

By: Wentworth

S.B. No. 683

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the recusal or disqualification of a statutory probate
3 court judge and subsequent assignment of another judge.

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

5 SECTION 1. Subsection (h), Section 25.0022, Government
6 Code, is amended to read as follows:

7 (h) Subject to Section 25.002201, a [A] judge or a former or
8 retired judge of a statutory probate court may be assigned by the
9 presiding judge of the statutory probate courts to hold court in a
10 statutory probate court, a county court, or any statutory court
11 exercising probate jurisdiction when:

12 (1) a statutory probate judge requests assignment of
13 another judge to the judge's court;

14 (2) a statutory probate judge is absent, disabled, or
15 disqualified for any reason;

16 (3) a statutory probate judge is present or is trying
17 cases as authorized by the constitution and laws of this state and
18 the condition of the court's docket makes it necessary to appoint an
19 additional judge;

20 (4) the office of a statutory probate judge is vacant;

21 (5) the presiding judge of an administrative judicial
22 district requests the assignment of a statutory probate judge to
23 hear a probate matter in a county court or statutory county court;

24 (6) ~~[a motion to recuse the judge of a statutory~~

1 ~~probate court has been filed,~~

2 ~~[(7)]~~ a county court judge requests the assignment of
3 a statutory probate judge to hear a probate matter in the county
4 court; or

5 (7) ~~[(8)]~~ a local administrative statutory probate
6 court judge requests the assignment of a statutory probate judge to
7 hear a matter in a statutory probate court.

8 SECTION 2. Subchapter B, Chapter 25, Government Code, is
9 amended by adding Section 25.002201 to read as follows:

10 Sec. 25.002201. ASSIGNMENT OF JUDGE ON RECUSAL OR
11 DISQUALIFICATION. (a) A judge or a former or retired judge of a
12 statutory probate court may be assigned by the presiding judge of
13 the administrative judicial district under Section 25.00255 to hold
14 court in a statutory probate court if the judge of the statutory
15 probate court recuses himself or herself, or a motion for the
16 recusal or disqualification of the judge is granted.

17 (b) The presiding judge of the statutory probate courts may
18 not assign a judge to hold court under the circumstances described
19 by Subsection (a).

20 (c) The provisions of Section 25.0022 applicable to a judge
21 assigned under that section apply to the same extent to a judge
22 assigned under this section.

23 SECTION 3. Section 25.00255, Government Code, is amended by
24 amending Subsections (g) and (i) and adding Subsection (i-1) to
25 read as follows:

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

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

1 the presiding judge of the administrative judicial district assign
2 ~~[statutory probate courts request the assignment of]~~ a judge under
3 Section 25.002201 to hear the case ~~[motion for recusal or~~
4 ~~disqualification as provided by Subsection (i)]~~; and

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

7 (i) After receiving a request under Subsection ~~[(g) or]~~ (h),
8 the presiding judge of the statutory probate courts shall
9 immediately forward the request to the presiding judge of the
10 administrative judicial district and request that the presiding
11 judge of the administrative judicial district assign a judge to
12 hear the motion for recusal or disqualification. On receipt of the
13 request, the presiding judge of the administrative judicial
14 district shall:

15 (1) immediately set a hearing before himself or
16 herself or a judge designated by the presiding judge, except that
17 the presiding judge may not designate a judge of a statutory probate
18 court in the same county as the statutory probate court served by
19 the judge who is the subject of the motion;

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

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

24 (i-1) If, after a hearing required by Subsection (i), the
25 motion for recusal or disqualification is granted, the judge who
26 heard the motion shall inform the presiding judge of the
27 administrative judicial district of that fact, and that presiding

1 judge shall assign a judge under Section 25.002201 to hear the case.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2009.