
Civil Rights & Judiciary Committee

HB 1305

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

Sponsors: Representatives Walen, Irwin and Jinkins.

Brief Summary of Bill

- Revises terminology and standards for disqualification of judicial officers of district and municipal courts.

Hearing Date: 1/29/19

Staff: Edie Adams (786-7180).

Background:

Both statutory provisions and court rules provide a process for a party to have a case transferred from a district or municipal court judicial officer by filing an affidavit of prejudice. A district or municipal court judicial officer must disqualify himself or herself when a party files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judicial officer. The affidavit must be filed prior to any discretionary ruling, which does not include:

- arrangement of the calendar;
- setting of an action motion or proceeding for hearing or trial;
- arraignment of the accused; or
- setting conditions of release or setting bail.

Only one change of judicial officer is allowed each party in an action or proceeding. When a judicial officer is disqualified, the case must be heard before another judicial officer of the same county. Judicial officer means a judge, judge pro tempore, or court commissioner.

In 2017 legislation was enacted changing the affidavit of prejudice for superior court judges to a notice of disqualification. The notice of disqualification must be filed before the judge has made

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.

any discretionary ruling. Actions that may involve discretion but that do not preclude the filing of a notice of disqualification are provided. In counties where there is only one resident judge, the notice must be filed no later than the day on which the case is called to be set for trial. A disqualified judge may hear any matters as the parties agree in writing or on the record in open court.

Summary of Bill:

The affidavit of prejudice for district and municipal court judicial officers is changed to a notice of disqualification, consistent with the notice of disqualification process for superior court judges.

The following additional actions of a judicial officer are added to the list of actions that do not prevent the filing of a notice of disqualification: ruling on an agreed continuance; issuing an arrest warrant; or presiding over criminal preliminary proceedings.

In a court with only one resident judicial officer, the notice of disqualification must be filed not later than the day on which the case is called to be set for trial. A disqualified judicial officer may decide issues the parties agree to in writing or on the record in open court.

References to "affidavit of prejudice" in chapters governing district and municipal courts are changed to "notice of disqualification."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.