

SB343 INTRODUCED



1 SB343
2 7BCU92V-1
3 By Senators Sessions, Williams, Figures (N & P)
4 RFD: Mobile County Legislation
5 First Read: 05-Mar-26



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,~~



SB343 INTRODUCED

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

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

(3) All temporary judges of probate shall have the



SB343 INTRODUCED

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

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



SB343 INTRODUCED

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

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

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



SB343 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.