

By: Wentworth

S.B. No. 406

A BILL TO BE ENTITLED

1 AN ACT

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

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

5 SECTION 1. Sections 25.00255(f), (g), (i), and (k),
6 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. 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.