

The meeting was called to order at 9:10 a.m. Senator Close was in the Chair.

PRESENT: Senator Close  
Senator Hernstadt  
Senator Don Ashworth  
Senator Dodge  
Senator Ford  
Senator Raggio  
Senator Sloan

ABSENT: None

SCR 2 Urges Nevada Supreme Court to regulate legal assistants.

Eric Funston a Legal Assistant from Las Vegas stated he is here on behalf of the Paralegal Association of Nevada and the National Association of Legal Assistants. He stated that the definition of a legal assistant as promulgated by the National Association and the Nevada Association, begins with the words "under the supervision of a lawyer." That is the only way in which a legal assistant can function. In this state, the Supreme Court rules regulate the attorneys. Supreme Court Rule 203 adopts the ABA Canon (see attachment A). Canon 3 of that code requires that an attorney assure that those who he employes do not engage in the unauthorized practice of law and ethical consideration. Rule 36 which is based on that Canon stipulates that a supervising attorney remains ultimately responsible for his employees actions, and that includes those of a legal assistant. We therefore feel that regulation is not required for legal assistants; the attorney's regulations perform that function. We do however feel that there is need for direction in the way that those regulations apply to legal assistants. To that end, the Associations have been working on guidelines which are essentially similar to guidelines which have been adopted in other states, specifically Michigan and New York, and are under consideration in Texas. He stated that they have some amendments to the bill that he wished to submit for Committee approval (see attachment B). He stated that with regard to licensure, it is similar to regulation. In his opinion the license of an attorney protects the public. Therefore it would be redundant to license legal assistants. He feels that licensing could hamper the profession, and could be detrimental to the advancement of a legal secretary, such as is pointed out in the letter from Albert Marquis to Senator Ford (see attachment C). It has also been suggested that licensing could possibly increase the fee to the client. He stated that as an alternative to licensing, the National Association has a voluntary certification program. This establishes a standard of excellence and professional achievement, which a legal assistant can aspire to, and which a legal assistant is encouraged to aspire to. The certification examination is a 12 hour examination on the legal assistant's knowledge

and expertise in eight areas. They include legal research; substantive law, including the history of the American legal system; ethics; judgment and analytical ability; law office management and so on. To date, 194 persons, nationwide, have taken the test. Only 93 of those individuals have passed on the first sitting, and 40 have passed on the second or subsequent retakes. Even after passing, the legal assistant is required to undertake certain continuing education to maintain that certification. So we would urge that not only the guidelines, but this certification program be adopted and supported in this State.

Senator Raggio stated that in talking with Frank Daykin, Mr. Daykin felt that this should be regulated by the Supreme Court, rather than by the Legislature. He asked Mr. Funston if there weren't other national organizations, beside the one he represented.

Mr. Funston stated there are two other groups. One is the American Paralegal Association, which originated in San Francisco. The other is the National Federation of Paralegal Associations, which is a loose confederation of state groups.

Senator Raggio asked if the term legal assistant was loose enough to include a legal secretary?

Mr. Funston stated that the definition is very broad. Legal assistants across the country perform a variety of functions in different areas of law. A basic definition would be someone, who through experience or training, is qualified to assist a member of the bar in the performance of legal practice for the benefit of the public. The assistance rendered by a legal assistant is not primarily clerical in nature, but rather of a technical nature.

Senator Dodge stated that he felt that there are laws now in effect, in the Statutes, that protect the public. He felt that if the person were guilty of practicing law illegally they could be prosecuted under the present law.

Mr. Funston stated that is why he feels that there should be guidelines to say what a legal assistant can and cannot do. He stated that in Southern Nevada, 81% of the law offices utilize legal assistants, however, he does not have the figures of how many assistants are in any given office.

Senator Sloan stated that he felt the Supreme Court or the bar could move right now if they felt there was a need. He doesn't feel that the Legislature should cater to only one out of three groups.

Senator Dodge stated he does not feel the Legislature should get involved, unless there is a public interest to protect. The legal assistant works under an attorney, their duties

are well defined and the attorney is responsible. There are laws that prohibit the illegal practice of law so he could see nothing gained by this bill.

