

BILL ANALYSIS

C.S.H.B. 3669
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Rules of Civil Procedure set out procedures governing the recusal and disqualification of district and county judges other than statutory probate court judges, and interested parties suggest that statutory provisions relating to the recusal and disqualification of statutory probate court judges should be updated to conform to those procedures. In addition, there is concern that the involvement of both the presiding judge of the administrative judicial district and the presiding judge of the statutory probate courts in the current process for assigning judges to replace statutory probate court judges who have been recused or disqualified results in unnecessary delays. C.S.H.B. 3669 seeks to amend the process for recusal or disqualification of statutory probate court judges to be consistent with the rules of civil procedure and to amend the process for assigning replacement judges to increase efficiency.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3669 amends the Government Code to remove and repeal statutory provisions relating to the procedure for filing and hearing a motion to recuse or disqualify a statutory probate court judge. The bill instead establishes that Texas Rules of Civil Procedure governing the recusal and disqualification of district and county court judges and the grounds for such recusal or disqualification apply to the recusal and disqualification of a statutory probate court judge except as otherwise provided by the bill or another general provision relating to statutory probate courts. The bill grants the presiding judge of the statutory probate courts the authority to perform the functions and duties of the presiding judge of the administrative judicial region under the rules, including the duty to hear or rule on a referred motion of recusal or disqualification or, subject to certain conditions, to assign a judge to hear and rule on a referred motion of recusal or disqualification. The bill requires the presiding judge of the statutory probate courts to perform those functions and duties. The bill authorizes the presiding judge of the statutory probate courts to assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification only with the consent of the presiding judge of the administrative judicial region. The bill prohibits the presiding judge of the statutory probate courts from assigning a judge of a statutory probate court located in the same county as the statutory probate court served by the judge who is the subject of the motion of recusal or disqualification.

C.S.H.B. 3669 authorizes the judge who hears a motion of recusal or disqualification of a statutory probate court judge, after notice and hearing, to order the party or attorney who filed the motion, or both, to pay the reasonable attorney's fees and expenses incurred by another party, if the judge determines that the motion was groundless and filed in bad faith or for the purpose of harassment or was clearly brought for unnecessary delay and without sufficient cause, and to enjoin the movant from filing other recusal motions in the case without the prior written consent

of the presiding judge of the statutory probate courts.

C.S.H.B. 3669 requires a judge who recuses himself or herself and serves a statutory probate court located in a county with only one such court to request that the presiding judge of the statutory probate courts, rather than the presiding judge of the administrative judicial district, assign a judge to hear the case. The bill specifies that for a judge who recuses himself or herself and serves a statutory probate court located in a county with more than one such court, the request for a clerk to randomly reassign the case to a judge of one of the other statutory probate courts located in the county is directed to the presiding judge of the statutory probate courts. The bill requires a judge who disqualifies himself or herself to request that the presiding judge of the statutory probate courts, rather than the presiding judge of the administrative judicial district, assign a judge to hear the case and limits that requirement to a judge who serves a statutory probate court located in a county with only one statutory probate court. The bill requires a judge who disqualifies himself or herself and serves a statutory probate court located in a county with more than one such court to request that the presiding judge of the statutory probate courts order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts.

C.S.H.B. 3669 requires the presiding judge of the statutory probate courts, if a motion for recusal or disqualification is granted, to transfer the case to another court or assign another judge to the case. The bill requires either the presiding judge or the judge assigned to decide the motion, rather than only the judge assigned to hear the motion, to enter an order of recusal or disqualification, as appropriate, and request the reassignment of the case. The bill requires a clerk of a statutory probate court who is unable to reassign a case as requested because the other statutory probate court judges in the county have been recused or disqualified or are otherwise unavailable to hear the case to immediately notify the presiding judge of the statutory probate courts, rather than the presiding judge of the administrative judicial district, and request that the presiding judge assign a judge to hear the case.

