

February 25, 2023

Senator Floyd Prozanski, Chair
Senator Kim Thatcher, Vice Chair
Senate Judiciary Committee
State Capitol
Salem, Oregon 97301

Re: Support for SB 807 – providing oversight for blanket disqualifications of judges

Dear Chair Prozanski, Vice-Chair Thatcher, and Committee members:

In criminal cases under Oregon law, either party may disqualify two judges in any one case. Either party may also in extraordinary circumstances disqualify a judge from all criminal cases indefinitely and without stating any reasons for the disqualification.

That latter disqualification can cause expensive and long-term results in the district where it is filed, especially in districts where there are very few judges. It may require that the judge travel to other districts to hear cases and that judges from other jurisdictions travel to the disqualified judge's district. It can be an awkward and expensive dilemma.

SB 807 addresses this situation when a district attorney or public defender's office removes a judge from most if not all criminal cases under ORS 14.260. It provides a procedure by which a judge may request a review of the disqualifications and the reasons for the action. It requires the lawyer to prove a reasonable person would perceive the judge as lacking impartiality, something required in most states in some form.

I favor such a change to Oregon law. In my 20 years as a district attorney, I never blanket-disqualified a judge. Had I done so, however, I believe the process provided for in SB 807 should have been required. The people elected the judges to hear their community's cases. If I am going to remove the community's judge from all criminal cases, common sense dictates that I provide the people with proof that their chosen judge would be considered biased in the eyes of a reasonable person.

I very much support SB 807.

Sincerely,

Daniel Ousley
Wallowa County District Attorney (1995-2006)
Wheeler County District Attorney (2008-2016)