Senator Raggio stated that the Legislature has adopted many guidelines for other people working under licensed professional people, such as dental technicians, nurses, and others. He stated that even though these people may be working under an attorney, they do practically everything an attorney does.

Senator Ashworth stated that he felt these people's forum should be the Supreme Court not the Legislature.

Senator Sloan moved that SCR 2 be "indefinitely postponed".

Seconded by Senator Ashworth.

AYE: Senator Close  
Senator Hernstadt  
Senator Don Ashworth  
Senator Ford  
Senator Sloan  
Senator Dodge

NAY: Senator Raggio

SB 102 Adds to procedural requirements for disqualification of judges.

See minutes of January 31 for testimony on this bill.

Senator Ashworth moved that SB 102 be passed out of Committee with a "do pass" recommendation.

Senator Hernstadt seconded.

Motion carried unanimously.

SB 111 Reinstates provision for one change of judge upon filing of affidavit alleging bias.

See minutes of January 31 and February 5 for testimony and discussion.

Senator Raggio moved that SB 111 be passed out of Committee with a "do pass" recommendation.

Senator Hernstadt seconded.

Motion carried unanimously.

SB 104 Revises provisions relating to disqualification of judges.

See minutes of January 31 and February 5 for testimony and discussion.

Senator Raggio moved that SB 104 be indefinitely postponed.

Senator Hernstadt seconded.

Motion carried unanimously.

SB 99 Consolidates various provisions relating to wrongful death actions.

Senator Close stated that they would go over the amendments, (see attachment D) however, it was the consensus of the Committee that it would be easier to see how all of this would read when the bill was reprinted with the amendments. Senator Close then went through the disposition of repealers, (see attachment E).

Senator Ashworth moved that SB 99 be passed out of Committee with a "amend and do pass and rerefer to Committee" recommendation.

Senator Sloan seconded.

Motion carried unanimously.

SB 143 Requires interpreters for certain handicapped persons in judicial and administrative proceedings.

See minutes of February 6 and February 13 for testimony on this bill.

Senator Close stated that he would like to see what the federal laws were that were passed in November of 1978, before the Committee did anything further with this bill. He stated that there are two sections being repealed, 51.050 and 151.15.35.

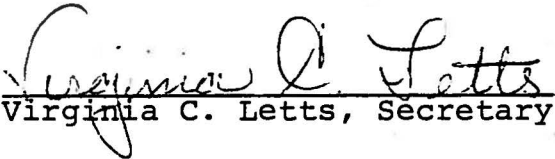
It was the consensus of the Committee to wait until Miss Hensley brought the federal law in so they could compare that, with what is in this bill. They also had some question as to whether a spouse or relative could interpret for the person. Also they were not clear on the intent if you were the plaintiff in either a criminal or a civil action.

No action was taken on this bill at this time.

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There being no further business the Committee adjourned.

Respectfully submitted

  
Virginia C. Letts, Secretary

APPROVED

Senator Melvin D. Close, Chairman



**CODE OF ETHICS  
AND  
PROFESSIONAL RESPONSIBILITY  
OF**

**NATIONAL ASSOCIATION OF LEGAL ASSISTANTS, INC.**

**Preamble**

It is the responsibility of every legal assistant to adhere strictly to the accepted standards of legal ethics and to live by general principles of proper conduct. The performance of the duties of the legal assistant shall be governed by specific canons as defined herein in order that justice will be served and the goals of the profession attained.

The canons of ethics set forth hereafter are adopted by the National Association of Legal Assistants, Inc., as a general guide, and the enumeration of these rules does not mean there are not others of equal importance although not specifically mentioned.

Canon 1. A legal assistant shall not perform any of the duties that lawyers only may perform nor do things that lawyers themselves may not do.

Canon 2. A legal assistant may perform any task delegated and supervised by a lawyer so long as the lawyer is responsible to the client, maintains a direct relationship with the client, and assumes full professional responsibility for the work product.

Canon 3. A legal assistant shall not engage in the practice of law by giving legal advice, appearing in court, setting fees, or accepting cases.

