

HB1132_L.006

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB17-1132 be amended as follows:

1 Amend the printed bill, strike everything below the enacting clause and
2 substitute:

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

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

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

15 (II) FILED NOT MORE THAN TWENTY-ONE DAYS AFTER THE LATER
16 OF:

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

19 (B) AN APPEARANCE OF A PARTY OR THE ENTRY OF APPEARANCE
20 BY A PARTY'S ATTORNEY WHICH GIVES RISE TO THE ALLEGED BASIS FOR
21 DISQUALIFICATION OF THE ASSIGNED JUDGE.

22 (b) THIS SECTION DOES NOT LIMIT A PARTY'S RIGHT TO FILE A
23 MOTION PURSUANT TO RULE 97 OF THE COLORADO RULES OF CIVIL
24 PROCEDURE OR RULE 397 OF THE COLORADO RULES OF COUNTY COURT
25 CIVIL PROCEDURE FOR A CHANGE OF JUDGE. ONLY A MOTION AND
26 RESULTING ORDER THAT COMPLIES WITH THIS SECTION MAY BE REVIEWED
27 ON AN INTERLOCUTORY BASIS AS PROVIDED IN SUBSECTION (3)(a) OF THIS
28 SECTION.

29 (2) (a) THE TIMELY FILING OF A MOTION TO DISQUALIFY A JUDGE
30 UNDER THIS SECTION STAYS FURTHER PROCEEDINGS IN THE TRIAL COURT
31 ACTION UNTIL THE MOTION IS RULED UPON OR DEEMED GRANTED.

32 (b) THE JUDGE MUST RULE ON A TIMELY MOTION FILED PURSUANT
33 TO SUBSECTION (1)(a) OF THIS SECTION WITHIN TWENTY-ONE DAYS AFTER
34 THE FILING OF THE MOTION OR THE MOTION IS DEEMED GRANTED. THE
35 JUDGE MAY NOT EXTEND THE TIME FOR RULING ON THE MOTION. THE
36 RULING MAY BE EITHER WRITTEN OR ORAL. ANY MOTION THAT IS NOT
37 TIMELY ENTERED PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION



1 MUST BE CONSIDERED AND RULED UPON BY THE COURT PURSUANT TO RULE
2 97 OF THE COLORADO RULES OF CIVIL PROCEDURE OR RULE 397 OF THE
3 COLORADO RULES OF COUNTY COURT CIVIL PROCEDURE.

4 (c) NO LATER THAN SEVEN DAYS AFTER AN ORDER IS ENTERED
5 GRANTING THE MOTION OR THE MOTION IS DEEMED GRANTED, THE CASE
6 MUST BE REASSIGNED AS PROVIDED BY LAW.

7 (3) (a) IF A MOTION TO DISQUALIFY A JUDGE UNDER THIS SECTION
8 IS DENIED, THE MOVING PARTY IS ENTITLED TO INTERLOCUTORY REVIEW
9 OF THE DENIAL BY FILING A PETITION FOR REVIEW. A PETITION FOR REVIEW
10 OF A MOTION TO DISQUALIFY A COUNTY COURT JUDGE MUST BE FILED IN
11 THE DISTRICT COURT. A PETITION FOR REVIEW OF A MOTION TO
12 DISQUALIFY A DISTRICT COURT JUDGE MUST BE FILED IN THE COURT OF
13 APPEALS. THERE IS NO FILING FEE FOR FILING A PETITION FOR REVIEW
14 UNDER THIS SECTION.

15 (b) A PETITION FOR REVIEW OF A MOTION TO DISQUALIFY A JUDGE
16 UNDER THIS SECTION MUST BE FILED WITHIN SEVEN DAYS OF THE ORDER
17 OF DENIAL. THE TIMELY FILING OF A PETITION FOR REVIEW IS A
18 JURISDICTIONAL PREREQUISITE FOR INTERLOCUTORY REVIEW UNDER THIS
19 SECTION. NOTWITHSTANDING ANY COURT RULE TO THE CONTRARY, NO
20 EXTENSIONS OF TIME TO FILE A PETITION FOR REVIEW MAY BE GRANTED BY
21 ANY COURT.

22 (c) THE TIMELY FILING OF A PETITION FOR REVIEW OF A MOTION TO
23 DISQUALIFY A JUDGE STAYS FURTHER PROCEEDINGS IN THE TRIAL COURT
24 UNTIL THE PETITION IS RULED ON.

25 (d) A PETITION FOR REVIEW OF A MOTION TO DISQUALIFY A JUDGE
26 MUST BE RULED UPON BY THE REVIEWING COURT WITHIN TWENTY-ONE
27 DAYS AFTER THE PETITION IS FILED.

28 (e) THE SUPREME COURT SHALL PROMULGATE RULES REGARDING
29 THE INTERLOCUTORY REVIEW OF PETITIONS FOR REVIEW BY THE COURT OF
30 APPEALS OF A MOTION TO DISQUALIFY A JUDGE UNDER THIS SECTION.

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

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

** *** ** *** **

