

Senate Bill 812

Sponsored by Senator JOHNSON (at the request of The Honorable Steven B. Reed)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that party or attorney may make no more than one motion for change of judge in cause, matter or proceeding in judicial district with three or fewer circuit court judges.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to motions for change of judge; creating new provisions; amending ORS 14.260; and de-
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 14.260 is amended to read:

6 14.260. (1) Any party to or any attorney appearing in any cause, matter or proceeding in a cir-
7 cuit court may establish the belief described in ORS 14.250 by motion supported by affidavit that
8 *[such]* **the** party or attorney believes that such party or attorney cannot have a fair and impartial
9 trial or hearing before such judge, and that it is made in good faith and not for the purpose of delay.
10 *[No]* **The party or attorney is not required to allege** specific grounds for the belief *[need be al-*
11 *leged]*. *[Such]* **The** motion shall be allowed unless the judge moved against, or the presiding judge
12 for the judicial district, challenges the good faith of the affiant and sets forth the basis of *[such]* **the**
13 challenge. In the event of *[such]* **a** challenge, a hearing shall be held before a disinterested judge.
14 The burden of proof *[shall be]* **is** on the challenging judge to establish that the motion was made in
15 bad faith or for the purposes of delay.

16 (2) The affidavit *[shall]* **may** be filed with *[such]* **the** motion at any time prior to final determi-
17 nation of *[such]* **the** cause, matter or proceedings in uncontested cases, and in contested cases before
18 or within five days after *[such]* **the** cause, matter or proceeding is at issue upon a question of fact
19 or within 10 days after the assignment, appointment and qualification or election and assumption
20 of office of another judge to preside over *[such]* **the** cause, matter or proceeding.

21 (3) *[No]* **A** motion to disqualify a judge *[shall]* **may not** be made after the judge has ruled upon
22 any petition, demurrer or motion other than a motion to extend time in the cause, matter or pro-
23 ceeding. *[No]* **A** motion to disqualify a judge or a judge pro tem, assigned by the Chief Justice of the
24 Supreme Court to serve in a county other than the county in which the judge or judge pro tem re-
25 sides *[shall]*, **may not** be filed more than five days after the party or attorney appearing in the
26 cause receives notice of the assignment.

27 (4) In judicial districts having a population of 100,000 or more, the affidavit and motion for
28 change of judge shall be made at the time and in the manner prescribed in ORS 14.270.

29 (5)(a) *[No]* **A** party or attorney *[shall be permitted to]* **may not** make more than two
30 *[applications]* **motions to disqualify a judge** in any cause, matter or proceeding under this section.

31 **(b) Notwithstanding paragraph (a) of this subsection, in a judicial district with three or**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 fewer circuit court judges, a party or attorney may not make more than one motion to dis-
2 qualify a judge in any cause, matter or proceeding under this section.

3 **SECTION 2.** (1) The amendments to ORS 14.260 by section 1 of this 2013 Act apply only
4 to motions to disqualify a judge filed on or after the effective date of this 2013 Act.

5 (2) If, before the effective date of this 2013 Act, a party or attorney has filed one or more
6 motions to disqualify a judge in a cause, matter or proceeding in a judicial district with three
7 or fewer circuit court judges, the party or attorney may not file another motion to disqualify
8 a judge in the cause, matter or proceeding.

9 **SECTION 3.** This 2013 Act being necessary for the immediate preservation of the public
10 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
11 on its passage.
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