

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE
BY REQUEST

2 HOUSE BILL NO. 279

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the disqualification of
7 judicial officers; and providing for an
8 effective date."

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

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 AS 22.20.020 is repealed and re-enacted to read:

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

14 (1) he is a party or is directly interested;

15 (2) he was not present and sitting as a member of
16 the court at the hearing of a matter submitted for its
17 decision;

18 (3) he is a material witness;

19 (4) he is related to either party by consanguinity
20 or affinity within the third degree;

21 (5) either party has retained him as their attorney
22 or has been professionally counseled by him in any matter
23 within two years preceding the filing of the action.

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

27 (c) If a judicial officer disqualifies himself or con-
28 sents to disqualification, he shall immediately transfer the
29 action to a judge agreed upon by the parties, or if they do

1 not agree upon a judge, then to the most convenient judge in
2 the court of which he is a member to which the objections of
3 the parties do not apply or are least applicable. If a
4 judicial officer denies his disqualification, the question
5 shall be heard and determined by another judge.

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

7 Sec. 22.20.022. PRE-EMPTORY DISQUALIFICATION OF
8 JUDICIAL OFFICER. (a) If a party or an attorney for a
9 party to an action, civil or criminal, files an affidavit
10 alleging under oath that he believes that on account of the
11 bias, prejudice, or interest of the judge, he cannot obtain
12 a fair and impartial trial, the judge shall at once, and with-
13 out requiring proof, transfer the action to a judge agreed
14 upon by the parties, or if they do not agree upon a judge,
15 then to the most convenient judge in the court of which he
16 is a member to which the objections of the parties do not
17 apply or are least applicable. The affidavit shall contain
18 a statement that it is made in good faith and not for the
19 purpose of delay.

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

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

28 (d) No party or attorney may file more than one affi-
29 davit under this section in an action.

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* Sec. 3. This Act applies to all actions pending 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 such approval.