

BILL ANALYSIS

Senate Research Center
80R2677 KLA-D

S.B. 406
By: Wentworth
Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law authorizes a judge to recuse himself or request the presiding judge of the statutory probate to appoint another judge to hear a recusal motion. As proposed, S.B. 406 requires the presiding judge of the administrative judicial district to assign a judge to hear a recusal motion. Providing a judge from a different judicial region to conduct a hearing on a recusal would ensure fair and impartial treatment

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 25.00255(f), (g), (i), and (k), Government Code, as follows:

(f) Requires that a judge, when a motion for recusal or disqualification (motion) of a judge has been filed and before further proceedings in a case can occur, recuse himself or herself or request the assignment of a judge to hear the motion, rather than having a judge assigned by the presiding judge of the statutory probate courts. Provides instructions for the assignment of a judge.

(g) Requires a judge who recuses himself or herself to enter an order of recusal and request that the presiding judge of the statutory probate courts request the assignment of a judge to hear the motion as provided by Subsection (i).

(i) Requires the presiding judge of the statutory probate courts, after receiving a request under Subsection (g) or (h), to 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. Prohibits the presiding judge from designating 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, to hear the motion.

(k) Authorizes the presiding judge of the administrative judicial district or the judge assigned to hear the motion for recusal, rather than a judge assigned by the presiding judge, to approve a motion for sanctions authorized by Rule 215.2 (b), Texas Rules of Civil Procedure.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.