

**HB576 ENROLLED**



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



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1 Enrolled, An Act,

2

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

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 "§45-49-85.42

9 (a) (1) If the regularly elected Judge of Probate of  
10 Mobile County is incompetent from any legal cause,  
11 incapacitated, absent or will be absent from sickness, or  
12 otherwise disqualified from acting as judge, the judge of  
13 probate or the chief clerk shall certify the fact of  
14 incompetency, incapacity, absence, sickness, or  
15 disqualification to the presiding judge of the circuit court  
16 of the county, and the presiding judge of the circuit court,  
17 upon that certificate, shall appoint ~~a person~~ an individual  
18 learned in the law, practicing and residing in the county, to  
19 act as temporary judge of probate. At any time when the  
20 regularly elected judge of probate of the county files a  
21 certificate in the office of the circuit clerk of the county  
22 that he or she is no longer incompetent, ~~from any legal cause,~~  
23 ~~incapacitated, absent, absent from sickness, or otherwise~~  
24 ~~disqualified from acting as judge,~~ then the regularly elected  
25 judge of probate of the county shall ~~forthwith~~ immediately  
26 resume the office, duties, authority, and jurisdiction, and  
27 all the authority and jurisdiction of the temporary judge of  
28 probate of the county appointed by the presiding judge of the



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29 circuit court of the county shall immediately terminate.

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

50 (3) All temporary judges of probate shall have the  
51 jurisdiction and authority and discharge the duties of the  
52 judge of probate, and the judgments, orders, and decrees made  
53 or rendered by any of them shall be entered on the records of  
54 the probate court, and shall have the force and effect, and  
55 shall be subject to revision or appeal or by other revisory  
56 remedy, of judgments, orders, and decrees of the probate court



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57 or of the judge of probate. Neither the regularly elected  
58 judge of probate of the county, nor the surety on his or her  
59 bond, shall be responsible for any of the acts or decisions  
60 made by any temporary judge of probate, failure to act or  
61 report by any temporary judge of probate, or any of the acts  
62 or failure to act of any employee in the probate court during  
63 the tenure of any temporary judge of probate.

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

81 (c) If, in any single case or proceeding arising in the  
82 probate court of the county, or in reference to which the  
83 judge ~~thereof~~ of probate is required to exercise jurisdiction  
84 or authority, and the judge of probate shall ~~is~~ for any legal



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

104 (d) ~~In any single case or proceeding any~~ Any attorney  
105 acting as special probate judge ~~on the hearing and trial of~~  
106 ~~any case which the judge of probate is incompetent for any~~  
107 ~~legal cause or disqualified from acting pursuant to~~  
108 subdivision (c) shall receive as compensation for his or her  
109 services the sum of fifty dollars (\$50) per day for each day  
110 he or she is actually engaged in holding ~~such~~ court, to be  
111 paid in the same manner as the judge of probate.

112 (e) No provision of this section shall be construed as



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113 a limitation of the powers or authority of the chief clerk as  
114 provided in ~~Title 13 Section 300 of the 1940 Code of Alabama,~~  
115 ~~as amended~~Section 12-13-14."

116 Section 2. This act shall become effective on June 1,  
117 2026.

