

SENATE BILL REPORT

SB 6475

As Reported By Senate Committee On:
Law & Justice, January 30, 1996

Title: An act relating to disqualification of district judges.

Brief Description: Revising procedures for disqualification of district judges.

Sponsors: Senators Roach, Smith, Johnson, Long, Schow, Zarelli and Goings.

Brief History:

Committee Activity: Law & Justice: 1/29/96, 1/30/96 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6475 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Johnson, Long, McCaslin, Roach and Schow.

Staff: Dick Armstrong (786-7460)

Background: Under court rule and statute, a district court judge may not hear a case in which the judge is prejudiced or has a personal interest. A party to a lawsuit may file an affidavit of prejudice to disqualify a judge if the party believes that he or she cannot have an impartial trial before the judge. Only one change of judge is allowed a party in a lawsuit. If a change of judge is requested or ordered, the case is heard by a district court judge of another district in the same county.

Some district court judges believe that affidavits of prejudice are filed against judges for reasons that have nothing to do with the prejudices or impartiality of the judge. They believe the current system is being abused and the result is costly delays and inconvenience for the district courts.

Summary of Substitute Bill: The procedures to disqualify a district court judge are modified. A party to a lawsuit does not have an absolute right to disqualify a district court judge.

A judge is required to disqualify himself or herself if the judge believes he or she is unable to act as an impartial judge. A party to a lawsuit may request a judge to disqualify himself or herself by filing with the judge a motion to recuse.

The Supreme Court is authorized to adopt rules to implement this change in statute.

Substitute Bill Compared to Original Bill: The substitute bill deletes the affidavit of prejudice and instead requires a party to a lawsuit to file a motion to recuse to attempt to disqualify a judge.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The affidavit process is being abused and backlogging the court system. The affidavit process is used to remove judges who are competent, but viewed as "too tough." The current process is costly for the district court system.

Testimony Against: None.

Testified: Judge Linda Thompson, Judge Darrell Phillipson, Aukeen District Court (pro).