

2

State of Misconsin 2015 - 2016 LEGISLATURE

LRB-3979/1 PJH:kjf

## 2015 ASSEMBLY BILL 801

January 25, 2016 – Introduced by Representatives JACQUE, GANNON, HORLACHER and STEFFEN. Referred to Committee on Judiciary.

1 AN ACT to amend 971.20 (10) of the statutes; relating to: substitution of judges

in criminal matters.

## Analysis by the Legislative Reference Bureau

This bill eliminates the right of a defendant to substitute a judge in a criminal proceeding without explanation or reason. Current law generally allows a defendant one such substitution.

The bill requires a defendant who wishes to substitute a judge in a criminal proceeding to indicate in writing his or her reasons for the substitution request. Under the bill, the reasons for requesting a substitution must be one or more of the following:

1. The judge was engaged as counsel in the action prior to being appointed or elected as a judge;

2. The judge is otherwise interested in the action;

3. The judge is related to either party to the action;

4. The judge is a material witness in the action; or

5. The defendant has reason to believe that he or she cannot obtain a fair and impartial trial on account of the judge's bias, prejudice, or interest of the judge.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

2015 – 2016 Legislature – 2 –

**ASSEMBLY BILL 801** 

1	<b>SECTION 1.</b> 971.20 (10) of the statutes is amended to read:
2	971.20 (10) FORM OF REQUEST. A request for substitution of a judge may shall
3	specify the reason for the request, shall be in writing, and shall be made in the
4	following form:
5	STATE OF WISCONSIN
6	CIRCUIT COURT
7	County
8	State of Wisconsin
9	vs.
10	(Defendant)
11	Pursuant to s. 971.20 the defendant (or defendants) request (s) a substitution
12	for the Hon as judge in the above entitled action. <u>The reason (s) for this request</u>
13	(is/are) the following (must select one):
14	1. The judge was engaged as counsel in the action prior to appointment or
15	<u>election as a judge.</u>
16	2. The judge is otherwise interested in the action.
17	<u>3. The judge is of kin or related to either party to the action.</u>
18	4. The judge is a material witness in the action.
19	5. The party filing the affidavit has cause to believe that on account of the bias,
20	prejudice, or interest of the judge he or she cannot obtain a fair and impartial trial.
21	(Optional explanation).
22	Dated, (year)
23	(Signature of defendant or defendant's attorney)
24	SECTION 2. Initial applicability.

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- (1) This act first applies to actions commenced on the effective date of this 1  $\mathbf{2}$ subsection.
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(END)