

HB 2998-2
(LC 3171)
3/9/21 (MNJ/ps)

Requested by Representative WILDE

**PROPOSED AMENDMENTS TO
HOUSE BILL 2998**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and insert “14.260, 14.270 and 33.115.”.

3 Delete lines 4 through 31 and delete page 2 and insert:

4 **“SECTION 1. ORS 14.260 is amended to read:**

5 “14.260. (1) Any party to or any attorney appearing in any cause, matter
6 or proceeding in a circuit court may establish the belief described in ORS
7 14.250 by motion supported by affidavit that the party or attorney believes
8 that the party or attorney cannot have a fair and impartial trial or hearing
9 before the judge **because of the judge’s bias or prejudice against the**
10 **attorney’s client or cause**, and that it is made in good faith and not for
11 the purpose of delay. [*No specific grounds for the belief need be alleged. The*
12 *motion shall be allowed unless the judge moved against, or the presiding judge*
13 *for the judicial district, challenges the good faith of the affiant and sets forth*
14 *the basis of the challenge. In the event of a challenge, a hearing shall be held*
15 *before a disinterested judge. The burden of proof is on the challenging judge*
16 *to establish that the motion was made in bad faith or for the purposes of*
17 *delay.*] **The party or attorney must allege specific grounds for the belief**
18 **that the party or attorney cannot have a fair and impartial trial or**
19 **hearing before the judge, including the particularized facts supporting**
20 **the belief that the judge has demonstrated bias or prejudice. Unless**
21 **the challenged judge does not object to the motion, a hearing on the**

1 **motion shall be held before a disinterested judge.**

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

5 **“(3) In judicial districts having a population of less than 100,000**
6 **residents, the affidavit and motion for change of judge shall be made**
7 **in the manner prescribed in ORS 14.270, except that the motion and**
8 **affidavit must be filed within five calendar days after the party or at-**
9 **torney receives notice of the assignment of the case to the judge for**
10 **trial or for hearing upon a motion or demurrer.**

11 **“(4) In judicial districts having a population of 100,000 or more, but**
12 **less than 200,000, the affidavit and motion for change of judge shall**
13 **be made at the time and in the manner prescribed in ORS 14.270 unless**
14 **the circuit court makes local rules under ORS 3.220 adopting the fol-**
15 **lowing procedure:**

16 **“[(2)] (a) The affidavit shall be filed with the motion under this sub-**
17 **section at any time prior to final determination of the cause, matter or**
18 **proceedings in uncontested cases, and in contested cases before or within five**
19 **days after the cause, matter or proceeding is at issue upon a question of fact**
20 **or within 10 days after the assignment, appointment and qualification or**
21 **election and assumption of office of another judge to preside over the cause,**
22 **matter or proceeding.**

23 **“[(3)] (b) A motion to disqualify a judge under this subsection may not**
24 **be made after the judge has ruled upon any petition, demurrer or motion**
25 **other than a motion to extend time in the cause, matter or proceeding. A**
26 **motion to disqualify a judge or a judge pro tem, assigned by the Chief Justice**
27 **of the Supreme Court to serve in a county other than the county in which**
28 **the judge or judge pro tem resides may not be filed under this subsection**
29 **more than five days after the party or attorney appearing in the cause re-**
30 **ceives notice of the assignment.**

1 “[(4) *In judicial districts having a population of 200,000 or more, the affi-*
2 *davit and motion for change of judge shall be made at the time and in the*
3 *manner prescribed in ORS 14.270.]*

4 “[(5) *In judicial districts having a population of 100,000 or more, but less*
5 *than 200,000, the affidavit and motion for change of judge shall be made at the*
6 *time and in the manner prescribed in ORS 14.270 unless the circuit court*
7 *makes local rules under ORS 3.220 adopting the procedure described in this*
8 *section.]*

9 “[(6) *A party or attorney may not make more than two applications in any*
10 *cause, matter or proceeding under this section.]*

11 “**SECTION 2.** ORS 14.270 is amended to read:

12 “14.270. **Except as provided in ORS 14.260,** an affidavit and motion for
13 change of judge to hear the motions and demurrers or to try the case shall
14 be made at the time of the assignment of the case to a judge for trial or for
15 hearing upon a motion or demurrer. Oral notice of the intention to file the
16 motion and affidavit shall be sufficient compliance with this section provid-
17 ing that the motion and affidavit are filed not later than the close of the
18 next judicial day. [No] **A** motion to disqualify a judge to whom a case has
19 been assigned for trial [*shall*] **may not** be made after the judge has ruled
20 upon any petition, demurrer or motion other than a motion to extend time
21 in the cause, matter or proceeding; except that when a presiding judge as-
22 signs to the presiding judge any cause, matter or proceeding in which the
23 presiding judge has previously ruled upon any such petition, motion or
24 demurrer, any party or attorney appearing in the cause, matter or proceeding
25 may move to disqualify the judge after assignment of the case and prior to
26 any ruling on any [*such*] petition, motion or demurrer heard after [*such*] **the**
27 assignment. [*No party or attorney shall be permitted to make more than two*
28 *applications in any action or proceeding under this section.]*

29 “**SECTION 3.** ORS 33.115 is amended to read:

30 “33.115. A judge may be disqualified from a contempt proceeding as pro-

1 vided for in other cases under ORS 14.210 to 14.270. ORS 14.260 [(3)] **(4)(b)**
2 shall not apply to a motion to disqualify a judge in a contempt proceeding.
3 The judge to whom the contempt is referred shall assume authority over and
4 conduct any further proceedings relating to the contempt.”

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