

1 IN THE SENATE BY B. PHILLIPS, BUTROVICH, V. PHILLIPS,  
2 BRADY, BEGICH, PALMER, SMITH,  
3 BRADSHAW, HAMMOND, WAUGAMAN, POLAND,  
4 KOSLOSKY, BLODGETT, HARRIS AND HAGGLAND

5 SENATE BILL NO. 66

6 IN THE LEGISLATURE OF THE STATE OF ALASKA

7 FIFTH LEGISLATURE - FIRST SESSION

8 A BILL

9 For an Act entitled: "An Act relating to the disqualifications of judicial  
10 officers; and providing for an effective date."

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

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 AS 22.20.020 is repealed and re-enacted to read:

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

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

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

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

19 (3) he is a material witness;

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

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

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

27 (b) In an action specified in (a)(4) and (5) of this section the  
28 disqualification may be waived by the parties and is waived unless a  
29 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

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

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

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

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

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

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

29 \* Sec. 3. This Act applies to all actions pending, but not yet set for

1 trial on the effective date of this Act.

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

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29