

1-1 By: Wentworth S.B. No. 406  
1-2 (In the Senate - Filed February 1, 2007; February 21, 2007,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 March 12, 2007, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; March 12, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the assignment of a judge to hear a motion for the  
1-9 recusal or disqualification of a statutory probate court judge.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (f), (g), (i), and (k), Section  
1-12 25.00255, Government Code, are amended to read as follows:

1-13 (f) Before further proceedings in a case in which a motion  
1-14 for the recusal or disqualification of a judge has been filed, the  
1-15 judge shall:

1-16 (1) recuse himself or herself; or

1-17 (2) request the assignment of ~~[that the presiding~~  
1-18 ~~judge of the statutory probate courts assign]~~ a judge to hear the  
1-19 motion by forwarding the motion and opposing and concurring  
1-20 statements to the presiding judge of the statutory probate courts  
1-21 as provided by Subsection (h).

1-22 (g) A judge who recuses himself or herself:

1-23 (1) shall enter an order of recusal and request that  
1-24 the presiding judge of the statutory probate courts request the  
1-25 assignment of ~~[assign]~~ a judge to hear the motion for recusal or  
1-26 disqualification as provided by Subsection (i); and

1-27 (2) may not take other action in the case except for  
1-28 good cause stated in the order in which the action is taken.

1-29 (i) After receiving a request under Subsection (g) or (h),  
1-30 the presiding judge of the statutory probate courts shall  
1-31 immediately forward the request to the presiding judge of the  
1-32 administrative judicial district and request that the presiding  
1-33 judge of the administrative judicial district assign a judge to  
1-34 hear the motion for recusal or disqualification. On receipt of the  
1-35 request, the presiding judge of the administrative judicial  
1-36 district shall:

1-37 (1) immediately set a hearing before himself or  
1-38 herself or a judge designated by the presiding judge, except that  
1-39 the presiding judge may not designate a judge of a statutory probate  
1-40 court in the same county as the statutory probate court served by  
1-41 the judge who is the subject of the motion;

1-42 (2) cause notice of the hearing to be given to all  
1-43 parties or their counsel to the case; and

1-44 (3) make other orders, including orders for interim or  
1-45 ancillary relief, in the pending case.

1-46 (k) A party may file a motion for sanctions alleging that  
1-47 another party in the case filed a motion for the recusal or  
1-48 disqualification of a judge solely to delay the case and without  
1-49 sufficient cause. The presiding judge of the administrative  
1-50 judicial district or the judge assigned ~~[by the presiding judge]~~ to  
1-51 hear the motion for recusal may approve a motion for sanctions  
1-52 authorized by Rule 215.2(b), Texas Rules of Civil Procedure.

1-53 SECTION 2. Section 25.00255, Government Code, as amended by  
1-54 this Act, applies only to a motion for recusal or disqualification  
1-55 of a judge that is filed on or after the effective date of this Act.  
1-56 A motion for recusal or disqualification of a judge filed before the  
1-57 effective date of this Act is governed by the law in effect on the  
1-58 date the motion was filed, and the former law is continued in effect  
1-59 for that purpose.

1-60 SECTION 3. This Act takes effect September 1, 2007.

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