Canon 4. A legal assistant shall not act in matters involving professional legal judgment as the services of a lawyer are essential in the public interest whenever the exercise of such judgment is required.

Canon 5. A legal assistant must act prudently in determining the extent to which a client may be assisted without the presence of a lawyer.

Canon 6. A legal assistant shall not engage in the unauthorized practice of law and shall assist in preventing the unauthorized practice of law.

Canon 7. A legal assistant must protect the confidences of a client, and it shall be unethical for a legal assistant to violate any statute now in effect or hereafter to be enacted controlling privileged communications.

Canon 8. It is the obligation of the legal assistant to avoid conduct which would cause the lawyer to be unethical or even appear to be unethical, and loyalty to the employer is incumbent upon the legal assistant.

Canon 9. A legal assistant shall work continually to maintain integrity and a high degree of competency throughout the legal profession.

Canon 10. A legal assistant shall strive for perfection through education in order to better assist the legal profession in fulfilling its duty of making legal services available to clients and the public.

Canon 11. A legal assistant shall do all other things incidental, necessary, or expedient for the attainment of the ethics and responsibilities imposed by statute or rule of court.

Canon 12. A legal assistant is governed by the American Bar Association Code of Professional Responsibility.

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1 The Nevada Paralegal Association respectfully requests  
2 that Senate Concurrent Resolution No. 2, as proposed by Senator  
3 William Raggio, be amended as follows:

4 "WHEREAS, The increasing demands involved in the practice  
5 of law in Nevada leaves lawyers with less time for the necessary  
6 but routine tasks of their practice; and

7 WHEREAS, Lawyers can provide better service to a larger  
8 number of clients if they are free to devote more of their time  
9 and attention to those aspects of their practice which require  
10 their special knowledge and skills; and

11 WHEREAS, Lawyers are finding that the employment of  
12 assistants to perform routine technical tasks is an economic and  
13 practical necessity; and

14 WHEREAS, This need will be filled increasingly by persons  
15 who are unwilling or unable to pursue the long, arduous study and  
16 preparation necessary for admission to the bar; and

17 WHEREAS, The training and supervision of legal assis-  
18 tants will have a direct effect upon the quality of legal prac-  
19 tice in this State; and

20 WHEREAS, The Nevada Paralegal Association, an organization  
21 of professional legal assistants in this State, whose purpose is  
22 the promotion and maintenance of high standards of professional and  
23 ethical conduct among legal assistants, has prepared Guidelines for  
24 the Utilization of Legal Assistants; and


25 WHEREAS, the National Association of Legal Assistants,  
26 Inc., an organization of professional legal assistants throughout  
27 the Country, whose aims and purposes are consistent with those of  
28 the Nevada Paralegal Association, has developed a voluntary national  
29 certification program, which is recognized by the Nevada Paralegal  
30 Association; now, therefore, be it

31 RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY  
32 CONCURRING, That the Nevada legislature urges the Supreme Court of  
33 Nevada, and the State Bar Association of Nevada, to adopt by rule  
34 those Guidelines for the Utilization of Legal Assistants hereinabove  
35 referred to, which are directive rather than regulatory in nature,  
36 for the governance of the employment and supervision of legal assis-  
37 tants by attorneys licensed to practice within this State; and be  
38 it further

39 RESOLVED, That the Nevada legislature urges the Supreme  
40 Court of Nevada, and the State Bar Association of Nevada, to recog-  
41 nize and support the voluntary Certified Legal Assistant program  
42 developed and administered by the National Association of Legal  
43 Assistants, Inc.; and be it further

44 RESOLVED, That a copy of this resolution be prepared and  
45 transmitted forthwith by the legislative counsel to the Chief Jus-  
46 tice of the Supreme Court of Nevada and to the Executive Committee  
47 of the State Bar Association of Nevada."

