

BILL ANALYSIS

Senate Research Center
78R14057 MTB-D

H.B. 445
By: Talton (Janek)
Jurisprudence
5/21/2003
Engrossed

DIGEST AND PURPOSE

Once a judge grants a temporary guardianship, a hearing to affirm or deny the temporary guardianship must occur no later than 10 days after temporary guardianship is granted. As a result, some attorneys have filed a motion for recusal late in the 10-day period, which makes it difficult to hear a recusal motion and temporary guardianship within the proscribed 10 days. H.B. 445 tolls the clock when the recusal motion is made and restarts the clock once the recusal motion is determined.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 875(f), Texas Probate Code, by amending Subdivision (1) and adding Subdivision (7), as follows:

(1) Requires a hearing to be held not later than the 10th day after the date of the filing of the application for temporary guardianship unless the hearing date is extended as provided by Subdivision (2) of this subsection or is tolled as provided by Subdivision (7) of this subsection.

(7) Provides that the filing of a motion for the recusal of a judge in a temporary guardianship proceeding tolls the 10-day period prescribed by Subdivision (1) of this section until the date on which the order on the recusal motion is rendered.

SECTION 2. Amends Section 875, Texas Probate Code, by amending Subsection (h) and adding Subsection (l), as follows:

(h) Prohibits a temporary guardianship, except as provided by Subsection (k) or (l) of this section, from remaining in effect for more than 60 days.

(l) Provides that the filing of a recusal motion tolls the 60-day period prescribed by Subsection (h) of this section until the date on which the order on the recusal motion is rendered.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2003.