

BILL ANALYSIS

H.B. 2803
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that since statutory probate courts are available in only a few Texas counties, a significant proportion of guardianship cases are handled by courts that lack specialized resources for this case type. There have been calls to implement a model similar to the existing specialized child protection courts to improve statewide access to the appropriate expertise and resources. H.B. 2803 seeks to provide for this improvement by establishing a system of regional specialized guardianship courts with associate judges and appropriate staffing.

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

H.B. 2803 amends the Government Code to require the presiding judge of each administrative judicial region, after conferring with the judges of applicable courts in the region, to determine whether those courts require the appointment of a full-time or part-time associate judge to assist those courts in conducting guardianship proceedings or protective services proceedings. The bill identifies an applicable court as a county court or a statutory county court, other than a statutory probate court, with jurisdiction over those proceedings and establishes that the bill's provisions do not limit such a court's authority to issue an order in those proceedings. The bill requires the presiding judge, after determining a need, to appoint an associate judge from a list of applicants who submitted an application to the Office of Court Administration of the Texas Judicial System (OCA) and meet the qualifications prescribed by the bill. The bill requires the presiding judge to provide the list or appropriate notification, as applicable, to each judge of a court from which proceedings will be referred to the associate judge before appointing or reappointing the associate judge and authorizes each of those judges and the presiding judge of the statutory probate courts to make recommendations regarding the appointment or reappointment, as appropriate. An associate judge appointed under these provisions is appointed to serve the applicable courts specified by the appointing presiding judge in the administrative judicial region that presiding judge serves. The bill authorizes two or more presiding judges of administrative judicial regions to jointly appoint one or more associate judges to serve specified courts in the presiding judges' regions. The bill makes statutory provisions relating to statutory probate court associate judges applicable to an associate judge appointed under the bill's provisions except to the extent of a conflict.

H.B. 2803 sets out eligibility criteria and residency requirements for an associate judge

appointed under the bill's provisions and provides for the judge's four-year term, at-will employment status, and compensation. The bill requires the appointing presiding judge or judges, as applicable, to determine the host county of the associate judge, subject to the approval of the commissioners court of the proposed host county, and requires the host county to provide an adequate courtroom and quarters for the associate judge and other assisting personnel.

H.B. 2803 sets out the methods of referral of guardianship proceedings or protective services proceedings to an associate judge, provides for the associate judge's authority to refer a complex guardianship proceeding back to the referring court for final disposition, and authorizes the associate judge to render and sign any pretrial order and to recommend to the referring court any order after a trial on the merits. The bill establishes that if a request for a de novo hearing before the referring court is not timely filed or the right to such a hearing is waived, the proposed order or judgment of the associate judge for the proceeding becomes the order or judgment of the referring court by operation of law without ratification by the referring court.

H.B. 2803 provides for the appointment and salaries of personnel to assist the associate judge. The bill requires OCA to develop caseload standards for associate judges to ensure adequate staffing and to assist presiding judges in certain duties relating to the supervision, training, and evaluation of associate judges. The bill authorizes the referring court judges to submit associate judge performance information to the presiding judges and OCA.

H.B. 2803 authorizes OCA to contract for available county, state, and federal money from any available source and to employ personnel, whom the bill establishes as state employees for all purposes, necessary to implement and administer the bill's provisions. The bill authorizes the presiding judges of the administrative judicial regions, state agencies, and counties to contract for federal money available from any source to reimburse costs and salaries associated with associate judges and other applicable personnel appointed under the bill's provisions and also to use available state money and public or private grants. The bill requires the presiding judges and OCA in cooperation with other agencies to take action necessary to maximize the amount of federal money available to fund the use of associate judges.

H.B. 2803 expressly does not limit the authority of a presiding judge to assign a judge eligible for assignment under the Court Administration Act to assist in processing guardianship or protective services proceedings in a reasonable time. The bill sets out provisions relating to the appointment of a visiting associate judge if an associate judge is temporarily unable to perform the associate judge's official duties for certain reasons or if a vacancy in the position occurs. The bill prohibits an associate judge appointed under the bill's provisions from engaging in the private practice of law and provides for the judicial immunity of such an associate judge.

EFFECTIVE DATE

September 1, 2019.