

AN ACT

relating to certain appeals from judgments of municipal courts of record and to the recusal or disqualification of municipal judges.

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

SECTION 1. Article 4.03, Code of Criminal Procedure, is amended to read as follows:

Art. 4.03. COURTS OF APPEALS. The Courts of Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed or affirmed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

SECTION 2. Chapter 29, Government Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. RECUSAL OR DISQUALIFICATION OF MUNICIPAL JUDGES

Sec. 29.051. DEFINITIONS. In this chapter:

(1) "Active judge" means a person who holds office as a district court judge or statutory county court judge.

(2) "Presiding judge" means the presiding judge of a

1 municipal court, including a municipal court of record.

2 (3) "Regional presiding judge" means the presiding
3 judge of the administrative judicial region appointed under Section
4 74.005.

5 Sec. 29.052. MOTION FOR RECUSAL OR DISQUALIFICATION.

6 (a) A party in a hearing or trial in a municipal court, including a
7 municipal court of record, may file with the clerk of the court a
8 motion stating grounds for the recusal or disqualification of the
9 municipal judge. The grounds may include any disability of the
10 judge to preside over the case.

11 (b) A motion for the recusal or disqualification of a
12 municipal judge must:

13 (1) be filed at least 10 days before the date of the
14 hearing or trial, except as provided by Subsection (c);

15 (2) be verified; and

16 (3) state with particularity the alleged grounds for
17 recusal or disqualification of the judge based on:

18 (A) personal knowledge that is supported by
19 admissible evidence; or

20 (B) specifically stated grounds for belief of the
21 allegations.

22 (c) A motion for recusal or disqualification must be filed
23 at the earliest practicable time before the beginning of the trial
24 or other hearing if a judge is assigned to a case 10 or fewer days
25 before the date set for a trial or hearing.

26 Sec. 29.053. NOTICE. A party filing a motion for recusal or
27 disqualification under this subchapter shall serve on all other

1 parties or their counsel:

2 (1) copies of the motion; and

3 (2) notice that the movant expects the motion to be
4 presented to the judge three days after the filing of the motion
5 unless the judge orders otherwise.

6 Sec. 29.054. STATEMENT OPPOSING OR CONCURRING WITH MOTION.

7 A party may file with the clerk of the court a statement opposing or
8 concurring with a motion for recusal or disqualification at any
9 time before the motion is heard.

10 Sec. 29.055. PROCEDURE FOLLOWING FILING OF MOTION; RECUSAL

11 OR DISQUALIFICATION WITHOUT MOTION. (a) Before further
12 proceedings in a case in which a motion for the recusal or
13 disqualification of a municipal judge has been filed, the judge
14 shall:

15 (1) recuse or disqualify himself or herself; or

16 (2) request the regional presiding judge to assign a
17 judge to hear the motion.

18 (b) A municipal judge who with or without a motion recuses
19 or disqualifies himself or herself:

20 (1) shall enter an order of recusal or
21 disqualification and:

22 (A) if the municipal judge is not the presiding
23 judge, request the presiding judge to assign any other judge of the
24 municipal court, including the presiding judge, to hear the case;

25 (B) if the municipal judge is the presiding
26 judge, request the regional presiding judge to assign another judge
27 of the municipal court to hear the case; or

1 (C) if the municipal judge serves in a
2 municipality with only one municipal judge, request the regional
3 presiding judge to assign a judge of another municipal court in the
4 county to hear the case; and

5 (2) may not take other action in the case, except that
6 a judge who recuses himself or herself for good cause may take other
7 action as stated in the order in which the action is taken.

8 (c) A municipal judge who does not recuse or disqualify
9 himself or herself:

10 (1) shall forward, in original form or certified copy,
11 an order of referral, the motion, and all opposing and concurring
12 statements to the regional presiding judge; and

13 (2) may not take other action in the case during the
14 time after the filing of the motion for recusal or disqualification
15 and before a hearing on the motion, except for good cause stated in
16 the order in which the action is taken.

17 Sec. 29.056. HEARING ON MOTION. (a) A regional presiding
18 judge who receives a request for the assignment of a judge to hear a
19 motion to recuse or disqualify shall:

20 (1) immediately set a hearing before the regional
21 presiding judge, an active judge, or a judge on the list of judges
22 who are eligible to serve on assignment under Section 74.055;

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

25 (3) make any other orders, including orders on interim
26 or ancillary relief in the pending cause as justice may require.

27 (b) A judge who hears a motion for recusal or

1 disqualification under Subsection (a) may also hear any amended or
2 supplemented motion for recusal or disqualification filed in the
3 case.

4 (c) If none of the parties to an action object, a hearing
5 under Subsection (a) or (b) may be conducted by telephone.

