



2011 ASSEMBLY BILL 109

April 26, 2011 – Introduced by Representatives JACQUE, BIES, KNILANS, MURSAU, RIVARD, SPANBAUER, VOS and ZIEGELBAUER, cosponsored by Senators ZIPPERER, KEDZIE, DARLING and WANGGAARD. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to repeal* 971.20 of the statutes; **relating to:** eliminating substitution
2 of judges in criminal matters.

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 for both civil and criminal matters, but eliminates the defendant's right to substitution of a judge in criminal matters.

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:

