

House Bill 2998

Sponsored by Representative WILDE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that party or attorney may not move to disqualify judge in judicial district with three or fewer circuit court judges.

Provides that prosecuting attorney may not move to disqualify judge.

A BILL FOR AN ACT

1
2 Relating to judges; amending ORS 14.250 and 14.260.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 14.250 is amended to read:

5 14.250. [No] (1)(a) A judge of a circuit court **in a judicial district with more than three cir-**
6 **cuit court judges** [shall] **may not** sit to hear or try any [suit, action] **cause**, matter or proceeding
7 when it is established, as provided in ORS 14.250 to 14.270, that [any party or attorney believes that
8 such] **a party or attorney eligible to object under this section believes that the** party or attor-
9 ney cannot have a fair and impartial trial or hearing before [such] **the** judge.

10 (b) [In such case] **Upon the granting of a motion under ORS 14.260**, the presiding judge for
11 the judicial district shall:

12 (A) Forthwith transfer the cause, matter or proceeding to another judge of the court[, or];

13 (B) Apply to the Chief Justice of the Supreme Court to send a judge to try [it] **the cause,**
14 **matter or proceeding;** or[.]

15 (C) If the convenience of witnesses or the ends of justice will not be interfered with [by such
16 course,] and the action or suit is of such a character that a change of venue [thereof] may be or-
17 dered, [the presiding judge may] send the case for trial to the most convenient court[;], except that
18 the issues in [such] **the cause, matter or proceeding** may, upon the written stipulation of the at-
19 torneys [in the cause agreeing thereto], be made up in the district of the judge to whom the cause ,
20 **matter or proceeding** has been assigned.

21 (2) **A prosecuting attorney is not eligible to object under this section in any criminal**
22 **cause, matter or proceeding.**

23 **SECTION 2.** ORS 14.260 is amended to read:

24 14.260. (1) Any [party to or any attorney appearing in any cause, matter or proceeding in a circuit
25 court] **party eligible to object under ORS 14.250** may establish the belief described in ORS 14.250
26 by **filing a** motion supported by affidavit that the party or attorney believes that the party or at-
27 torney cannot have a fair and impartial trial or hearing before the judge, and that it is made in good
28 faith and not for the purpose of delay. No specific grounds for the belief need be alleged. The motion
29 shall be [allowed] **granted** unless the judge moved against, or the presiding judge for the judicial
30 district, challenges the good faith of the affiant and sets forth the basis of the challenge. In the
31 event of a challenge, a hearing shall be held before a disinterested judge. The burden of proof is

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in **boldfaced** type.

1 on the challenging judge to establish that the motion was made in bad faith or for the purposes of
2 delay.

3 (2) The affidavit shall be filed with the motion at any time prior to final determination of the
4 cause, matter or proceedings in uncontested cases, and in contested cases before or within five days
5 after the cause, matter or proceeding is at issue upon a question of fact or within 10 days after the
6 assignment, appointment and qualification or election and assumption of office of another judge to
7 preside over the cause, matter or proceeding.

8 (3) A motion to disqualify a judge may not be made after the judge has ruled upon any petition,
9 demurrer or motion other than a motion to extend time in the cause, matter or proceeding. A motion
10 to disqualify a judge or a judge pro tem, assigned by the Chief Justice of the Supreme Court to serve
11 in a county other than the county in which the judge or judge pro tem resides may not be filed more
12 than five days after the party or attorney appearing in the cause receives notice of the assignment.

13 (4) In judicial districts having a population of 200,000 or more, the affidavit and motion for
14 change of judge shall be made at the time and in the manner prescribed in ORS 14.270.

15 (5) In judicial districts having a population of 100,000 or more, but less than 200,000, the affi-
16 davit and motion for change of judge shall be made at the time and in the manner prescribed in ORS
17 14.270 unless the circuit court makes local rules under ORS 3.220 adopting the procedure described
18 in this section.

19 (6) A party or attorney may not make more than two applications in any cause, matter or pro-
20 ceeding under this section.

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