Respectfully submitted,  
NEVADA PARALEGAL ASSOCIATION

By   
Eric Funston, CLA  
Vice President  
c/o BECKLEY, SINGLETON, DeLANOY  
& JEMISON, Chartered  
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702 382-0711

February 5, 1979

Senator Jean Ford  
Nevada State Legislature  
Room 367  
Carson City, NV 89710Re: Senate Concurrent Resolution No. 2

Dear Jean:

As I stated in our telephone conversation of last week, I am very concerned about SCR-2 which seeks to license and regulate legal assistants.

The practice of law is greatly enhanced by an attorney's use of legal assistants. Because a legal assistant can perform many services which an attorney would otherwise perform and because her (or his) billing rate is much lower, the use of a legal assistant benefits the attorney, the client and the assistant. Moreover, it has been my experience that legal assistants who have gained their knowledge and experience in their capacity as a legal secretary are far more qualified than someone who, for example, has merely attended a para-legal training school.

I have reviewed the minutes of January 23, 1979 in which Senator Raggio gave his reasons for introducing the bill. But to argue that legal assistants should be regulated because lawyers are regulated makes no sense to me whatsoever. In fact, the regulation of lawyers is precisely why there is no need for the regulation of legal assistants. It is the responsibility of the attorney to hire competent personnel, and he must always accept the ultimate responsibility for their work. This is true whether assistants are licensed or not.

Not only does SCR-2 threaten to create an unnecessary intrusion into private business, it would also hamper the advancement of many well-qualified legal secretaries.

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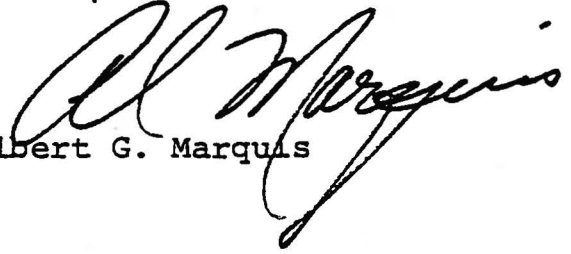
Senator Jean Ford  
February 5, 1979  
Page 2

Many such secretaries are divorced or single, and they can improve their financial status only by becoming legal assistants. There are enough impediments to such an advancement without creating more.

SCR-2 would hamper an attorney's practice, would deprive some of his employees of the opportunity for advancement and would ultimately result in increased costs to the client. I would certainly ask that you and the other members of the Judiciary Committee reject SCR-2.

Thank you for your consideration in this matter.

Very truly yours,



Albert G. Marquis

AGM:cja

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X

ASSEMBLY ACTION	SENATE ACTION	Senate	AMENDMENT BLANK
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to <u>Senate</u>	
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Bill No. <u>99</u>	<u>Print</u>
Date: _____	Date: _____	Resolution No. _____	
Initial: _____	Initial: _____	EDR <u>3-274</u>	
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Proposed by <u>Committee on Judiciary</u>	
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		
Date: _____	Date: _____		
Initial: _____	Initial: _____		

Amendment N<sup>o</sup> 63



Amend section 1, page 1, line 7, by deleting "his heirs or" and inserting "the heirs of the decedent and the".

Amend section 1, page 1, line 8, by deleting "on their behalf may" and inserting "of the decedent may each".

Amend section 1, page 1, line 16, after "brought" and inserting: "by the heirs of a decedent".

Amend section 1, page 1, line 17, by deleting "a decedent brought" and inserting "that decedent brought or maintained".

Amend section 1, page 1, line 19, by deleting ", or personal representatives on their behalf,".

~~Amend section 1, page 1, line 21, by deleting "that amount or".~~

Amend section 1, page 1, by deleting lines 22 and 23 and inserting: "damages for his grief or sorrow, loss of probable support, companionship, society, comfort".

Amend section 1, page 2, line 1, by deleting "but not including" and inserting "and".

Amend section 1, page 2, line 6, by deleting "without limitation:" and inserting a colon after "include".

Amend section 1, page 2, line 8, by deleting "death;" and inserting "death, and funeral expenses:".

Amend section 1, page 2, line 9, by deleting "or punitive and exemplary damages".

Amend section 2, page 3, line 2, by deleting "but do not include" and inserting "and".

Amend section 2, page 3, by deleting line 3 and inserting: "disfigurement and loss of probably support, companionship,".

