

SB343 ENROLLED



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



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1 Enrolled, An Act,

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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.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB343
Senate 11-Mar-26
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 31-Mar-26

By: Senator Sessions