C.S.H.B. 3669 requires the presiding judge of the statutory probate courts, rather than the presiding judge of the administrative judicial district, to assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear a case not later than the 15th day after the date an order of recusal or disqualification of a statutory probate court judge is issued in the case under certain circumstances involving the recusal or disqualification of a judge that serves a statutory probate court located in a county with only one such court or if the presiding judge receives notice and a request for assignment from the clerk of the statutory probate court. The bill requires the chief justice of the supreme court, if the judge who is the subject of an order of recusal or disqualification is the presiding judge of the statutory probate courts, to assign a regional presiding judge, a statutory probate judge, or a former or retired judge of a statutory probate court to hear the case.

C.S.H.B. 3669 requires the presiding judge of the statutory probate courts to assign or order the clerk who serves the statutory probate courts to randomly assign a judge or former or retired judge of a statutory probate court to hear a case in which a statutory probate judge has been recused or disqualified, as applicable. The bill authorizes a judge or a former or retired judge of a statutory probate court to be assigned by the presiding judge of the statutory probate courts to hold court in a statutory probate court, a county court, or any statutory court exercising probate jurisdiction when the statutory probate judge is recused or disqualified in certain manners. The bill adds the recusal of a county judge, in addition to the absence, incapacitation, or disqualification of a county judge, to the circumstances that require a visiting judge to be assigned by the presiding judge of the statutory probate courts for a case involving probate, guardianship, or mental health matters.

C.S.H.B. 3669 repeals Sections 25.002201(c) and 25.00255(b), (c), (d), (e), (f), (h), (i), (i-4), and (j), Government Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3669 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 25.0022(d) and (h), Government Code, are amended to read as follows:

(d) The presiding judge shall:

(1) ensure the promulgation of local rules of administration in accordance with policies and guidelines set by the supreme court;

(2) advise local statutory probate court judges on case flow management practices and auxiliary court services;

(3) perform a duty of a local administrative statutory probate court judge if the local administrative judge does not perform that duty;

(4) appoint an assistant presiding judge of the statutory probate courts;

(5) call and preside over annual meetings of the judges of the statutory probate courts at a time and place in the state as designated by the presiding judge;

(6) call and convene other meetings of the judges of the statutory probate courts as considered necessary by the presiding judge to promote the orderly and efficient administration of justice in the statutory probate courts;

(7) study available statistics reflecting the condition of the dockets of the probate courts in the state to determine the need for the assignment of judges under this section;

(8) compare local rules of court to achieve uniformity of rules to the extent practical and consistent with local conditions; and

(9) assign or order the clerk who serves the statutory probate courts to randomly assign a judge or former or retired judge of a statutory probate court to hear a case under Section 25.002201(a) or 25.00255, as applicable [the circumstances described by Section 25.002201(b)].

(h) Subject to Section 25.002201, a judge or a former or retired judge of a statutory probate court may be assigned by the

presiding judge of the statutory probate courts to hold court in a statutory probate court, a county court, or any statutory court exercising probate jurisdiction when:

- (1) a statutory probate judge requests assignment of another judge to the judge's court;
- (2) a statutory probate judge is absent, disabled, or disqualified for any reason;
- (3) a statutory probate judge is present or is trying cases as authorized by the constitution and laws of this state and the condition of the court's docket makes it necessary to appoint an additional judge;
- (4) the office of a statutory probate judge is vacant;
- (5) the presiding judge of an administrative judicial district requests the assignment of a statutory probate judge to hear a probate matter in a county court or statutory county court;
- (6) the statutory probate [presiding] judge is [of the administrative judicial district fails to timely assign a judge to replace a] ~~recused or disqualified [statutory probate court judge]~~ as described by Section 25.002201(a) ~~[Section 25.002201(b)]~~;
- (7) a county court judge requests the assignment of a statutory probate judge to hear a probate matter in the county court; or
- (8) a local administrative statutory probate court judge requests the assignment of a statutory probate judge to hear a matter in a statutory probate court.

SECTION 1. Section 25.00255, Government Code, is amended to read as follows:

Sec. 25.00255. RECUSAL OR DISQUALIFICATION OF JUDGE.

SECTION 3. Section 25.00255, Government Code, is amended by amending Subsections (a), (g), (g-1), (i-2), (i-3), (i-5), and (l) and adding Subsection (a-1) to read as follows:

(a) Notwithstanding any conflicting provision in the Texas Rules of Civil Procedure, Rules 18a and 18b, Texas Rules of Civil Procedure, apply to the recusal and disqualification of a statutory probate court judge except as otherwise provided by this section or another provision of this subchapter. The presiding judge:
(1) has the authority and shall perform the functions and duties of the presiding judge of the administrative judicial region under the rules, including the duty to hear or rule on a referred motion of recusal or disqualification or, subject to Subdivisions (2) and (3) and to

Section 25.002201, assign a judge to hear and rule on a referred motion of recusal or disqualification;

(2) may assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification only with the consent of the presiding judge of the administrative judicial region; and

(3) may not assign a judge of a statutory probate court located in the same county as the statutory probate court served by the judge who is the subject of the motion of recusal or disqualification

(a) A party in a case [hearing or trial] in a statutory probate court may seek to recuse or disqualify a judge who is sitting in the case by filing a motion [file] with the clerk of the court in which the case is pending. The [a motion stating grounds for the recusal or disqualification of the judge. The grounds may include any disability of the judge to preside over the case.

[A party in a hearing or trial in a statutory probate court may file with the clerk of the court a motion stating grounds for the recusal or disqualification of the judge. The grounds may include any disability of the judge to preside over the case].

~~[(b) A] motion:~~

(See SECTION 5 below.)

(1) must [for the recusal or disqualification of a judge must:

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

(2) be verified;

(2) must assert one or more of the grounds listed in Rule 18b, Texas Rules of Civil Procedure;

(3) may not be based solely on the judge's ruling in the case; and

(4) must ~~[(3)]~~ state with detail and particularity facts that [the alleged grounds for recusal or disqualification of the judge based on]:

(A) are within the affiant's personal knowledge, except that facts may be stated on information and belief if the basis for the belief is specifically stated;

(B) would be [is supported by] admissible in evidence; and

(C) if proven, would be sufficient to justify recusal or disqualification [or

~~[(B) specifically stated grounds for belief of the allegations].~~

(b) ~~[(c)]~~ A motion to recuse or disqualify shall [for recusal or disqualification may] be filed as soon as [at the earliest]

(See SECTION 5 below.)

practicable after the movant knows of the ground stated in the motion. A motion to recuse may not be filed after the 10th day [time before the beginning of the trial or other hearing if a judge is assigned to a case 10 or fewer days] before the date set for a trial or other hearing unless, before that day, the movant did not know and reasonably should not have known that:

(1) the judge whose recusal is sought would preside at the trial or hearing; or

(2) the ground stated in the motion existed.

(c) Any party other than the judge who is the subject of the recusal or disqualification motion may before the motion is heard file a response to the motion.

(d) A party filing a motion [for recusal] or response under this section [disqualification] shall serve a copy on each [all] other party to the case. The method used for service of the copy must be the same as the method used for filing the motion unless that method is not available for service [parties or their counsel]:

[(1) copies of the motion; and

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

(See SECTION 5 below.)

(e) The [A party may file with the] clerk of the court shall immediately deliver:

(1) to the respondent judge and the presiding judge of the statutory probate courts a copy of a motion or response filed under this section; and

(2) to the presiding judge a copy of an order of recusal or referral signed and filed by a respondent judge [a statement opposing or concurring with a motion for recusal or disqualification at any time before the motion is heard].

(See SECTION 5 below.)

(f) Regardless of whether [Before further proceedings in a case in which] a motion for [the] recusal or disqualification complies with this section [of a judge has been filed], the respondent judge, not later than the third business day after the date the motion is filed, shall sign and file with the clerk either:

(1) an order of recusal or disqualification [recuse or disqualify himself or herself]; or

(See SECTION 5 below.)

(2) ~~an order referring [request—the assignment of a judge to hear] the motion [by forwarding the motion and opposing and concurring statements] to the presiding judge [of the statutory probate courts as provided by Subsection (h)].~~

(g) A judge who recuses himself or herself:
(1) shall enter an order of recusal and:
(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge ~~[of the administrative judicial district]~~ assign a judge under Section 25.002201 to hear the case; or
(B) subject to Subsection (1), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order ~~[request that]~~ the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts located in the county; and
(2) may not take other action in the case except for good cause stated in the order in which the action is taken.