Amend section 3, page 3, line 12 by deleting "or" and inserting "and".

Amend section 3, page 3, lines 12 and 13, by deleting "on behalf of an heir" and inserting "of the decedent".

Disposition of Repealers  
in S. B. 99

- 12.090 - See section 1, subsec. 2 of bill.
- 41.080 - See ~~§ 1 of bill.~~ <sup>§ 1 of bill.</sup> ~~Reference to~~ Reference to circumstances amounting to felony is obsolete. (It is so even though not expressed.)
- 41.090 - See section 1, <sup>of bill,</sup> subsec 4, last sentence + subsec 5, last sentence. The reference to "exempted by law" is to the family allowance (see NRS ch. 146). The effect is thus a somewhat smaller exemption under SB 99 than under present law.
- 41.110 - See section 2 of bill.
- 41.120 - Not expressly replaced, but see section 2 of bill and section 1, subsection 2, end of first sentence.

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SENATE CONCURRENT RESOLUTION NO. 2—  
SENATOR RAGGIO

JANUARY 16, 1979

Referred to Committee on Judiciary

SUMMARY—Urges Nevada supreme court to regulate legal assistants.  
(BDR 288)

EXPLANATION—Matter in *Italics* is new; matter in brackets [ ] is material to be omitted.

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SENATE CONCURRENT RESOLUTION—Urging the supreme court to provide  
by rule for the licensing and regulation of legal assistants.

1 WHEREAS, The increasing demands involved in the practice of law in  
2 Nevada leaves lawyers with less time for the necessary but routine tasks  
3 of their practice; and

4 WHEREAS, Lawyers can provide better service to a larger number of  
5 clients if they are free to devote more of their time and attention to those  
6 aspects of their practice which require their special knowledge and skills;  
7 and

8 WHEREAS, Lawyers are finding that the employment of assistants to  
9 perform routine clerical and technical tasks is an economic and practical  
10 necessity; and

11 WHEREAS, This need will be filled increasingly by persons who are  
12 unwilling or unable to pursue the long, arduous study and preparation  
13 necessary for admission to the bar; and

14 WHEREAS, The training and supervision of legal assistants will have a  
15 direct effect upon the quality of legal practice in this state and for that  
16 reason should be regulated by the supreme court of Nevada, which exer-  
17 cises control over the practice of law in Nevada; now, therefore, be it

18 *Resolved by the Senate of the State of Nevada, the Assembly con-*  
19 *curring,* That the Nevada legislature urges the supreme court of Nevada  
20 to provide by rule for the licensing and regulation of legal assistants and  
21 for standards of education, training and supervision of legal assistants  
22 to protect the interests of the people of this state; and be it further

23 *Resolved,* That a copy of this resolution be prepared and transmitted  
24 forthwith by the legislative counsel to the chief justice of the supreme  
25 court of Nevada.

SENATE BILL NO. 102—COMMITTEE ON JUDICIARY

JANUARY 24, 1979

Referred to Committee on Judiciary

SUMMARY—Adds to procedural requirements for disqualification of judges. (BDR 1-395)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to disqualification of judges; providing that a judge sought to be disqualified must be served with a copy of the affidavit for disqualification; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 1.235 is hereby amended to read as follows:  
2 1.235 1. Any party to an action or proceeding pending in any court  
3 except the supreme court, who seeks to disqualify a judge for actual or  
4 implied bias or prejudice shall file an affidavit specifying the facts upon  
5 which the disqualification is sought. The affidavit of a party represented  
6 by an attorney [shall] *must* be accompanied by a certificate of the attorney  
7 of record that the affidavit is filed in good faith and not interposed  
8 for delay. Except as provided in subsection 2, the affidavit [shall] *must*  
9 be filed:  
10 (a) Not less than 20 days before the date set for trial or hearing of  
11 the case; or  
12 (b) Not less than 3 days before the date set for the hearing of any  
13 pretrial matter.  
14 2. Except as provided in this subsection, if a case is not assigned to  
15 a judge before the time required under subsection 1 for filing the affidavit,  
16 the affidavit [shall] *must* be filed:  
17 (a) Within 3 days after the party or his attorney is notified that the  
18 case has been assigned to a judge;  
19 (b) Before the hearing of any pretrial matter; or  
20 (c) Before the jury is empaneled, evidence taken or any ruling made  
21 in the trial or hearing,  
22 whichever occurs first. If the facts upon which disqualification of the  
23 judge is sought are not known to the party before he is notified of the

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.

