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HOUSE BILL 1848

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State of Washington

53rd Legislature

1993 Regular Session

By Representative Riley

Read first time 02/12/93. Referred to Committee on Judiciary.

1 AN ACT Relating to affidavits of prejudice; and amending RCW  
2 4.12.050.

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

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

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

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

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