6 Sec. 29.057. PROCEDURE FOLLOWING GRANTING OF MOTION.

7 (a) If a motion for recusal or disqualification is granted after a
8 hearing is conducted as provided by Section 29.056, the judge who
9 heard the motion shall enter an order of recusal or
10 disqualification, and:

11 (1) if the judge who was the subject of the motion is
12 not the presiding judge, request that the presiding judge assign
13 any other judge of the municipality, including the presiding judge,
14 to hear the case;

15 (2) if the judge who was the subject of the motion is
16 the presiding judge, request the regional presiding judge to assign
17 another judge of the municipality to hear the case; or

18 (3) if the judge subject to recusal or
19 disqualification is located in a municipality with only one
20 municipal judge, request the regional presiding judge to assign a
21 judge of another municipal court in the county to hear the case.

22 (b) If the presiding judge is unable to assign a judge of the
23 municipality to hear a case when a municipal judge is recused or
24 disqualified under Section 29.055 or 29.056 because there are not
25 any other municipal judges in the municipality or because all the
26 municipal judges have been recused or disqualified or are otherwise
27 unavailable to hear the case, the presiding judge shall request the

1 regional presiding judge to first assign a municipal judge from
2 another municipality in the county or, if necessary, assign a
3 municipal judge from a municipality in an adjacent county to hear
4 the case.

5 (c) If the regional presiding judge is unable to assign a
6 judge to hear a case when a municipal judge is recused or
7 disqualified under Section 29.055 or 29.056 because there are not
8 any other municipal judges in the county or because all the
9 municipal judges have been recused or disqualified or are otherwise
10 unavailable to hear the case, the regional presiding judge may
11 assign a municipal judge from a municipality in an adjacent county
12 to hear the case.

13 Sec. 29.058. APPEAL. (a) After a municipal court of
14 record has rendered a final judgment in a case, a party may appeal
15 an order that denies a motion for recusal or disqualification as an
16 abuse of the court's discretion.

17 (b) A party may not appeal an order that grants a motion for
18 recusal or disqualification.

19 Sec. 29.059. CONTEMPT. If a party files a motion to recuse
20 or disqualify under this subchapter and it is determined by the
21 judge hearing the motion, at the hearing and on motion of the
22 opposing party, that the motion to recuse or disqualify is brought
23 solely for the purpose of delay and without sufficient cause, the
24 judge may in the interest of justice find the party filing the
25 motion in contempt under Section 21.002(c).

26 Sec. 29.060. COMPENSATION. (a) An active judge who is
27 assigned to hear a motion to recuse or disqualify a municipal judge

1 under this subchapter is not entitled to additional compensation
2 other than travel expenses. A judge assigned to hear a motion to
3 recuse or disqualify who is not an active judge is entitled to:

4 (1) compensation of \$450 per day of service, prorated
5 for any day for which the judge provides less than a full day of
6 service; and

7 (2) travel expenses.

8 (b) A municipal judge assigned under this subchapter to hear
9 a case in a court other than the one in which the judge resides or
10 serves is entitled to compensation provided by law for judges in
11 similar cases and travel expenses.

12 (c) The municipality in which a case subject to this
13 subchapter is pending shall pay the compensation and travel
14 expenses due or incurred under this subchapter.

15 SECTION 3. Subchapter A, Chapter 29, Government Code, is
16 amended by adding Section 29.013 to read as follows:

17 Sec. 29.013. REPORT TO TEXAS JUDICIAL COUNCIL. (a) The
18 secretary of the municipality in a municipality with a municipal
19 court, including a municipal court of record, or the employee
20 responsible for maintaining the records of the municipality's
21 governing body shall notify the Texas Judicial Council of the name
22 of:

23 (1) each person who is elected or appointed as mayor,
24 municipal court judge, or clerk of a municipal court; and

25 (2) each person who vacates an office described by
26 Subdivision (1).

27 (b) The secretary or employee shall notify the judicial

1 council not later than the 30th day after the date of the person's
2 election or appointment to office or vacancy from office.

3 SECTION 4. Subsection (a), Section 30.00027, Government
4 Code, is amended to read as follows:

5 (a) The appellant has the right to appeal to the court of
6 appeals if:

7 (1) the fine assessed against the defendant exceeds
8 \$100 and ~~if~~ the judgment is affirmed by the appellate court; or

9 (2) the sole issue is the constitutionality of the
10 statute or ordinance on which a conviction is based.

11 SECTION 5. The following sections are repealed:

12 (1) Section 29.012, Government Code; and

13 (2) Subsection (c), Section 22.073, Local Government
14 Code.

15 SECTION 6. The changes in law made by this Act to Article
16 4.03, Code of Criminal Procedure, and Section 30.00027, Government
17 Code, apply to an appeal pending or filed on or after the effective
18 date of this Act, regardless of the date the judgment being appealed
19 was entered.

20 SECTION 7. Subchapter A-1, Chapter 29, Government Code, as
21 added by this Act, applies only to a hearing or trial initially
22 filed in a municipal court on or after the effective date of this
23 Act.

24 SECTION 8. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 480 passed the Senate on March 31, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 480 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor