

Introduced: 2/12/73  
Referred: Judiciary

1 IN THE HOUSE

BY FINK, MCVEIGH AND HARTIG

2 HOUSE BILL NO. 209

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the peremptory disqualification of  
7 judges and masters."

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

9 \* Section 1. AS 22.20.022 is amended to read:

10 Sec. 22.20.022. PEREMPTORY DISQUALIFICATION OF A [SUPERIOR COURT]  
11 JUDGE OR MASTER. (a) If a party [OR HIS ATTORNEY] in a district court  
12 action or a superior court action, civil or criminal, or in a special  
13 proceeding of any kind, files an affidavit alleging or makes an oral  
14 statement under oath that he believes that he cannot obtain a fair and  
15 impartial trial before a particular judge or master, the presiding  
16 district court or superior court judge, respectively, shall at once, and  
17 without requiring proof, assign the action to another judge or master  
18 of the appropriate court in that district, or if there is none, the chief  
19 justice of the supreme court shall assign a judge or master for the  
20 hearing or trial of the action. The affidavit or sworn statement shall  
21 aver [CONTAIN A STATEMENT] that it is made in good faith and not for the  
22 purpose of delay. The request may be made by a party personally or by  
23 an attorney for and on behalf of a party.

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

27 (c) The affidavit shall be filed no later than [WITHIN] five days  
28 after notice that the action is set for a hearing before or is assigned  
29 to the judge or master [THE CASE IS AT ISSUE UPON A QUESTION OF FACT,

1 OR WITHIN FIVE DAYS AFTER THE ISSUE IS ASSIGNED TO A JUDGE, WHICHEVER  
2 EVENT OCCURS LATER], unless good cause is shown for the failure to  
3 file it within that time. In the event that a hearing is scheduled on  
4 less than five days' notice, an oral statement under oath may be made in  
5 open court in lieu of filing an affidavit if made prior to the commence-  
6 ment of the hearing or trial. No judge or master may be disqualified  
7 under this section after the commencement of a hearing or trial at which  
8 he is presiding.

9 (d) Under no circumstances may a party or his attorney be permitted  
10 to file or make more than one affidavit or sworn statement under this  
11 section in any one action or special proceeding. In an action or  
12 special proceeding where there is more than one plaintiff, or similar  
13 party, or more than one defendant, or similar party, appearing in the  
14 action or special proceeding, only one affidavit or sworn statement may  
15 be filed or made for each side. [NO PARTY OR HIS ATTORNEY MAY FILE  
16 MORE THAN ONE AFFIDAVIT UNDER THIS SECTION IN AN ACTION AND NO MORE THAN  
17 TWO AFFIDAVITS IN AN ACTION.]