

HB1132_L.009

HOUSE COMMITTEE OF REFERENCE AMENDMENT

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

1 Amend printed bill, strike everything below the amending 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 - rules.** (1) (a) A PARTY TO A CIVIL ACTION IN A DISTRICT
7 COURT, INCLUDING THE JUVENILE COURT IN DENVER AND THE PROBATE
8 COURT OF DENVER, OR A COUNTY COURT MAY FILE A MOTION TO
9 DISQUALIFY A JUDGE. 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 LATER THAN TWENTY-ONE DAYS AFTER THE LAST
16 OF THE FOLLOWING:

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

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

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

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

26 (d) THIS SECTION DOES NOT LIMIT A PARTY'S RIGHT TO FILE A
27 MOTION PURSUANT TO RULE 97 OF THE COLORADO RULES OF CIVIL
28 PROCEDURE OR RULE 397 OF THE COLORADO RULES OF COUNTY COURT
29 CIVIL PROCEDURE, WHICHEVER IS APPLICABLE; EXCEPT THAT A PARTY
30 THAT HAS FILED A MOTION UNDER THIS SECTION SHALL NOT FILE ANOTHER
31 MOTION ALLEGING THE SAME BASIS FOR DISQUALIFICATION. ONLY A
32 MOTION AND RESULTING ORDER THAT COMPLIES WITH THIS SECTION MAY
33 BE REVIEWED ON AN INTERLOCUTORY BASIS AS DESCRIBED IN SUBSECTION
34 (3) OF THIS SECTION.

35 (2) (a) THE TIMELY FILING OF A MOTION TO DISQUALIFY A JUDGE
36 UNDER THIS SECTION STAYS FURTHER PROCEEDINGS IN THE TRIAL COURT
37 CASE UNTIL THE MOTION IS RULED UPON OR DEEMED GRANTED.

38 (b) A JUDGE SHALL RULE ON A MOTION TIMELY FILED PURSUANT

1 TO SUBSECTION (1) OF THIS SECTION WITHIN TWENTY-ONE DAYS AFTER
2 FILING, OR THE MOTION IS DEEMED GRANTED. THE JUDGE SHALL NOT
3 EXTEND THE TIME FOR RULING ON THE MOTION. THE RULING MUST BE IN
4 A WRITTEN AND SIGNED ORDER. FOR A MOTION THAT IS NOT TIMELY FILED
5 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE JUDGE SHALL
6 CONSIDER AND RULE ON THE MOTION PURSUANT TO RULE 97 OF THE
7 COLORADO RULES OF CIVIL PROCEDURE OR RULE 397 OF THE COLORADO
8 RULES OF COUNTY COURT CIVIL PROCEDURE, WHICHEVER IS APPLICABLE.

9 (c) NO LATER THAN SEVEN DAYS AFTER A WRITTEN ORDER IS
10 ENTERED GRANTING A MOTION PURSUANT TO THIS SECTION OR SUCH A
11 MOTION IS DEEMED GRANTED, THE CASE MUST BE REASSIGNED AS
12 PROVIDED BY LAW.

13 (3) (a) IF A MOTION TO DISQUALIFY A JUDGE UNDER THIS SECTION
14 IS DENIED, THE MOVING PARTY IS ENTITLED TO INTERLOCUTORY REVIEW
15 OF THE DENIAL BY FILING A PETITION FOR REVIEW. A PETITION FOR REVIEW
16 OF A MOTION TO DISQUALIFY A DISTRICT COURT JUDGE MUST BE FILED IN
17 THE COURT OF APPEALS. A PETITION FOR REVIEW OF A MOTION TO
18 DISQUALIFY A COUNTY COURT JUDGE MUST BE FILED IN THE DISTRICT
19 COURT.

20 (b) A PETITION FOR REVIEW OF A MOTION TO DISQUALIFY MUST BE
21 FILED WITHIN SEVEN DAYS AFTER THE WRITTEN ORDER OF DENIAL. THE
22 TIMELY FILING AFTER A PETITION FOR REVIEW IS A JURISDICTIONAL
23 PREREQUISITE FOR INTERLOCUTORY REVIEW UNDER THIS SECTION.
24 NOTWITHSTANDING ANY COURT RULE TO THE CONTRARY, NO EXTENSIONS
25 OF TIME TO FILE A PETITION FOR REVIEW MAY BE GRANTED BY ANY COURT.

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

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

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

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

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

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