

April 25, 2023

Chair Jason Kropf
Vice-chair Kim Wallan
Vice-chair Tom Andersen
House Judiciary Committee
Oregon Capitol
Salem, Oregon 97301

RE: Retired District Attorney Supports SB 807

Dear Chair Kropf, Vice-Chairs Wallan and Andersen, and Committee members:

I support changing ORS 14.260 to require lawyers to justify removing judges from all criminal cases (“blanket disqualifications”). 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, principles of good governance dictate that I provide the people with proof that their chosen judge would be considered biased in the eyes of a reasonable person.

Currently, lawyers and their clients who blanket disqualify a judge do not need to state any reasons for the disqualification. If they do state reasons, the reasons need only be based on feelings, not fact or reality.

These blanket disqualifications can cause expensive and long-term results in the district where they are filed, especially in districts where there are 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 provides a commonsensical and fair procedure by which a judge may request a review of a blanket disqualification and the reasons for the action. It requires the lawyer to prove that a reasonable person would perceive the judge as lacking impartiality, something required in most states in some form.

I very much support SB 807.

Sincerely,

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