



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5380/1
TKK:kjf

2017 SENATE BILL 779

February 7, 2018 - Introduced by Senators VINEHOUT, JOHNSON, MILLER, HANSEN, L. TAYLOR and RISSER, cosponsored by Representatives HEBL, WACHS, ANDERSON, BERCEAU, BOWEN, CROWLEY, KESSLER, KOLSTE, POPE, SARGENT, SINICKI, SPREITZER, SUBECK and C. TAYLOR. Referred to Committee on Government Operations, Technology and Consumer Protection.

1 **AN ACT** *to renumber and amend* 757.19 (3); and *to create* 757.19 (2) (h) and
2 757.19 (3) (b) of the statutes; **relating to:** judicial disqualification based on
3 campaign financial support.

Analysis by the Legislative Reference Bureau

This bill requires a supreme court justice and a judge in the court of appeals, in circuit court, and in municipal court (judge) to disqualify himself or herself from a civil or criminal action or proceeding (action) if, as a candidate for judicial office and within the past four years, the judge received campaign financial support of \$1,000 or more from a party to the action. The bill specifies that financial support includes campaign contributions, independent contributions made on behalf of the judge, and independent contributions made against the judge's opponent. In the event that a judge must disqualify himself or herself under the condition established in the bill, the judge may disclose the reason for disqualification and ask the parties and the lawyers of the parties to consider whether to waive disqualification. If the party who is opposed to the party who provided campaign financial support to the judge waives disqualification, the judge may participate in the action.

Current law requires a judge to disqualify himself or herself from an action under certain circumstances, including when a judge is related to any party or counsel to the action, when a judge is a party or a material witness in the action, when a judge has a significant financial or personal interest in the outcome of the action,

SENATE BILL 779

and when a judge determines that he or she cannot, or it appears he or she cannot, act in an impartial manner.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 757.19 (2) (h) of the statutes is created to read:

2 757.19 (2) (h) 1. In this paragraph:

3 a. “Campaign financial support” includes contributions to the judge’s candidate
4 committee, independent expenditures made on behalf of the judge, and independent
5 expenditures made against the judge’s opponent.

6 b. “Candidate” has the meaning given in s. 11.0101 (1).

7 c. “Candidate committee” has the meaning given in s. 11.0101 (2).

8 d. “Contribution” has the meaning given in s. 11.0101 (8).

9 e. “Independent expenditure” has the meaning given in s. 11.0101 (16).

10 f. “Party” includes an immediate family member of a party, a party’s business
11 or business partner or associate, an attorney or law firm representing a party, and
12 a partner or associate of the attorney or law firm representing a party.

13 2. When a judge has received, as a candidate for judicial office and within the
14 past 4 years, campaign financial support from a party to the action or proceeding in
15 an amount of \$1,000 or more.

16 **SECTION 2.** 757.19 (3) of the statutes is renumbered 757.19 (3) (a) and amended
17 to read:

18 757.19 (3) (a) ~~Any~~ Subject to par. (b), any disqualification that may occur under
19 sub. (2) may be waived by agreement of all parties and the judge after full and
20 complete disclosure on the record of the factors creating such disqualification.

21 **SECTION 3.** 757.19 (3) (b) of the statutes is created to read:

SENATE BILL 779

1 757.19 (3) (b) A judge who is required to disqualify himself or herself under sub.
2 (2) (h) may disclose on the record the basis of the judge's disqualification and may ask
3 the parties and their lawyers to consider, out of the presence of the judge, whether
4 to waive disqualification. If, following disclosure under sub. (2) (h), the party who
5 is opposed to the party that provided campaign financial support to the judge
6 determines that the judge should not be required to disqualify himself or herself, and
7 if the parties and the lawyers of the parties all agree, the parties may waive
8 disqualification of the judge, and the judge, if willing, may participate in the action
9 or proceeding. The agreement or waiver shall be incorporated into the record of the
10 action or proceeding.

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(END)