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SENATE BILL 6100

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State of Washington                      52nd Legislature                      1992 Regular Session

By Senators Talmadge, Nelson and Rasmussen

Read first time 01/15/92. Referred to Committee on Law & Justice.

1            AN ACT Relating to judges; and amending RCW 4.12.050.

2    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

3            **Sec. 1.** RCW 4.12.050 and 1941 c 148 s 1 are each amended to read  
4 as follows:

5            ~~((Any))~~ A party ~~((to))~~ or ~~((any))~~ attorney appearing in ~~((any))~~ an  
6 action or proceeding in a superior court, may establish ~~((such))~~ the  
7 prejudice by motion, supported by affidavit that the judge before whom  
8 the action is pending is prejudiced against ~~((such))~~ the party or the  
9 party's attorney, so that ~~((such))~~ the party ~~((or attorney))~~ cannot, or  
10 believes that he or she cannot, have a fair and impartial trial before  
11 ~~((such))~~ the judge ~~((: PROVIDED, That such))~~. The motion and affidavit  
12 ~~((is))~~ must be filed and called to the attention of the judge before  
13 ~~((he shall have))~~ the judge has made any ruling whatsoever in the case,  
14 either on the motion of the party making the affidavit, or on the

1 motion of any other party to the action, of the hearing of which the  
2 party making the affidavit has been given notice, and before the judge  
3 presiding has made any order or ruling involving discretion, ((but))  
4 except the arrangement of the calendar, the setting of an action,  
5 motion or proceeding down for hearing or trial, the arraignment of the  
6 accused in a criminal action or the fixing of bail, shall not be  
7 construed as a ruling or order involving discretion within the meaning  
8 of this ((~~proviso; and in any event,~~) section. In counties where  
9 there is but one resident judge, such motion and affidavit shall be  
10 filed not later than the day on which the case is called to be set for  
11 trial((~~: AND PROVIDED FURTHER, That notwithstanding the filing of such~~  
12 ~~motion and affidavit, if the parties shall, by stipulation in writing~~  
13 ~~agree, such judge may hear argument and rule upon any preliminary~~  
14 ~~motions, demurrers, or other matter thereafter presented: AND PROVIDED~~  
15 ~~FURTHER, That~~)). In judicial districts where cases are assigned from  
16 a master calendar on the date of trial, the motion must be filed with  
17 the assigned trial judge immediately after arrival at the court of that  
18 judge. No party or attorney shall be permitted to make more than one  
19 such application in any action or proceeding under this section and RCW  
20 4.12.040.