

**SENATE BILL REPORT**

**SB 6100**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 5, 1992**

**Brief Description:** Concerning procedures to establish prejudice of a judge.

**SPONSORS:** Senators Talmadge, Nelson and Rasmussen

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 6100 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; M. Kreidler, Madsen, and Rasmussen.

**Staff:** Lidia Mori (786-7755)

**Hearing Dates:** January 29, 1992; February 5, 1992

**BACKGROUND:**

When a party to an action in court believes that the judge before whom the action is pending is prejudiced against their position on a case, that person may bring a motion, supported by an affidavit, to replace the judge with another one. The motion must be filed and brought to the attention of the judge prior to the judge making any ruling in the case. A case occurred recently which has caused concern regarding the time at which such a motion and affidavit of prejudice must be filed and brought to the attention of the judge.

**SUMMARY:**

In judicial districts where cases are assigned from a master calendar on the date of trial, a motion for prejudice must be filed with the assigned trial judge immediately upon the judge's arrival in his courtroom.

**EFFECT OF PROPOSED SUBSTITUTE:**

It clarifies that a motion and affidavit to remove a judge for prejudice may be filed at any time before a judge arrives in his or her courtroom on the day of trial.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

This bill will save judicial time and prevent abuse of the right to affidavit a judge for prejudice.

**TESTIMONY AGAINST:**

This bill could be construed to cut off the ability to affidavit a judge in a pre-trial motion situation. In counties with a master calendar, the affidavit will not be able to be exercised prior to assignment of a trial judge.

**TESTIFIED:** Senator Talmadge, prime sponsor; Judge John McCutcheon, Superior Court Judges Assn. (pro); John Noll, Washington State Bar Assn. (con)