(g-1) A judge who disqualifies himself or herself:
(1) shall enter an order of disqualification and:
(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge ~~[of the administrative judicial district]~~ assign a judge under Section 25.002201 to hear the case; or
(B) subject to Subsection (1), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts; and
(2) may not take other action in the case.

(h) A judge who does not recuse or disqualify himself or herself:
~~[(1) shall forward to the presiding judge of the statutory probate courts, in either original form or certified copy, an order of referral, the motion for recusal or disqualification, and all opposing and~~

(g) A judge who recuses himself or herself:
(1) shall enter an order of recusal and:
(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge ~~[of the administrative judicial district]~~ assign a judge under Section 25.002201 to hear the case; or
(B) subject to Subsection (1), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order ~~[request that]~~ the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts located in the county; and
(2) may not take other action in the case except for good cause stated in the order in which the action is taken.

(g-1) A judge who disqualifies himself or herself:
(1) shall enter an order of disqualification and:
(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge ~~[of the administrative judicial district]~~ assign a judge under Section 25.002201 to hear the case; or
(B) subject to Subsection (1), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts; and
(2) may not take other action in the case.

(See SECTION 5 below.)

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

(h-1) If the respondent judge fails to comply with a duty imposed by this section, the movant may notify the presiding judge.

(i) The [After receiving a request under Subsection (h), the] presiding judge [of the statutory probate courts] shall rule on a referred motion or [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 rule on [hear] the motion not [for recusal or disqualification. Not] later than the 15th day after the date the presiding judge [of the administrative judicial district] receives the request, [the presiding judge shall:

(See SECTION 5 below.)

[(1) 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. If a party files a motion to recuse or disqualify the presiding judge, in his or her capacity as administrative judge of the statutory probate courts or as the judge in the case in which recusal or disqualification is requested, the presiding judge shall sign and file with the clerk a written order referring the motion to the chief justice of the supreme court for consideration.

(i-1) A motion to recuse that does not comply with this section may be denied without an oral hearing. The order must state the nature of the noncompliance. A motion amended to correct the stated noncompliance counts for purposes of determining whether a tertiary recusal motion has been filed under the Civil Practice and Remedies Code.

(i-2) A motion to disqualify may not be

denied on the ground that the filing or service was not in compliance with this section.

(i-3) The presiding judge or judge assigned to decide the motion may issue an [; ~~(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 order [relief,] in the pending case as justice may require.~~

(i-4) Except by order of [(i-1) If] the presiding judge or the judge assigned to decide the motion, a subpoena or discovery request may not issue to the respondent judge and may be disregarded unless accompanied by the order.

(i-5) A motion under this section must be heard as soon as practicable and may be heard immediately after it is referred to the presiding judge or an assigned judge. Notice of the hearing must be given to all parties in the case. The hearing may be conducted by telephone on the record. Documents submitted by facsimile or e-mail, otherwise admissible under the rules of evidence, may be considered [of the administrative judicial district does not assign a judge to hear a motion for recusal or disqualification within the time prescribed by Subsection (i), the presiding judge of the statutory probate courts may assign a judge to hear the motion and take other action under that subsection].

[(i-2)] A judge who hears a motion for recusal or disqualification [under Subsection (i) or (i-1)] may also hear any amended or supplemented motion for recusal or disqualification filed in the case.

(i-6) [(i-3)] If a motion under this section [for recusal or disqualification] is granted after a hearing [conducted as provided by Subsection (i) or (i-1)], the presiding judge [who heard the motion] shall transfer the case to another court or assign another judge to the case and:

(1) if the judge subject to recusal or disqualification serves a statutory probate court located in a county with only one statutory probate court, the presiding judge

(See SECTION 5 below.)

(See SECTION 5 below.)

(i-2) A judge who hears a motion for recusal or disqualification [under Subsection (i) or (i-1)] may also hear any amended or supplemented motion for recusal or disqualification filed in the case.

