

FIRST REGULAR SESSION

# HOUSE BILL NO. 764

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BYRD.

Read 1<sup>st</sup> time March 10, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2015L.011

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### AN ACT

To repeal sections 472.060 and 478.255, RSMo, and to enact in lieu thereof two new sections relating to disqualification of judges.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 472.060 and 478.255, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 472.060 and 478.255, to read as follows:

472.060. **1.** No judge of probate shall sit in a case in which [he] **the judge** is interested,  
2 or in which [he] **the judge** is biased or prejudiced against any interested party, or in which [he]  
3 **the judge** has been counsel or a material witness, or when [he] **the judge** is related to either  
4 party, or in the determination of any cause or proceeding in the administration and settlement of  
5 any estate of which [he] **the judge** has been personal representative, conservator, or guardian,  
6 when any party in interest objects in writing, verified by affidavit; and when the objections are  
7 made, the cause shall be transferred to another judge, in accordance with the [rules of civil  
8 procedure relating to change of judge] **provisions of section 478.255, RSMo**, who shall hear and  
9 determine same; and the clerk of the circuit court or division clerk shall deliver to the probate  
10 division of the circuit court a full and complete transcript of the judgment, order or decree made  
11 in the cause, which shall be kept with the papers in the office pertaining to such cause.

478.255. **1.** When the presiding judge assigns an associate circuit judge to sit as a circuit  
2 judge in a particular case and, thereafter, the associate circuit judge is disqualified from hearing  
3 the case, the case shall be returned to the presiding judge for reassignment to another judge of  
4 the circuit court including the presiding judge himself should that be necessary in the discretion

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

5 of the presiding judge.

6           2. When a presiding judge elects to hear and determine a case but subsequently is  
7 disqualified, [he] **such judge** is disqualified for all purposes and the chief justice of the supreme  
8 court shall assign a competent judge to hear and determine the case, except as provided in  
9 subsection 3 of this section.

10           3. In any circuit, which has four circuit judges or less, when a presiding judge elects to  
11 hear and determine a case but subsequently is disqualified, such presiding judge may assign  
12 another judge within the circuit, qualified to hear the case, to hear and determine the case. If  
13 there is no other judge within the circuit qualified to hear the case, the chief justice of the  
14 supreme court shall assign a competent judge to hear and determine the case.

15           **4. The provisions of this section shall apply to disqualification of any judge in the**  
16 **probate division of a circuit court.**