

By: Talton

H.B. No. 680

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a motion for recusal or disqualification of a statutory  
3 probate court judge.

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

5 SECTION 1. Section 25.00255, Government Code, is amended by  
6 amending Subsections (i), (j), and (k), and adding Subsections (l),  
7 (m), and (n) to read as follows:

8 (i) After receiving a request under Subsection (g) or (h),  
9 the presiding judge of the statutory probate courts shall:

10 (1) immediately set a hearing before the presiding  
11 judge [himself] or a judge designated by the presiding judge on a  
12 date not later than the 14th day after the date the motion for  
13 recusal or disqualification was filed; or

14 (2) request that the presiding judge of the  
15 administrative judicial region in which the statutory probate court  
16 is located designate the judge of a county court or statutory court  
17 with probate jurisdiction to hear the motion in the period  
18 prescribed by Subdivision (1), if no statutory probate judge is  
19 available to hear the motion in that period.

20 (j) The presiding judge of the statutory probate courts or  
21 of the administrative judicial region, as appropriate, shall:

22 (1) [+2] ~~(2)~~ cause notice of the hearing to be given to  
23 all parties or their counsel to the case not later than the third  
24 day before the date on which the hearing is set; and

1           (2) [~~(3)~~] make other orders, including orders for  
2 interim or ancillary relief, in the pending case.

3           (k) The judge assigned to hear a motion for recusal or  
4 disqualification under this section shall conduct the hearing and  
5 render an order on the motion. The judge may not dismiss the motion  
6 sua sponte.

7           (l) The judge, other than the presiding judge of the  
8 statutory probate courts, who hears the motion for recusal or  
9 disqualification shall immediately forward a copy of the signed  
10 order on the motion to the presiding judge of the statutory probate  
11 courts. The judge of a county court or statutory court who hears  
12 the motion shall also immediately forward a copy of the signed order  
13 to the presiding judge of the administrative judicial region.

14           (m) [~~(j)~~] After a statutory probate court has rendered the  
15 final judgment in a case, a party may appeal an order that denies a  
16 motion for recusal or disqualification as an abuse of the court's  
17 discretion. A party may not appeal an order that grants a motion  
18 for recusal or disqualification.

19           (n) [~~(k)~~] A party may file a motion for sanctions alleging  
20 that another party in the case filed a motion for the recusal or  
21 disqualification of a judge solely to delay the case and without  
22 sufficient cause. The presiding judge of the statutory probate  
23 courts or of the administrative judicial region or the judge  
24 assigned by either [~~the~~] presiding judge to hear the motion for  
25 recusal may approve a motion for sanctions authorized by Rule  
26 215.2(b), Texas Rules of Civil Procedure.

27           SECTION 2. Section 25.00255, Government Code, as amended by

1 this Act, applies to a motion for recusal or disqualification of a  
2 statutory probate court judge filed on or after September 1, 2003.  
3 A motion for recusal or disqualification of a judge filed before  
4 September 1, 2003, is governed by the law in effect on the date the  
5 motion was filed, and the former law is continued in effect for that  
6 purpose.

7 SECTION 3. This Act takes effect September 1, 2003.