

By: Wentworth

S.B. No. 406

A BILL TO BE ENTITLED

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AN ACT

relating to the assignment of a judge to hear a motion for the
recusal or disqualification of a statutory probate court judge.

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

SECTION 1. Subsections (f), (g), (i), and (k), Section
25.00255, Government Code, are amended to read as follows:

(f) Before further proceedings in a case in which a motion
for the recusal or disqualification of a judge has been filed, the
judge shall:

(1) recuse himself or herself; or

(2) request the assignment of [~~that the presiding
judge of the statutory probate courts assign~~] a judge to hear the
motion by forwarding the motion and opposing and concurring
statements to the presiding judge of the statutory probate courts
as provided by Subsection (h).

(g) A judge who recuses himself or herself:

(1) shall enter an order of recusal and request that
the presiding judge of the statutory probate courts request the
assignment of [~~assign~~] a judge to hear the motion for recusal or
disqualification as provided by Subsection (i); and

(2) may not take other action in the case except for
good cause stated in the order in which the action is taken.

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

1 immediately forward the request to the presiding judge of the
2 administrative judicial district and request that the presiding
3 judge of the administrative judicial district assign a judge to
4 hear the motion for recusal or disqualification. On receipt of the
5 request, the presiding judge of the administrative judicial
6 district shall:

7 (1) immediately set a hearing before himself or
8 herself or a judge designated by the presiding judge, except that
9 the presiding judge may not designate a judge of a statutory probate
10 court in the same county as the statutory probate court served by
11 the judge who is the subject of the motion;

12 (2) cause notice of the hearing to be given to all
13 parties or their counsel to the case; and

14 (3) make other orders, including orders for interim or
15 ancillary relief, in the pending case.

16 (k) A party may file a motion for sanctions alleging that
17 another party in the case filed a motion for the recusal or
18 disqualification of a judge solely to delay the case and without
19 sufficient cause. The presiding judge of the administrative
20 judicial district or the judge assigned [~~by the presiding judge~~] to
21 hear the motion for recusal may approve a motion for sanctions
22 authorized by Rule 215.2(b), Texas Rules of Civil Procedure.

23 SECTION 2. Section 25.00255, Government Code, as amended by
24 this Act, applies only to a motion for recusal or disqualification
25 of a judge that is filed on or after the effective date of this Act.
26 A motion for recusal or disqualification of a judge filed before the
27 effective date of this Act is governed by the law in effect on the

1 date the motion was filed, and the former law is continued in effect
2 for that purpose.

3 SECTION 3. This Act takes effect September 1, 2007.