

1 IN THE HOUSE

BY ORBECK AND STEVENS

2 HOUSE BILL NO. 23

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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 AS 22.20.020 is repealed and re-enacted to read:

10 Sec. 22.20.020. DISQUALIFICATION OF JUDICIAL OFFICER FOR CAUSE.

11 (a) A judicial officer may not act as such in a court of which he is
12 a member in an action in which

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

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

16 (3) he is a material witness;

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

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

22 (6) the judicial officer feels that, for any reason, he
23 cannot give a fair and impartial decision.

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

27 (c) If a judicial officer disqualifies himself or consents to
28 disqualification, he shall immediately transfer the action to the most
29 convenient judge in the court of which he is a member to which the

1 objections of the parties do not apply or are least applicable. If a
2 judicial officer denies his disqualification the question shall be
3 heard and determined by another judge.

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

5 Sec. 22.20.022. **PRE-EMPTORY DISQUALIFICATION OF A SUPERIOR COURT**
6 **JUDGE.** (a) If a party in an action, civil or criminal, files an
7 affidavit personally or through his attorney alleging under oath that
8 he believes that he cannot obtain a fair and impartial trial, the
9 judge shall at once, and without requiring proof, transfer the action
10 to the most convenient judge in the court of which he is a member to
11 which the objections of the parties do not apply or are least appli-
12 cable. The affidavit shall contain a statement that it is made in
13 good faith and not for the purpose of delay.

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

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

21 (d) No party personally or through his attorney may file more
22 than one affidavit under this section in an action, and no more than a
23 total of two affidavits may be filed in any action.

24 * Sec. 3. This Act applies to all actions pending on the effective date
25 of this Act.

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