

1-35 (1) a county court with jurisdiction over guardianship
1-36 proceedings or protective services proceedings; and

1-37 (2) a statutory county court with jurisdiction over:

1-38 (A) guardianship proceedings, other than a court
1-39 created by statute and designated as a statutory probate court
1-40 under Chapter 25; or

1-41 (B) protective services proceedings.

1-42 Sec. 54A.303. APPLICABILITY OF OTHER LAW; CONSTRUCTION OF
1-43 SUBCHAPTER. (a) Subchapter C applies to an associate judge
1-44 appointed under this subchapter except to the extent of a conflict
1-45 with this subchapter.

1-46 (b) Nothing in this subchapter limits the authority of a
1-47 court to which this subchapter applies to issue an order under Title
1-48 3, Estates Code, or Chapter 48, Human Resources Code.

1-49 Sec. 54A.304. APPOINTMENT. (a) The presiding judge of each
1-50 administrative judicial region, after conferring with the judges of
1-51 courts to which this subchapter applies in the region, shall
1-52 determine whether those courts require the appointment of a
1-53 full-time or part-time associate judge to assist the courts with
1-54 conducting:

1-55 (1) guardianship proceedings, including with
1-56 conducting annual reviews of guardianships; or

1-57 (2) protective services proceedings.

1-58 (b) If the presiding judge of an administrative judicial
1-59 region determines the courts described by Subsection (a) require
1-60 the appointment of an associate judge, the presiding judge shall

2-1 appoint an associate judge from a list of applicants who submit an
 2-2 application to the office of court administration and meet the
 2-3 qualifications prescribed by Section 54A.305. Before making the
 2-4 appointment, the presiding judge must provide the list to each
 2-5 judge of a court from which guardianship proceedings or protective
 2-6 services proceedings will be referred to the associate judge. Each
 2-7 of those judges and the presiding judge of the statutory probate
 2-8 courts may recommend to the presiding judge of the administrative
 2-9 judicial region one or more of the listed applicants for
 2-10 appointment.

2-11 (c) Before reappointing an associate judge appointed under
 2-12 Subsection (b), a presiding judge of an administrative judicial
 2-13 region must notify each judge of a court from which guardianship
 2-14 proceedings or protective services proceedings will be referred to
 2-15 the associate judge of the presiding judge's intent to reappoint
 2-16 the associate judge for another term. Each of those judges and the
 2-17 presiding judge of the statutory probate courts may submit to the
 2-18 presiding judge of the administrative judicial region a
 2-19 recommendation on whether the associate judge should be
 2-20 reappointed.

2-21 (d) An associate judge appointed under this subchapter
 2-22 serves the courts to which this subchapter applies in the
 2-23 administrative judicial region that are specified by the appointing
 2-24 presiding judge. Two or more presiding judges of administrative
 2-25 judicial regions may jointly appoint one or more associate judges
 2-26 under this subchapter to serve specified courts to which this
 2-27 subchapter applies in the presiding judges' regions.

2-28 Sec. 54A.305. QUALIFICATIONS. (a) To be eligible for
 2-29 appointment as an associate judge under this subchapter, a person
 2-30 must:

2-31 (1) be a citizen of the United States;
 2-32 (2) be a resident of this state for the two years
 2-33 preceding the date of appointment; and

2-34 (3) be:
 2-35 (A) eligible for assignment under Section [74.054](#)
 2-36 because the person is named on the list of retired and former judges
 2-37 maintained by the presiding judge of the administrative judicial
 2-38 region under Section [74.055](#);

2-39 (B) eligible for assignment under Section
 2-40 [25.0022](#) by the presiding judge of the statutory probate courts; or

2-41 (C) licensed to practice law in this state and
 2-42 have at least four years of experience in guardianship proceedings
 2-43 or protective services proceedings before the date of appointment
 2-44 as a practicing attorney in this state or a judge of a court in this
 2-45 state.

2-46 (b) An associate judge appointed under this subchapter to
 2-47 serve in one administrative judicial region shall, during the term
 2-48 of appointment, reside in that region or in a county adjacent to
 2-49 that region. An associate judge appointed to serve in two or more
 2-50 administrative judicial regions may reside anywhere in the regions.

2-51 Sec. 54A.306. TERM OF APPOINTMENT; TERMINATION. (a) An
 2-52 associate judge appointed under this subchapter serves for a term
 2-53 of four years from the date the associate judge is appointed and
 2-54 qualifies for office.

