



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0516

Introduced 2/17/2005, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1001

from Ch. 110, par. 2-1001

Amends the Code of Civil Procedure. Provides that a judge named in a petition for the substitution of a judge need not testify but may submit an affidavit if the judge wishes. Provides that if the petition for substitution is allowed, the case shall be assigned to a judge not named in the petition. Provides that if the petition for substitution is denied, then the case shall be assigned back to the judge named in the petition.

LRB094 09655 LCB 39910 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 2-1001 as follows:

6 (735 ILCS 5/2-1001) (from Ch. 110, par. 2-1001)
7 Sec. 2-1001. Substitution of judge.

8 (a) A substitution of judge in any civil action may be had
9 in the following situations:

10 (1) Involvement of judge. When the judge is a party or
11 interested in the action, or his or her testimony is
12 material to either of the parties to the action, or he or
13 she is related to or has been counsel for any party in
14 regard to the matter in controversy. In any such situation
15 a substitution of judge may be awarded by the court with or
16 without the application of either party.

17 (2) Substitution as of right. When a party timely
18 exercises his or her right to a substitution without cause
19 as provided in this paragraph (2).

20 (i) Each party shall be entitled to one
21 substitution of judge without cause as a matter of
22 right.

23 (ii) An application for substitution of judge as of
24 right shall be made by motion and shall be granted if
25 it is presented before trial or hearing begins and
26 before the judge to whom it is presented has ruled on
27 any substantial issue in the case, or if it is
28 presented by consent of the parties.

29 (iii) If any party has not entered an appearance in
30 the case and has not been found in default, rulings in
31 the case by the judge on any substantial issue before
32 the party's appearance shall not be grounds for denying

1 an otherwise timely application for substitution of
2 judge as of right by the party.

3 (3) Substitution for cause. When cause exists.

4 (i) Each party shall be entitled to a substitution
5 or substitutions of judge for cause.

6 (ii) Every application for substitution of judge
7 for cause shall be made by petition, setting forth the
8 specific cause for substitution and praying a
9 substitution of judge. The petition shall be verified
10 by the affidavit of the applicant.

11 (iii) Upon the filing of a petition for
12 substitution of judge for cause, a hearing to determine
13 whether the cause exists shall be conducted as soon as
14 possible by a judge other than the judge named in the
15 petition. The judge named in the petition need not
16 testify but may submit an affidavit if the judge
17 wishes. If the petition is allowed, the case shall be
18 assigned to a judge not named in the petition. If the
19 petition is denied, the case shall be assigned back to
20 the judge named in the petition.

21 (4) Substitution in contempt proceedings. When any
22 defendant in a proceeding for contempt arising from an
23 attack upon the character or conduct of a judge occurring
24 otherwise than in open court, and the proceeding is pending
25 before the judge whose character or conduct was impugned,
26 fears that he or she will not receive a fair and impartial
27 trial before that judge. In any such situation the
28 application shall be by petition, verified by the
29 applicant, and shall be filed before the trial of the
30 contempt proceeding.

31 (b) An application for substitution of judge may be made to
32 the court in which the case is pending, reasonable notice of
33 the application having been given to the adverse party or his
34 or her attorney.

35 (c) When a substitution of judge is granted, the case may
36 be assigned to some other judge in the same county, or in some

1 other convenient county, to which there is no valid objection.
2 If the case is assigned to a judge in some other county, the
3 provisions of subsections (f) through (m) of Section 2-1001.5
4 shall apply.

5 (Source: P.A. 87-949; 88-35.)