

CHAPTER.....

AN ACT relating to courts; revising provisions governing a motion to disqualify a justice of the peace or municipal judge; creating the position of chief justice of the peace for certain justice courts; creating the position of chief municipal judge for certain municipal courts; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires district judges in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to choose a chief judge who serves as the presiding judge and exercises administrative powers over the district court, including, without limitation, assigning cases, establishing the hours of the court, adopting rules and regulations and performing other duties prescribed by statute. (NRS 3.025) **Section 2** of this bill similarly requires, in townships with more than one justice of the peace, that the justices choose a chief justice of the peace who will serve as the presiding judge and have duties similar to the chief judge of a judicial district. **Section 3** of this bill requires the selection of a chief municipal judge in cities with more than one municipal judge, who will serve as the presiding judge and have duties similar to a chief justice of the peace and the chief judge of a judicial district.

Existing law provides the procedure in which a district judge may be disqualified, requiring, in judicial districts having more than one judge, that the chief judge of a district court assign a district judge to rule on a motion to disqualify another district judge if the parties to a case cannot agree on a district judge to hear the motion. (NRS 1.235) Existing law also requires a district judge with the greatest number of years of service to appoint a district judge to rule on a motion to disqualify the chief judge of the district court. (NRS 1.235) **Section 1** of this bill establishes a similar procedure for a motion to disqualify a justice of the peace and municipal court judge.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

---

---

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 1.235 is hereby amended to read as follows:

1.235 1. Any party to an action or proceeding pending in any court other than the Supreme Court or the Court of Appeals, who seeks to disqualify a judge for actual or implied bias or prejudice must file an affidavit specifying the facts upon which the disqualification is sought. The affidavit of a party represented by an attorney must be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith and not interposed for delay. Except as otherwise provided in subsections 2 and 3, the affidavit must be filed:



(a) Not less than 20 days before the date set for trial or hearing of the case; or

(b) Not less than 3 days before the date set for the hearing of any pretrial matter.

2. Except as otherwise provided in this subsection and subsection 3, if a case is not assigned to a judge before the time required under subsection 1 for filing the affidavit, the affidavit must be filed:

(a) Within 10 days after the party or the party's attorney is notified that the case has been assigned to a judge;

(b) Before the hearing of any pretrial matter; or

(c) Before the jury is empaneled, evidence taken or any ruling made in the trial or hearing,

↳ whichever occurs first. If the facts upon which disqualification of the judge is sought are not known to the party before the party is notified of the assignment of the judge or before any pretrial hearing is held, the affidavit may be filed not later than the commencement of the trial or hearing of the case.

3. If a case is reassigned to a new judge and the time for filing the affidavit under subsection 1 and paragraph (a) of subsection 2 has expired, the parties have 10 days after notice of the new assignment within which to file the affidavit, and the trial or hearing of the case must be rescheduled for a date after the expiration of the 10-day period unless the parties stipulate to an earlier date.

4. At the time the affidavit is filed, a copy must be served upon the judge sought to be disqualified. Service must be made by delivering the copy to the judge personally or by leaving it at the judge's chambers with some person of suitable age and discretion employed therein.

5. ~~The~~ *Except as otherwise provided in subsection 6, the judge against whom an affidavit alleging bias or prejudice is filed shall proceed no further with the matter and shall:*

(a) ~~Immediately~~ *If the judge is a district judge, immediately transfer the case to another department of the court, if there is more than one department of the court in the district, or request the judge of another district court to preside at the trial or hearing of the matter; for*

(b) ~~File~~ *If the judge is a justice of the peace, immediately arrange for another justice of the peace to preside at the trial or hearing of the matter as provided pursuant to NRS 4.032, 4.340 or 4.345, as applicable; or*



*(c) If the judge is a municipal judge, immediately arrange for another municipal judge to preside at the trial or hearing of the matter as provided pursuant to NRS 5.023 or 5.024, as applicable.*

*6. A judge may challenge an affidavit alleging bias or prejudice by filing* a written answer with the clerk of the court within 5 judicial days after the affidavit is filed, admitting or denying any or all of the allegations contained in the affidavit and setting forth any additional facts which bear on the question of the judge's disqualification. The question of the judge's disqualification must thereupon be heard and determined by another judge agreed upon by the parties or, if they are unable to agree, by a judge appointed:

~~[(1) By]~~

*(a) If the judge is a district judge, by* the presiding judge of the judicial district in judicial districts having more than one judge, or if the presiding judge of the judicial district is sought to be disqualified, by the judge having the greatest number of years of service ~~†~~

~~[(2) By]~~ ;

*(b) If the judge is a justice of the peace, by the presiding judge of the justice court in justice courts having more than one justice of the peace, or if the presiding judge is sought to be disqualified, by the justice of the peace having the greatest number of years of service;*

*(c) If the judge is a municipal judge, by the presiding judge of the municipal court in municipal courts having more than one municipal judge, or if the presiding judge is sought to be disqualified, by the municipal judge having the greatest number of years of service; or*

*(d) If there is no presiding judge, by the Supreme Court . ~~†in judicial districts having only one judge.~~*

**Sec. 2.** Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The justices of the peace of each justice court having more than one justice of the peace shall choose from among those justices of the peace a chief justice of the peace who is to be the presiding judge of that court.*

*2. The chief justice of the peace shall:*

*(a) Assign cases to each justice of the peace of the justice court;*

*(b) Prescribe the hours of court;*

*(c) Adopt such other rules or regulations as are necessary for the orderly conduct of court business; and*



*(d) Perform all other duties of the chief justice of the peace or of the presiding judge of a justice court that are set forth in this chapter and any other provision of NRS.*

**Sec. 3.** Chapter 5 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The municipal judges of each municipal court having more than one municipal judge shall choose from among those municipal judges a chief municipal judge who is to be the presiding judge of that court.*

*2. The chief municipal judge shall:*

*(a) Assign cases to each judge in the municipal court;*

*(b) Prescribe the hours of court;*

*(c) Adopt such other rules or regulations as are necessary for the orderly conduct of court business; and*

*(d) Perform all other duties of the chief municipal judge or of the presiding judge of a municipal court that are set forth in this chapter and any other provision of NRS.*

**Sec. 4.** A justice of the peace or a municipal judge who is serving as the chief judge of a justice court or municipal court on the effective date of this act shall continue to serve as the chief judge until a chief justice of the peace or chief municipal judge of that court is chosen pursuant to section 2 or 3 of this act, as applicable.

**Sec. 5.** This act becomes effective upon passage and approval.