2-55 (b) The appointment of an associate judge for a term does
 2-56 not affect the at-will employment status of the associate judge. An
 2-57 appointing presiding judge of an administrative judicial region or
 2-58 the successor presiding judge of the region may terminate the
 2-59 associate judge's appointment at any time.

2-60 Sec. 54A.307. COMPENSATION OF ASSOCIATE JUDGE. (a) An
 2-61 associate judge appointed under this subchapter is entitled to a
 2-62 salary in an amount equal to 90 percent of the salary paid to a
 2-63 district judge as set by the General Appropriations Act.

2-64 (b) The associate judge's salary shall be paid from:

2-65 (1) money available from the federal government;

2-66 (2) county money available for payment of officers'
 2-67 salaries, subject to the approval of the commissioners courts of
 2-68 the counties in which the associate judge serves; or

2-69 (3) a combination of money specified by Subdivisions

3-1 (1) and (2).

3-2 Sec. 54A.308. DESIGNATION AND RESPONSIBILITIES OF HOST
 3-3 COUNTY. (a) Subject to the approval of the commissioners court of
 3-4 the proposed host county:

3-5 (1) the appointing presiding judge of the
 3-6 administrative judicial region shall determine the host county of
 3-7 an associate judge appointed to serve in one administrative
 3-8 judicial region; and

3-9 (2) the appointing presiding judges of the
 3-10 administrative judicial regions shall by majority vote determine
 3-11 the host county of an associate judge appointed to serve in more
 3-12 than one administrative judicial region.

3-13 (b) The host county shall provide an adequate courtroom and
 3-14 quarters, including furniture, necessary utilities, and telephone
 3-15 equipment and service, for the associate judge and other personnel
 3-16 assisting the associate judge.

3-17 (c) Except as provided by Section 54A.305(b), an associate
 3-18 judge is not required to reside in the host county.

3-19 Sec. 54A.309. METHODS OF REFERRAL. (a) Guardianship
 3-20 proceedings or protective services proceedings shall be referred to
 3-21 an associate judge appointed under this subchapter by a general
 3-22 order issued by the judge of each court the associate judge is
 3-23 appointed to serve.

3-24 (b) A general order issued under this section may be amended
 3-25 or withdrawn at any time by the judge of the court issuing the
 3-26 order.

3-27 (c) In lieu of a general order, the judge of a court the
 3-28 associate judge is appointed to serve by order may refer a specific
 3-29 guardianship proceeding or a specific protective services
 3-30 proceeding to the associate judge.

3-31 Sec. 54A.310. GENERAL POWERS OF ASSOCIATE JUDGE. (a) On
 3-32 the motion of a party or the associate judge, an associate judge may
 3-33 return a complex guardianship proceeding to the referring court for
 3-34 final disposition after recommending temporary orders for the
 3-35 protection of a ward.

3-36 (b) An associate judge may:

3-37 (1) render and sign any pretrial order; and

3-38 (2) recommend to the referring court any order after a
 3-39 trial on the merits.

3-40 Sec. 54A.311. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED
 3-41 ORDER OR JUDGMENT. If a request for a de novo hearing before the
 3-42 referring court is not timely filed or the right to a de novo
 3-43 hearing before the referring court is waived, the proposed order or
 3-44 judgment of the associate judge for the guardianship proceeding or
 3-45 protective services proceeding becomes the order or judgment of the
 3-46 referring court by operation of law without ratification by the
 3-47 referring court.

3-48 Sec. 54A.312. PERSONNEL. (a) The appointing presiding
 3-49 judge of an administrative judicial region or appointing presiding
 3-50 judges of the administrative judicial regions, by majority vote, as
 3-51 applicable, may appoint the personnel needed to assist an associate
 3-52 judge in implementing and administering this subchapter.

3-53 (b) The salaries of the personnel shall be paid from:

3-54 (1) money available from the federal government;

3-55 (2) county money available for payment of officers'
 3-56 salaries, subject to the approval of the commissioners courts of
 3-57 the counties in which the associate judge serves; or

3-58 (3) a combination of money specified by Subdivisions
 3-59 (1) and (2).

