

By: Talton

H.B. No. 445

Substitute the following for H.B. No. 445:

By: Hartnett

C.S.H.B. No. 445

A BILL TO BE ENTITLED

AN ACT

relating to the filing of a recusal motion in a proceeding involving a temporary guardianship.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 875(f), Texas Probate Code, is amended by amending Subdivision (1) and adding Subdivision (7) to read as follows:

(1) A hearing shall be held not later than the 10th day after the date of the filing of the application for temporary guardianship unless the hearing date is extended as provided by Subdivision (2) of this subsection or is tolled as provided by Subdivision (7) of this subsection. At a hearing under this section, the respondent has the right to:

(A) receive prior notice;

(B) have representation by counsel;

(C) be present;

(D) present evidence and confront and cross-examine witnesses; and

(E) a closed hearing if requested by the respondent or the respondent's attorney.

(7) The filing of a motion for the recusal of a judge in a temporary guardianship proceeding tolls the 10-day period prescribed by Subdivision (1) of this section until the date on which the order on the recusal motion is rendered.

1 SECTION 2. Section 875, Texas Probate Code, is amended by
2 amending Subsection (h) and adding Subsection (l) to read as
3 follows:

4 (h) Except as provided by Subsection (k) or (l) of this
5 section, a temporary guardianship may not remain in effect for more
6 than 60 days.

7 (l) The filing of a recusal motion tolls the 60-day period
8 prescribed by Subsection (h) of this section until the date on which
9 the order on the recusal motion is rendered.

10 SECTION 3. The changes in law made by this Act to Section
11 875, Texas Probate Code, apply only to an application for the
12 appointment of a temporary guardian filed on or after the effective
13 date of this Act. An application for the appointment of a temporary
14 guardian filed before the effective date of this Act is governed by
15 the law in effect on the date on which the application was filed,
16 and the former law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2003.