

1-1 By: Wentworth S.B. No. 683
1-2 (In the Senate - Filed February 5, 2009; February 23, 2009,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 9, 2009, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; March 9, 2009, sent to printer.)

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

1-8 relating to the recusal or disqualification of a statutory probate
1-9 court judge and subsequent assignment of another judge.

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

1-11 SECTION 1. Subsection (h), Section 25.0022, Government
1-12 Code, is amended to read as follows:

1-13 (h) Subject to Section 25.002201, a [A] judge or a former or
1-14 retired judge of a statutory probate court may be assigned by the
1-15 presiding judge of the statutory probate courts to hold court in a
1-16 statutory probate court, a county court, or any statutory court
1-17 exercising probate jurisdiction when:

1-18 (1) a statutory probate judge requests assignment of
1-19 another judge to the judge's court;

1-20 (2) a statutory probate judge is absent, disabled, or
1-21 disqualified for any reason;

1-22 (3) a statutory probate judge is present or is trying
1-23 cases as authorized by the constitution and laws of this state and
1-24 the condition of the court's docket makes it necessary to appoint an
1-25 additional judge;

1-26 (4) the office of a statutory probate judge is vacant;

1-27 (5) the presiding judge of an administrative judicial
1-28 district requests the assignment of a statutory probate judge to
1-29 hear a probate matter in a county court or statutory county court;

1-30 (6) ~~[a motion to recuse the judge of a statutory~~
1-31 ~~probate court has been filed,~~

1-32 ~~[(7)]~~ a county court judge requests the assignment of
1-33 a statutory probate judge to hear a probate matter in the county
1-34 court; or

1-35 ~~[(7)] [(8)]~~ a local administrative statutory probate
1-36 court judge requests the assignment of a statutory probate judge to
1-37 hear a matter in a statutory probate court.

1-38 SECTION 2. Subchapter B, Chapter 25, Government Code, is
1-39 amended by adding Section 25.002201 to read as follows:

1-40 Sec. 25.002201. ASSIGNMENT OF JUDGE ON RECUSAL OR
1-41 DISQUALIFICATION. (a) A judge or a former or retired judge of a
1-42 statutory probate court may be assigned by the presiding judge of
1-43 the administrative judicial district under Section 25.00255 to hold
1-44 court in a statutory probate court if the judge of the statutory
1-45 probate court recuses himself or herself, or a motion for the
1-46 recusal or disqualification of the judge is granted.

1-47 (b) The presiding judge of the statutory probate courts may
1-48 not assign a judge to hold court under the circumstances described
1-49 by Subsection (a).

1-50 (c) The provisions of Section 25.0022 applicable to a judge
1-51 assigned under that section apply to the same extent to a judge
1-52 assigned under this section.

1-53 SECTION 3. Section 25.00255, Government Code, is amended by
1-54 amending Subsections (g) and (i) and adding Subsection (i-1) to
1-55 read as follows:

1-56 (g) A judge who recuses himself or herself:

1-57 (1) shall enter an order of recusal and request that
1-58 the presiding judge of the administrative judicial district assign
1-59 [statutory probate courts request the assignment of] a judge under
1-60 Section 25.002201 to hear the case [motion for recusal or
1-61 disqualification as provided by Subsection (i)]; and

1-62 (2) may not take other action in the case except for
1-63 good cause stated in the order in which the action is taken.

1-64 (i) After receiving a request under Subsection ~~[(g) or]~~ (h),

the presiding judge of the statutory probate courts shall immediately forward the request to the presiding judge of the administrative judicial district and request that the presiding judge of the administrative judicial district assign a judge to hear the motion for recusal or disqualification. On receipt of the request, the presiding judge of the administrative judicial district shall:

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

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

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

(i-1) If, after a hearing required by Subsection (i), the motion for recusal or disqualification is granted, the judge who heard the motion shall inform the presiding judge of the administrative judicial district of that fact, and that presiding judge shall assign a judge under Section 25.002201 to hear the case.

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

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