3-60 Sec. 54A.313. SUPERVISION, TRAINING, AND EVALUATION OF
 3-61 ASSOCIATE JUDGES. (a) The office of court administration shall
 3-62 assist the presiding judges of the administrative judicial regions
 3-63 in:

3-64 (1) monitoring associate judges' compliance with job
 3-65 performance standards, uniform practices adopted by the presiding
 3-66 judges, and federal and state laws and policies;

3-67 (2) addressing the training needs and resource
 3-68 requirements of associate judges;

3-69 (3) conducting annual performance evaluations for

4-1 associate judges and other personnel appointed under this
 4-2 subchapter based on written personnel performance standards
 4-3 adopted by the presiding judges and performance information
 4-4 solicited from the referring courts and other relevant persons; and
 4-5 (4) receiving, investigating, and resolving
 4-6 complaints about an individual associate judge or the associate
 4-7 judge program under this subchapter based on a uniform process
 4-8 adopted by the presiding judges.

4-9 (b) The office of court administration shall develop
 4-10 procedures and a written evaluation form to be used by the presiding
 4-11 judges in conducting the annual performance evaluations under
 4-12 Subsection (a)(3).

4-13 (c) The office of court administration shall develop
 4-14 caseload standards for associate judges to ensure adequate
 4-15 staffing.

4-16 (d) Each judge of a court that refers guardianship
 4-17 proceedings or protective services proceedings to an associate
 4-18 judge under this subchapter may submit to the appropriate presiding
 4-19 judges or the office of court administration information on the
 4-20 associate judge's performance during the preceding year based on a
 4-21 uniform process adopted by the presiding judges.

4-22 Sec. 54A.314. FUNDING AND PERSONNEL. (a) The office of
 4-23 court administration may:

4-24 (1) contract for available county and federal money
 4-25 from any available source; and

4-26 (2) employ personnel, including investigators,
 4-27 auditors, court coordinators, and other judicial staff, necessary
 4-28 to implement and administer this subchapter.

4-29 (b) The presiding judges of the administrative judicial
 4-30 regions and counties may contract for federal money available from
 4-31 any source to reimburse the costs and salaries of the associate
 4-32 judges and personnel appointed under this subchapter and may also
 4-33 use public or private grants.

4-34 (c) The presiding judges of the administrative judicial
 4-35 regions and the office of court administration in cooperation with
 4-36 other agencies shall take action necessary to maximize the amount
 4-37 of federal money available to fund the use of associate judges under
 4-38 this subchapter.

4-39 Sec. 54A.315. ASSIGNMENT OF JUDGES AND APPOINTMENT OF
 4-40 VISITING ASSOCIATE JUDGES. (a) This subchapter does not limit the
 4-41 authority of a presiding judge of an administrative judicial region
 4-42 to assign a judge eligible for assignment under Chapter 74 to assist
 4-43 in processing guardianship proceedings or protective services
 4-44 proceedings in a reasonable time.

4-45 (b) If an associate judge appointed under this subchapter is
 4-46 temporarily unable to perform the associate judge's official duties
 4-47 because of absence resulting from family circumstances, illness,
 4-48 injury, disability, or military service, or if a vacancy occurs in
 4-49 the position of associate judge, the presiding judge of the
 4-50 administrative judicial region, or the presiding judges of the
 4-51 administrative judicial regions by majority vote, as applicable, in
 4-52 which the associate judge serves or the vacancy occurs may appoint a
 4-53 visiting associate judge to perform the duties of the associate
 4-54 judge during the period the associate judge is unable to perform the
 4-55 associate judge's duties or until another associate judge is
 4-56 appointed to fill the vacancy.

4-57 (c) A person is not eligible for appointment under this
 4-58 section unless the person has served for at least two years before
 4-59 the date of appointment as an associate judge under this
 4-60 subchapter, a district judge, a statutory county court judge, or a
 4-61 statutory probate judge.

4-62 (d) A visiting associate judge appointed under this
 4-63 section:

4-64 (1) is subject to each provision of this subchapter
 4-65 that applies to an associate judge appointed under this subchapter;

4-66 (2) is entitled to compensation in the amount
 4-67 determined by a majority vote of the presiding judges of the
 4-68 administrative judicial regions using money available under this
 4-69 subchapter; and

5-1 (3) is not considered a state employee for any
5-2 purpose.
5-3 (e) Section 2252.901 does not apply to the appointment of a
5-4 visiting associate judge under this section.
5-5 Sec. 54A.316. LIMITATION ON LAW PRACTICE. An associate
5-6 judge appointed under this subchapter may not engage in the private
5-7 practice of law.
5-8 Sec. 54A.317. IMMUNITY. An associate judge appointed under
5-9 this subchapter has the judicial immunity of a district judge. All
5-10 existing immunity granted an associate judge by law, express or
5-11 implied, continues in full force and effect.
5-12 SECTION 2. This Act takes effect September 1, 2021.

5-13

* * * * *