(i-3) If a motion for recusal or disqualification is granted [after a hearing conducted as provided by Subsection (i) or (i-1)], the presiding judge [who heard the motion] shall transfer the case to another court or assign another judge to the case and:

(1) if the judge subject to recusal or disqualification serves a statutory probate court located in a county with only one statutory probate court, the presiding judge

or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the presiding judge [of the administrative judicial district] assign a judge under Section 25.002201 to hear the case; or

(2) subject to Subsection (1), if the judge subject to recusal or disqualification serves a statutory probate court located in a county with more than one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the clerk who serves the statutory probate courts in that county randomly reassign the case to a judge of one of the other statutory probate courts located in the county.

~~(j) [(i-4) The presiding judge of an administrative judicial district may delegate the judge's authority to make orders of interim or ancillary relief under Subsection (i)(3) to the presiding judge of the statutory probate courts.~~

~~[(i-5) A judge assigned to hear a motion for recusal or disqualification under Subsection (i) is entitled to receive the same salary, compensation, and expenses, and to be paid in the same manner and from the same fund, as a judge otherwise assigned under Section 25.0022, except that a judge assigned under Subsection (i) shall provide the information required by Section 25.0022(1) to the presiding judge [of the administrative judicial district, who shall immediately forward the information to the presiding judge of the statutory probate courts].~~

~~[(j) After a statutory probate court has rendered the final judgment in a case, a party may appeal an order that denies a motion for recusal or disqualification as an abuse of the court's discretion. A party may not appeal an order that grants a motion for recusal or disqualification.]~~

(k) After notice and hearing, the judge who hears a motion under this section may

or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the presiding judge [of the administrative judicial district] assign a judge under Section 25.002201 to hear the case; or

(2) subject to Subsection (1), if the judge subject to recusal or disqualification serves a statutory probate court located in a county with more than one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the clerk who serves the statutory probate courts in that county randomly reassign the case to a judge of one of the other statutory probate courts located in the county.

(See SECTION 5 below.)

~~(i-5) A judge assigned to hear a motion for recusal or disqualification [under Subsection (i)] is entitled to receive the same salary, compensation, and expenses, and to be paid in the same manner and from the same fund, as a judge otherwise assigned under Section 25.0022[, except that a judge assigned under Subsection (i) shall provide the information required by Section 25.0022(1) to the presiding judge of the administrative judicial district, who shall immediately forward the information to the presiding judge of the statutory probate courts].~~

(See SECTION 5 below.)

(a-1) Notwithstanding Rule 18a(h), Texas Rules of Civil Procedure, or any other conflicting provision of the rules, the judge who hears a motion of recusal or disqualification, after notice and hearing, may:

order the party or attorney who filed the motion, or both, to pay the reasonable attorney's fees and expenses incurred by other parties if the judge determines that the motion was:

(1) groundless and filed in bad faith or for the purpose of harassment; [A party may file a motion for sanctions alleging that another party in the case filed a motion for the recusal] or

(2) clearly brought for unnecessary [disqualification of a judge solely to] delay [the case] and without sufficient cause[-

~~The presiding judge of the administrative judicial district or the judge assigned to hear the motion for recusal may approve a motion for sanctions authorized by Rule 215.2(b), Texas Rules of Civil Procedure].~~

(k-1) The chief justice of the supreme court may assign judges and issue any orders authorized under this section.

(k-2) An order denying a motion to recuse may be reviewed only for abuse of discretion on appeal from the final judgment. An order granting a motion to recuse is final and cannot be reviewed by appeal, mandamus, or otherwise. An order granting or denying a motion to disqualify may be reviewed by mandamus and may be appealed in accordance with other law.

(l) If a clerk of a statutory probate court is unable to reassign a case as requested under Subsection (g)(1)(B) or ~~(i-6)(2)~~ [(i-3)(2)] because the other statutory probate court judges in the county have been recused or disqualified or are otherwise unavailable to hear the case, the clerk shall immediately notify the presiding judge ~~[of the administrative judicial district]~~ and request that the presiding judge ~~[of the administrative judicial district]~~ assign a judge under Section 25.002201 to hear the case.

