

SENATE BILL REPORT

HB 1305

As of April 1, 2019

Title: An act relating to notices of disqualification in courts of limited jurisdiction.

Brief Description: Concerning notices of disqualification in courts of limited jurisdiction.

Sponsors: Representatives Walen, Irwin and Jenkins.

Brief History: Passed House: 3/09/19, 87-9.

Committee Activity: Law & Justice: 4/01/19.

Brief Summary of Bill

- Revises the processes for disqualifying district and municipal court judges, temporary judges, and court commissioners in a court case.
- Replaces "affidavit of prejudice" with "notice of disqualification" in district and municipal courts.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Melissa Burke-Cain (786-7755)

Background: Both statutes and court rules provide a process for transferring a case from a district or municipal court judicial officer by filing an affidavit of prejudice. District or municipal court judicial officers must disqualify themselves when a party files an affidavit stating they cannot have a fair and impartial trial due to an interest or prejudice of the judicial officer. The party must file the affidavit before the judicial officer makes any discretionary ruling in the case. Discretionary rulings do not include:

- court calendaring;
- scheduling deadlines, motions, hearings or trials;
- criminal arraignments; or
- setting release or bail conditions.

Current laws allow each party only one change of judicial officer per case. When circumstances disqualify a judicial officer, another judicial officer in the same county must hear the case. Judicial officers include judges, temporary temporary judges, and court commissioners.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Legislation in 2017 changed the processes for disqualifying superior court judges. It replaced affidavit of prejudice with notice of disqualification in superior court. A party must file its notice of disqualification before the superior court judge makes a discretionary ruling in the case. Some judicial actions may require a judge to exercise discretion, but the law still permits a party to file a notice of disqualification. In counties where there is only one resident superior court judge, the last day for filing a notice of disqualification is the trial setting day when the court sets the trial date for the case. A disqualified judge may hear any matters in a case if all the parties agree in writing, or agree on the record in open court.

Summary of Bill: The phrase notice of disqualification replaces affidavit of prejudice for district and municipal court judicial officers so that courts of limited jurisdiction and superior courts use the same terms. A judge's ruling on a continuance agreed among all the parties to a case, issuing an arrest warrant, or presiding over certain criminal preliminary proceedings under the criminal procedure court rules for limited jurisdiction courts, are not actions that preclude a party from filing a notice of disqualification.

In a court with only one resident judicial officer, a party must file a notice of disqualification no later than the trial setting date, the day the court takes action by setting the trial date. A disqualified judicial officer may decide issues if the parties all agree in writing, or on the record in open court.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will modify the judge disqualification process for municipal and district courts so that the process and terminology are reconciled across all state trial court levels. The change to superior court judges in 2017 uses "notice of disqualification" and now the courts of limited jurisdiction will do the same.

Persons Testifying: PRO: Representative Amy Walen, Prime Sponsor; Sam Meyer, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying: No one.