

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-0669.01 Jerry Barry x4341

HOUSE BILL 17-1132

HOUSE SPONSORSHIP

Lundeen,

SENATE SPONSORSHIP

Gardner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING JUDICIAL DISQUALIFICATION IN CIVIL ACTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Currently, under the Colorado rules of civil procedure, a party may file a motion and affidavit to disqualify a judge for specified reasons. The bill establishes the process in statute and specifies the reasons why a judge may be disqualified. The bill adds to the process requirements that:

- ! The motion must be filed within certain time frames; and
- ! If the judge who is the subject of the motion does not immediately grant the motion, the issue is referred to the chief judge of the court or, if the judge is a chief judge, a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
April 19, 2017

chief judge of an adjoining jurisdiction.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 13-1-138 as
3 follows:

4 **13-1-138. Judicial disqualification in district and county court**
5 **civil cases - rules.** (1) (a) A PARTY TO A CIVIL ACTION IN A DISTRICT
6 COURT, INCLUDING THE JUVENILE COURT IN DENVER AND THE PROBATE
7 COURT OF DENVER, OR A COUNTY COURT MAY FILE A MOTION TO
8 DISQUALIFY A JUDGE. THE MOTION MUST BE:

9 (I) SUPPORTED BY AN AFFIDAVIT STATING FACTS ESTABLISHING
10 ONE OR MORE OF THE GROUNDS FOR DISQUALIFICATION UNDER RULE 97 OF
11 THE COLORADO RULES OF CIVIL PROCEDURE OR RULE 397 OF THE
12 COLORADO RULES OF COUNTY COURT CIVIL PROCEDURE, WHICHEVER IS
13 APPLICABLE; AND

14 (II) FILED NOT LATER THAN TWENTY-ONE DAYS AFTER THE LAST
15 OF THE FOLLOWING:

16 (A) THE ASSIGNMENT OR REASSIGNMENT OF THE ACTION TO THE
17 JUDGE; OR

18 (B) THE APPEARANCE OF A PARTY WHICH GIVES RISE TO THE
19 ALLEGED BASIS FOR DISQUALIFICATION OF THE ASSIGNED JUDGE.

20 (b) NOTWITHSTANDING SUBSECTION (1)(a)(II) OF THIS SECTION, A
21 MOTION UNDER THIS SECTION MAY NOT BE FILED LATER THAN NINETY-ONE
22 DAYS PRIOR TO TRIAL OF THE ACTION.

23 (c) A PARTY TO AN ACTION MAY ONLY FILE ONE MOTION TO
24 DISQUALIFY A JUDGE UNDER THIS SECTION IN THE ACTION.

25 (d) THIS SECTION DOES NOT LIMIT A PARTY'S RIGHT TO FILE A

1 MOTION PURSUANT TO RULE 97 OF THE COLORADO RULES OF CIVIL
2 PROCEDURE OR RULE 397 OF THE COLORADO RULES OF COUNTY COURT
3 CIVIL PROCEDURE, WHICHEVER IS APPLICABLE; EXCEPT THAT A PARTY
4 THAT HAS FILED A MOTION UNDER THIS SECTION SHALL NOT FILE ANOTHER
5 MOTION ALLEGING THE SAME BASIS FOR DISQUALIFICATION. ONLY A
6 MOTION AND RESULTING ORDER THAT COMPLIES WITH THIS SECTION MAY
7 BE REVIEWED ON AN INTERLOCUTORY BASIS AS DESCRIBED IN SUBSECTION
8 (3) OF THIS SECTION.

9 (2) (a) THE TIMELY FILING OF A MOTION TO DISQUALIFY A JUDGE
10 UNDER THIS SECTION STAYS FURTHER PROCEEDINGS IN THE TRIAL COURT
11 CASE UNTIL THE MOTION IS RULED UPON.

12 (b) A JUDGE SHALL RULE ON A MOTION TIMELY FILED PURSUANT
13 TO SUBSECTION (1) OF THIS SECTION AS SOON AS PRACTICABLE BUT WITHIN
14 SIXTY-THREE DAYS AFTER THE MOTION IS FILED. THE RULING MUST BE IN
15 A WRITTEN AND SIGNED ORDER. FOR A MOTION THAT IS NOT TIMELY FILED
16 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE JUDGE SHALL
17 CONSIDER AND RULE ON THE MOTION PURSUANT TO RULE 97 OF THE
18 COLORADO RULES OF CIVIL PROCEDURE OR RULE 397 OF THE COLORADO
19 RULES OF COUNTY COURT CIVIL PROCEDURE, WHICHEVER IS APPLICABLE.

20 (c) NO LATER THAN SEVEN DAYS AFTER A WRITTEN ORDER IS
21 ENTERED GRANTING A MOTION PURSUANT TO THIS SECTION, THE CASE
22 MUST BE REASSIGNED AS PROVIDED BY LAW.

23 (3) (a) IF A MOTION TO DISQUALIFY A JUDGE UNDER THIS SECTION
24 IS DENIED, THE MOVING PARTY IS ENTITLED TO INTERLOCUTORY REVIEW
25 OF THE DENIAL BY FILING A PETITION FOR REVIEW. A PETITION FOR REVIEW
26 OF A MOTION TO DISQUALIFY A DISTRICT COURT JUDGE MUST BE FILED IN
27 THE COURT OF APPEALS. A PETITION FOR REVIEW OF A MOTION TO

1 DISQUALIFY A COUNTY COURT JUDGE MUST BE FILED IN THE DISTRICT
2 COURT.

3 (b) A PETITION FOR REVIEW OF A MOTION TO DISQUALIFY MUST BE
4 FILED WITHIN SEVEN DAYS AFTER THE WRITTEN ORDER OF DENIAL. THE
5 TIMELY FILING AFTER A PETITION FOR REVIEW IS A JURISDICTIONAL
6 PREREQUISITE FOR INTERLOCUTORY REVIEW UNDER THIS SECTION.
7 NOTWITHSTANDING ANY COURT RULE TO THE CONTRARY, NO EXTENSIONS
8 OF TIME TO FILE A PETITION FOR REVIEW MAY BE GRANTED BY ANY COURT.

9 (c) THE FILING OF A PETITION FOR REVIEW UNDER THIS SUBSECTION
10 (3) DOES NOT STAY ANY PROCEEDING IN THE TRIAL COURT OR THE
11 RUNNING OF ANY APPLICABLE TIME LIMIT.

12 (d) A PETITION FOR REVIEW OF A MOTION TO DISQUALIFY A JUDGE
13 FILED PURSUANT TO THIS SECTION MUST BE EXPEDITED ON THE REVIEWING
14 COURT'S DOCKET.

15 (e) THE SUPREME COURT SHALL PROMULGATE RULES REGARDING
16 THE INTERLOCUTORY REVIEW OF PETITIONS FOR REVIEW OF A MOTION TO
17 DISQUALIFY A JUDGE UNDER THIS SECTION.

18 **SECTION 2. Effective date - applicability.** This act takes effect
19 July 1, 2017, and applies to motions filed on or after said date.

20 **SECTION 3. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.