

## **SB 807 -1, -2 STAFF MEASURE SUMMARY**

### **Senate Committee On Judiciary**

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**Meeting Dates:** 2/27

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#### **WHAT THE MEASURE DOES:**

Permits a presiding judge or a judge who is the subject of a motion to disqualify the judge from a case to require an attorney, firm, or office to assert under oath facts upon which the judge's impartiality may reasonably be questioned, when the motion follows other disqualification motions filed by the same attorney, firm, or office which have effectively denied the judge assignment to a criminal or juvenile docket. Allows the judge moved against to provide additional facts and considerations, in writing and under oath. Requires a disinterested judge to make an objective inquiry, based on the motion and affidavits, and determine whether a reasonable person would believe that the subject judge lacks impartiality. Places the burden of proof by preponderance of the evidence on the moving party. Grants the disinterested judge authority to bar the attorney, firm, or office from filing further motions to disqualify the subject judge for a period of up to six months, or take other appropriate action, if the attorney, firm, or office fails to prove the judge lacks impartiality.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

- 1 Specifies that the process would apply when a motion or series of motions effectively prevents the judge from assignment to a criminal or juvenile docket.
- 2 Makes conforming change within section to refer to "a motion or series of motions" filed by an attorney, firm, or office, instead of "motions."

##### **BACKGROUND:**

ORS 14.260 permits a party to file a motion to disqualify a judge from assignment to a case within a specified time after notification of the assignment, if the party or attorney affirms under oath that they believe they cannot have a fair and impartial trial or hearing before the judge. The party or attorney need not articulate the specific facts the belief is based on. The statute also permits a judge to challenge a motion to disqualify by proving that the motion was made in bad faith or for the purposes of delay.

SB 807 would allow a judge who is the subject of a motion to disqualify to require articulation of the particular facts demonstrating that the judge's impartiality can reasonably be questioned, to respond to the motion, and to have a disinterested judge decide the issue, when the motion follows prior motions to disqualify the judge filed by the same attorney, firm, or office which effectively prevented the judge to be assigned to a criminal or juvenile docket.