

## 2005 ASSEMBLY BILL 390

April 27, 2005 – Introduced by Representatives KRAWCZYK, VAN ROY, OTT, VOS, NASS, LEMAHIEU, GUNDERSON, HINES, OWENS, BALLWEG, LAMB and F. LASEE, cosponsored by Senators COWLES and A. LASEE. Referred to Committee on Corrections and the Courts.

1 **AN ACT** *to renumber* 971.20 (2); *to amend* 971.20 (10); and *to create* 971.20 (2)  
2 (b) of the statutes; **relating to:** substitution of judges by the state in criminal  
3 cases.

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### *Analysis by the Legislative Reference Bureau*

Under current law, there are two methods by which a judge who is scheduled to handle a case is replaced: disqualification and substitution. A judge is required to disqualify himself or herself in a case if the judge may be considered to have an interest in the matter, such as if the judge is related to a party, has previously been involved with the case as counsel, or has a significant financial or personal interest in the outcome.

Substitution is the method by which parties in the case may have a judge who is scheduled to handle a case taken off the case without having to give a reason. Each party in a civil case and the defendant in a criminal case generally have a right to one substitution, except that additional substitution rights occur in certain cases if there is a successful appeal or if the judge who handles a preliminary hearing is assigned to handle the trial.

This bill retains the provisions relating to the disqualification of a judge, but provides that in a criminal trial the state has the right to substitution if the county in which the trial is held has at least three circuit court judges.



