

Senate Bill 404

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that judge is not prohibited from acting as judge in proceeding solely because judge is related to partners, associates or other persons in firm of attorney who represents party to proceeding.

A BILL FOR AN ACT

1
2 Relating to judges; amending ORS 14.210.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 14.210 is amended to read:

5 14.210. (1) A judge shall not act as such in a court of which the judge is a member in any of the
6 following circumstances:

7 (a) The judge shall not act as judge if the judge is a party to or directly interested in the action,
8 suit or proceeding, except that the judge shall not be disqualified from acting as such in a case in
9 which the judge is added as a party after taking any official action as a judge in the action, suit
10 or proceeding, and in that case the judge shall be dismissed as a party without prejudice.

11 (b) Except as provided in ORS 2.111 and 2.570, a judge shall not act as judge if the judge was
12 not present and sitting as a member of the court at the hearing of a matter submitted for its deci-
13 sion. A judge may sign an order or judgment reflecting a decision made by another judge if, for good
14 cause, the judge who made the decision is not available.

15 (c) A judge shall not act as judge if the judge is related to any party **to the proceeding**, or to
16 the attorney for any party[, *or to the partner or office associate of any such attorney*] **to the pro-**
17 **ceeding**, by consanguinity or affinity within the third degree. **This paragraph applies only to**
18 **relationship with the attorney who appears for a party in the proceeding, and does not apply**
19 **to relationship with the attorney's partners, associates or other persons in the attorney's**
20 **firm.**

21 (d) A judge shall not act as judge if the judge has been attorney in the action, suit or proceeding
22 for any party.

23 (e) If appeal is made from a decision of another court, or judicial review of a decision of an
24 administrative agency is sought, a judge shall not act as judge on appeal if the judge participated
25 in making the decision that is subject to review.

26 (2) This section does not apply to an application to change the place of trial, or the regulation
27 of the order of business in court. In the circumstances specified in subsection (1)(c) and (d) of this
28 section, the disqualification shall be deemed waived by the parties unless a motion for disqualifica-
29 tion of the judge is made as provided by statute or court rule.

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.