

Requested by Representative WILDE

**PROPOSED AMENDMENTS TO
HOUSE BILL 4073**

1 On page 3 of the printed bill, delete lines 5 through 45.

2 On page 4, delete lines 1 and 2 and insert:

3 **“SECTION 3.** ORS 14.250 is amended to read:

4 “14.250. (1)(a) [*No judge of a circuit court shall*] **In a judicial district**
5 **with more than five judges, a judge of a circuit court may not** sit to
6 hear or try any suit, action, matter or proceeding when it is established, as
7 provided in ORS 14.250 to 14.270, that any party or attorney believes that
8 such party or attorney cannot have a fair and impartial trial or hearing be-
9 fore such judge.

10 **“(b) In a judicial district with five or fewer judges, a judge of a**
11 **circuit court may not sit to hear or try any suit, action, matter or**
12 **proceeding when any party or attorney alleges facts sufficient to show**
13 **that a reasonable person might question the judge’s impartiality.**

14 **“(2) [*In such case*] When a judge is disqualified under subsection (1)**
15 **of this section,** the presiding judge for the judicial district shall forthwith
16 transfer the cause, matter or proceeding to another judge of the court, or
17 apply to the Chief Justice of the Supreme Court to send a judge to try it;
18 or, if the convenience of witnesses or the ends of justice will not be inter-
19 fered with by such course, and the action or suit is of such a character that
20 a change of venue thereof may be ordered, the presiding judge may send the
21 case for trial to the most convenient court; except that the issues in such

1 cause may, upon the written stipulation of the attorneys in the cause
2 agreeing thereto, be made up in the district of the judge to whom the cause
3 has been assigned.

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

5 “14.260. (1)(a) Any party to or any attorney appearing in any cause,
6 matter or proceeding in a circuit court **in a judicial district with more**
7 **than five judges** may establish the belief described in ORS 14.250 (1)(a) by
8 motion supported by affidavit that the party or attorney believes that the
9 party or attorney cannot have a fair and impartial trial or hearing before
10 the judge, and that it is made in good faith and not for the purpose of delay.
11 No specific grounds for the belief need be alleged. The motion shall be al-
12 lowed unless the judge moved against, or the presiding judge for the judicial
13 district, challenges the good faith of the affiant and sets forth the basis of
14 the challenge. In the event of a challenge, a hearing shall be held before a
15 disinterested judge. The burden of proof is on the challenging judge to es-
16 tablish that the motion was made in bad faith or for the purposes of delay.

17 **“(b) Any party to or any attorney appearing in any cause, matter**
18 **or proceeding in a circuit court in a judicial district with five or fewer**
19 **judges may allege the facts described in ORS 14.250 (1)(b) by motion**
20 **supported by affidavit alleging facts sufficient to show that a reason-**
21 **able person might question the judge’s impartiality, and that it is**
22 **made in good faith and not for the purpose of delay. The motion shall**
23 **be allowed unless the judge moved against, or the presiding judge for**
24 **the judicial district, shows that a reasonable person would not ques-**
25 **tion the judge’s impartiality or challenges the good faith of the affiant**
26 **and sets forth the basis of the challenge. In the event of a challenge,**
27 **a hearing shall be held before a disinterested judge. The burden of**
28 **proof is on the challenging judge to establish that a reasonable person**
29 **would not question the judge’s impartiality or that the motion was**
30 **made in bad faith or for the purposes of delay.**

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

7 “(3) A motion to disqualify a judge may not be made after the judge has
8 ruled upon any petition, demurrer or motion other than a motion to extend
9 time in the cause, matter or proceeding. A motion to disqualify a judge or
10 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 re-
12 sides may not be filed more than five days after the party or attorney ap-
13 pearing in the cause receives notice of the assignment.

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

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

22 “(6) A party or attorney may not make more than two applications in any
23 cause, matter or proceeding under this section.”.

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