~~[(m) The clerk of a statutory probate court shall immediately notify and provide to the presiding judge of the statutory probate~~

(1) order the party or attorney who filed the motion, or both, to pay the reasonable attorney's fees and expenses incurred by another party if the judge determines that the motion was:

(A) groundless and filed in bad faith or for the purpose of harassment; or

(B) clearly brought for unnecessary delay and without sufficient cause; and

(2) enjoin the movant from filing other recusal motions in the case without the prior written consent of the presiding judge of the statutory probate courts.

(See SECTION 5 below.)

(l) If a clerk of a statutory probate court is unable to reassign a case as requested under Subsection (g)(1)(B) or (i-3)(2) because the other statutory probate court judges in the county have been recused or disqualified or are otherwise unavailable to hear the case, the clerk shall immediately notify the presiding judge ~~[of the administrative judicial district]~~ and request that the presiding judge ~~[of the administrative judicial district]~~ assign a judge under Section 25.002201 to hear the case.

~~courts a copy of an order of recusal or disqualification issued with respect to the judge of the statutory probate court.]~~

SECTION 2. Sections 25.002201(a) and (b), Government Code, are amended to read as follows:

(a) Not later than the 15th day after the date an order of recusal or disqualification of a statutory probate court judge is issued in a case, the presiding judge of the statutory probate courts, except as provided by Subsection (b), [administrative judicial district] shall assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear the case if:

(1) the judge of the statutory probate court recused himself or herself under Section 25.00255(g)(1)(A);

(2) the judge of the statutory probate court disqualified himself or herself under Section 25.00255(g-1);

(3) the order was issued under Section 25.00255(i-6)(1) [25.00255(i-3)(1)]; or

(4) the presiding judge of the statutory probate courts [administrative judicial district] receives notice and a request for assignment from the clerk of the statutory probate court under Section 25.00255(l).

(b) If the ~~[presiding]~~ judge who is the subject of an order of recusal or disqualification is [of an administrative judicial district does not assign a judge under Subsection (a) within the time prescribed by that subsection,] the presiding judge of the statutory probate courts, the chief justice of the supreme court shall ~~[may]~~ assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear the case ~~[instead of the presiding judge of the administrative judicial district making the assignment under that subsection].~~

No equivalent provision.

SECTION 2. Sections 25.002201(a) and (b), Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b), not [Not] later than the 15th day after the date an order of recusal or disqualification of a statutory probate court judge is issued in a case, the presiding judge ~~[of the administrative judicial district]~~ shall assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear the case if:

(1) the judge of the statutory probate court recused himself or herself under Section 25.00255(g)(1)(A);

(2) the judge of the statutory probate court disqualified himself or herself under Section 25.00255(g-1);

(3) the order was issued under Section 25.00255(i-3)(1); or

(4) the presiding judge ~~[of the administrative judicial district]~~ receives notice and a request for assignment from the clerk of the statutory probate court under Section 25.00255(l).

(b) If the ~~[presiding]~~ judge who is the subject of an order of recusal or disqualification is [of an administrative judicial district does not assign a judge under Subsection (a) within the time prescribed by that subsection,] the presiding judge of the statutory probate courts, the chief justice of the supreme court shall [may] assign a regional presiding judge, a statutory probate judge, or a former or retired judge of a statutory probate court to hear the case ~~[instead of the presiding judge of the administrative judicial district making the assignment under that subsection].~~

SECTION 4. Section 26.012, Government Code, is amended to read as follows:

Sec. 26.012. ASSIGNMENT OF VISITING JUDGE FOR PROBATE, GUARDIANSHIP, AND MENTAL HEALTH MATTERS. If the county judge is absent, incapacitated, recused, or disqualified to act in a probate, guardianship, or mental health matter, a visiting judge shall be assigned in accordance with Section 25.0022(h).

No equivalent provision.

SECTION 3. The changes in law made by this Act apply only to a motion for recusal or disqualification of a judge that is filed on or after the effective date of this Act. A motion for recusal or disqualification of a judge filed before the effective date of this Act is governed by the law in effect on the date the motion was filed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 5. The following are repealed:
(1) Sections 25.00255(b), (c), (d), (e), (f), (h), (i), (i-4), and (j), Government Code; and
(2) Section 25.002201(c), Government Code.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.