

# HB576 INTRODUCED



1 HB576  
2 L5D1CWY-1  
3 By Representative Brown (N & P)  
4 RFD: Mobile County Legislation  
5 First Read: 05-Mar-26



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to Mobile County; to further provide for the appointment of temporary judges of probate.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 45-49-85.42, Code of Alabama 1975, is amended to read as follows:

"§45-49-85.42

(a) (1) If the regularly elected Judge of Probate of Mobile County is incompetent from any legal cause, incapacitated, absent or will be absent from sickness, or otherwise disqualified from acting as judge, the judge of probate or the chief clerk shall certify the fact of incompetency, incapacity, absence, sickness, or disqualification to the presiding judge of the circuit court of the county, and the presiding judge of the circuit court, upon that certificate, shall appoint ~~a person~~ an individual learned in the law, practicing and residing in the county, to act as temporary judge of probate. At any time when the regularly elected judge of probate of the county files a certificate in the office of the circuit clerk of the county that he or she is no longer incompetent, ~~from any legal cause,~~



## HB576 INTRODUCED

29 ~~incapacitated, absent, absent from sickness, or otherwise~~  
30 ~~disqualified from acting as judge, then~~ the regularly elected  
31 judge of probate of the county shall ~~forthwith~~ immediately  
32 resume the office, duties, authority, and jurisdiction, and  
33 all the authority and jurisdiction of the temporary judge of  
34 probate of the county appointed by the presiding judge of the  
35 circuit court of the county shall immediately terminate.

36 (2) In addition ~~thereto~~ to subdivision (1), the Judge of  
37 Probate of Mobile County, in his or her discretion, may  
38 appoint one or more temporary judges of probate to serve  
39 contemporaneously with him or her when the elected judge of  
40 probate finds that the temporary appointments are necessary  
41 because of calendar congestion, ~~or~~ complexity of issues, the  
42 prospects of an unduly long trial, or caseload management. No  
43 temporary appointment shall be for a term longer than 90 days.  
44 A temporary judge of probate appointed pursuant to this  
45 subdivision may be appointed for as many successive 90-day  
46 periods or fractions thereof as might be necessary, but shall  
47 not serve more than 100 days during any fiscal year. The  
48 authority granted ~~herein~~ by this subdivision for the  
49 appointment of temporary judges of probate shall terminate at  
50 such time as a second judge of probate for Mobile County is  
51 authorized and the judge so authorized assumes the duties of  
52 the office, ~~or at the end of the first regular session of the~~  
53 ~~Alabama Legislature after the election or appointment of a~~  
54 ~~successor to the Judge of Probate of Mobile County serving on~~  
55 ~~June 14, 2007, whichever occurs first.~~

56 (3) All temporary judges of probate shall have the



## HB576 INTRODUCED

57 jurisdiction and authority and discharge the duties of the  
58 judge of probate, and the judgments, orders, and decrees made  
59 or rendered by any of them shall be entered on the records of  
60 the probate court, and shall have the force and effect, and  
61 shall be subject to revision or appeal or by other revisory  
62 remedy, of judgments, orders, and decrees of the probate court  
63 or of the judge of probate. Neither the regularly elected  
64 judge of probate of the county, nor the surety on his or her  
65 bond, shall be responsible for any of the acts or decisions  
66 made by any temporary judge of probate, failure to act or  
67 report by any temporary judge of probate, or any of the acts  
68 or failure to act of any employee in the probate court during  
69 the tenure of any temporary judge of probate.

70 (b) Any temporary judge of probate provided for in this  
71 section shall take the oath directed to be taken by the  
72 officers of the state and shall give bond in the sum of not  
73 less than ten thousand dollars (\$10,000) to be fixed and  
74 approved by the presiding judge of the circuit court of the  
75 county, except that the bond of those temporary judges of  
76 probate appointed ~~by the regularly elected judge of probate~~  
77 pursuant to subdivision (a)(2) shall be fixed and approved by  
78 him or her. Any temporary judge shall receive during the  
79 period served compensation based on 90 percent of the  
80 compensation paid to the regularly elected judge of probate.  
81 Temporary judges of probate shall not be entitled to any  
82 benefit for the appointments beyond the salary compensation  
83 allowed ~~herein~~ in this subdivision. Nothing in this section  
84 shall be construed to deprive the regularly elected judge of



## HB576 INTRODUCED

85 probate of the salary and benefits provided by law for the  
86 judge of probate during his or her term of office.

87 (c) If, in any single case or proceeding arising in the  
88 probate court of the county, or in reference to which the  
89 judge ~~thereof of probate~~ is required to exercise jurisdiction  
90 or authority, and the judge of probate ~~shall is~~ for any legal  
91 cause, ~~be~~ disqualified to try, hear, or render judgment, he or  
92 she, or his or her chief clerk, shall certify the fact of  
93 disqualification to the presiding judge of the circuit court  
94 of the county, ~~and the~~ The presiding judge, ~~upon such~~  
95 ~~certificate,~~ shall appoint a disinterested ~~person individual~~  
96 practicing in the county, ~~and~~ and learned in the law to act as  
97 special judge of the probate court of the county; ~~and the~~ .  
98 The special judge ~~in relation appointed~~ to such ~~single the~~  
99 case or proceeding shall have the jurisdiction and authority,  
100 and discharge the duties of judge of probate, and the  
101 judgments, orders, and decrees made or rendered by him or her  
102 shall be entered on the records of the court, and shall have  
103 the force and effect, and shall be subject to revision or  
104 appeal, or by other revisory remedy, of judgments, orders, and  
105 decrees of the court of probate or the judge thereof; ~~and the~~  
106 . The special judge of probate shall not be required to give  
107 bond, nor shall the regularly elected judge of probate or his  
108 or her surety on his or her bond be responsible for any of the  
109 acts or decisions of the special probate judge.

110 (d) ~~In any single case or proceeding any~~ Any attorney  
111 acting as special probate judge ~~on the hearing and trial of~~  
112 ~~any case which the judge of probate is incompetent for any~~



## HB576 INTRODUCED

113 ~~legal cause or disqualified from acting~~ pursuant to  
114 subdivision (c) shall receive as compensation for his or her  
115 services the sum of fifty dollars (\$50) per day for each day  
116 he or she is actually engaged in holding ~~such~~ court, to be  
117 paid in the same manner as the judge of probate.

118 (e) No provision of this section shall be construed as  
119 a limitation of the powers or authority of the chief clerk as  
120 provided in ~~Title 13 Section 300 of the 1940 Code of Alabama,~~  
121 ~~as amended~~ Section 12-13-14."

122 Section 2. This act shall become effective on June 1,  
123 2026.