



LAWS OF ALASKA

1967

Source

SB 66 am

Chapter No.

48

AN ACT

Relating to the disqualifications of judicial officers; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 22.20.020 is repealed and re-enacted to read:

Sec. 22.20.020. DISQUALIFICATION OF JUDICIAL OFFICER FOR CAUSE. (a) A judicial officer may not act as such in a court of which he is a member in an action in which

- (1) he is a party or is directly interested;
- (2) he was not present and sitting as a member of the court at the hearing of a matter submitted for its decision;
- (3) he is a material witness;
- (4) he is related to either party by consanguinity or affinity within the third degree;
- (5) either party has retained him as their attorney or has been professionally counseled by him in any matter within two years preceding the filing of the action;
- (6) the judicial officer feels that, for any reason, he cannot give a fair and impartial decision.

(b) In an action specified in (a)(4) and (5) of this section the disqualification may be waived by the parties and is waived unless a party raises the objection.

(c) If a judicial officer disqualifies himself or

consents to disqualification, the presiding judge of the district shall immediately transfer the action to another judge of that district to which the objections of the parties do not apply or are least applicable and if there be no such judge, then the chief justice of the supreme court shall assign a judge for the hearing or trial of the action. If a judicial officer denies his disqualification the question shall be heard and determined by another judge assigned for the purpose by the presiding judge of the next higher level of courts or, if none, by the other members of the supreme court. The hearing may be ex parte and without notice to the parties or judge.

* Sec. 2. AS 22.20 is amended by adding a new section to read:

Sec. 22.20.022. PREEMPTORY DISQUALIFICATION OF A SUPERIOR COURT JUDGE. (a) If a party or his attorney in a superior court action, civil or criminal, files an affidavit alleging under oath that he believes that he cannot obtain a fair and impartial trial, the presiding judge shall at once, and without requiring proof, assign the action to another judge of that district, or if there be none, then the chief justice of the supreme court shall assign a judge for the hearing or trial of the action. The affidavit shall contain a statement that it is made in good faith and not for the purpose of delay.

(b) No judge or court may punish a person for contempt for making, filing or presenting the affidavit provided for in this section, or a motion founded on the affidavit.

(c) The affidavit shall be filed within five days after the case is at issue upon a question of fact, or within five days after the issue is assigned to a judge, whichever event occurs later, unless good cause is shown for the failure to file it within that time.

(d) No party or his attorney may file more than one affidavit under this section in an action and no more than two affidavits in an action.

* Sec. 3. This Act applies to all actions pending, but not set for trial on the effective date of this Act.

* Sec. 4. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.