1   AN ACT

2   relating to a motion for the recusal or disqualification of a

3   statutory probate court judge.

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

5   SECTION 1. Subsections (f), (g), (i), and (k), Section

6   25.00255, Government Code, are amended to read as follows:

7   (f) Before further proceedings in a case in which a motion

8   for the recusal or disqualification of a judge has been filed, the

9   judge shall:

10   (1) recuse himself or herself; or

11   (2) request the assignment of [that the presiding

12   judge of the statutory probate courts assign] a judge to hear the

13   motion by forwarding the motion and opposing and concurring

14   statements to the presiding judge of the statutory probate courts

15   as provided by Subsection (h).

16   (g) A judge who recuses himself or herself:

17   (1) shall enter an order of recusal and request that

18   the presiding judge of the statutory probate courts request the

19   assignment of [assign] a judge to hear the motion for recusal or

20   disqualification as provided by Subsection (i); and

21   (2) may not take other action in the case except for

22   good cause stated in the order in which the action is taken.

23   (i) After receiving a request under Subsection (g) or (h),

24   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. Subchapter B, Chapter 25, Government Code, is

24 amended by adding Section 25.00256 to read as follows:

25   Sec. 25.00256. TERTIARY RECUSAL MOTION AGAINST JUDGE.

26 (a) In this section, "tertiary recusal motion" means a third or

27 subsequent motion for recusal or disqualification filed in a case

1 against any statutory probate court judge by the same party. The

2 term includes any third or subsequent motion filed in the case by

3 the same party, regardless of whether that motion is filed against a

4 different judge than the judge or judges against whom the previous

5 motions for recusal or disqualification were filed.

6   (b) A judge who declines recusal after a tertiary recusal

7 motion is filed shall comply with applicable rules of procedure for

8 recusal and disqualification except that the judge shall continue

9 to:

10   (1) preside over the case;

11   (2) sign orders in the case; and

12   (3) move the case to final disposition as though a

13 tertiary recusal motion had not been filed.

14   (c) A judge hearing a tertiary recusal motion against

15 another judge who denies the motion shall award reasonable and

16 necessary attorney's fees and costs to the party opposing the

17 motion. The party making the motion and the attorney for the party

18 are jointly and severally liable for the award of fees and costs.

19 The fees and costs must be paid before the 31st day after the date

20 the order denying the tertiary recusal motion is rendered unless

21 the order is properly superseded.

22   (d) The denial of a tertiary recusal motion is only

23 reviewable on appeal from final judgment.

24   (e) If a tertiary recusal motion is finally sustained, the

25 new judge for the case shall vacate all orders signed by the sitting

26 judge during the pendency of the tertiary recusal motion.

27 SECTION 3. Subsection (a), Section 30.016, Civil Practice

1   and Remedies Code, is amended to read as follows:

2   (a)   In this section, "tertiary recusal motion" means a third

3   or subsequent motion for recusal or disqualification filed against

4   a district court[, statutory probate court,] or statutory county

5   court judge by the same party in a case.

6   SECTION 4.   The changes in law made by this Act apply only to

7   a motion for recusal or disqualification of a judge that is filed on

8   or after the effective date of this Act.   A motion for recusal or

9   disqualification of a judge filed before the effective date of this

10   Act is governed by the law in effect on the date the motion was

11   filed, and the former law is continued in effect for that purpose.

12   SECTION 5.   This Act takes effect September 1, 2007.

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      President of the Senate   Speaker of the House

      I hereby certify that S.B. No. 406 passed the Senate on March 28, 2007, by the following vote: Yeas 30, Nays 0; May 24, 2007, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

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                        Secretary of the Senate

      I hereby certify that S.B. No. 406 passed the House, with amendment, on May 23, 2007, by the following vote: Yeas 144, Nays 0, two present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 28, 2007, House adopted Conference Committee Report by the following vote: Yeas 141, Nays 0, two present not voting.

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                        Chief Clerk of the House

Approved:

_____
      Date

_____
      Governor