SENATE BILL NO. 111—COMMITTEE ON JUDICIARY

JANUARY 24, 1979

Referred to Committee on Judiciary

SUMMARY—Reinstates provision for one change of judge upon filing of affidavit alleging bias. (BDR 1-111)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to judges; reinstating in Nevada Revised Statutes the provision for one change of judge upon filing of an affidavit alleging bias or prejudice; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. NRS 1.235 is hereby amended to read as follows:  
2 1.235 1. **[Any]** *Except to the extent otherwise permitted in a civil*  
3 *action by this chapter, any party to an action or proceeding pending in*  
4 *any court [except] other than the supreme court, who seeks to disqualify*  
5 *a judge for actual or implied bias or prejudice shall file an affidavit speci-*  
6 *fying the facts upon which the disqualification is sought. The affidavit*  
7 *of a party represented by an attorney [shall] must be accompanied by*  
8 *a certificate of the attorney of record that the affidavit is filed in good*  
9 *faith and not interposed for delay. Except as provided in subsection 2,*  
10 *the affidavit [shall] must be filed:*  
11 (a) Not less than 20 days before the date set for trial or hearing of  
12 the case; or  
13 (b) Not less than 3 days before the date set for the hearing of any  
14 pretrial matter.  
15 2. Except as provided in this subsection, if a case is not assigned to  
16 a judge before the time required under subsection 1 for filing the affidavit,  
17 the affidavit **[shall]** *must be filed:*  
18 (a) Within 3 days after the party or his attorney is notified that the  
19 case has been assigned to a judge;  
20 (b) Before the hearing of any pretrial matter; or  
21 (c) Before the jury is empaneled, evidence taken or any ruling made  
22 in the trial or hearing,  
23 whichever occurs first. If the facts upon which disqualification of the  
24 judge is sought are not known to the party before he is notified of the

Original bill is 3 pages long.  
Contact the Research Library for  
a copy of the complete bill.

SENATE BILL NO. 104—COMMITTEE ON JUDICIARY

JANUARY 24, 1979

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to disqualification of judges.  
(BDR 1-393)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to judges; revising provisions relating to the disqualification of judges other than supreme court justices; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 1.230, as last amended by chapter 415, Statutes
- 2 of Nevada 1975, at page 608, is hereby amended to read as follows:
- 3 1.230 1. A judge shall not act as such in an action or proceeding
- 4 when he entertains actual bias or prejudice for or against one of the parties
- 5 to the action.
- 6 2. A judge shall not act as such in an action or proceeding when
- 7 implied bias exists in any of the following respects:
- 8 (a) When he is a party to or interested in the action or proceeding.
- 9 (b) When he is related to either party by consanguinity or affinity
- 10 within the third degree.
- 11 (c) When he has been attorney or counsel for either of the parties in
- 12 the particular action or proceeding before the court.
- 13 (d) When he is related to an attorney or counselor for either of the
- 14 parties by consanguinity or affinity within the third degree. *This paragraph*
- 15 *does not apply to the presentation of ex parte or uncontested matters,*
- 16 *except in fixing fees for an attorney so related to the judge.*
- 17 3. A judge, upon his own motion, may disqualify himself from acting
- 18 in any matter upon the ground of actual or implied bias.
- 19 4. [Any party to an action or proceeding, seeking to disqualify a
- 20 judge for actual or implied bias, shall file a charge in writing, specifying
- 21 the facts upon which such disqualification is sought. Hearing on such
- 22 charge shall be had before such other district judge as the parties may
- 23 by agreement select, or in absence of such agreement before such judge
- 24 as shall be appointed by the judge sought to be disqualified.

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.

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