

1 HB543  
2 157966-4  
3 By Representative Ball  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 26-FEB-14

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ENROLLED, An Act,

To provide criteria for recusal of a justice or judge who has received a substantial campaign contribution from a party; to create a rebuttable presumption that the justice or judge should recuse himself or herself if the contribution during the election cycle of the justice or judge exceeds a certain amount; to provide for appeal of an order denying a motion to recuse; and to repeal Sections 12-24-1 and 12-24-2, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) In any civil action, on motion of a party or on its own motion, a justice or judge shall recuse himself or herself from hearing a case if, as a result of a substantial campaign contribution or electioneering communication made to or on behalf of the justice or judge in the immediately preceding election by a party who has a case pending before that justice or judge, either of the following circumstances exist:

(1) A reasonable person would perceive that the justice or judge's ability to carry out his or her judicial responsibilities with impartiality is impaired.

(2) There is a serious, objective probability of actual bias by the justice or judge due to his or her acceptance of the campaign contribution.

1 (b) A rebuttable presumption arises that a justice  
 2 or judge shall recuse himself or herself if a campaign  
 3 contribution made directly by a party to the judge or justice  
 4 exceeds ~~25 percent~~ the following percentages of the total  
 5 contributions raised during the election cycle by that judge  
 6 or justice and was made at a time when it was reasonably  
 7 foreseeable that the case could come before the judge or  
 8 justice: (1) Ten percent in a statewide appellate court race,  
 9 (2) Fifteen percent in a circuit court race, or (3)  
 10 Twenty-five percent in a district court race. Any refunded  
 11 contributions shall not be counted toward the percentages  
 12 noted herein.

13 (c) The term party, as referenced in this section,  
 14 means any of the following:

15 (1) A party or real party in interest to the case or  
 16 any person in his or her immediate family.

17 (2) Any holder of five percent or more of the value  
 18 of a party that is a corporation, limited liability company,  
 19 firm, partnership, or any other business entity.

20 (3) Affiliates or subsidiaries of a corporate party.

21 (4) Any attorney for the party.

22 (5) Other lawyers in practice with the party's  
 23 attorney.

24 (d) An order of a court denying a motion to recuse  
 25 shall be appealable in the same manner as a final order to the

1       appellate court which would otherwise have jurisdiction over  
2       the appeal from a final order in the action. The appeal may be  
3       filed only within 30 days of the order denying the motion to  
4       recuse. During the pendency of an appeal, where the threshold  
5       set forth in subsection (b) is met, the action in the trial  
6       court shall be stayed in all respects.

7               Section 2. Sections 12-24-1 and 12-24-2, Code of  
8       Alabama 1975, are repealed.

9               Section 3. This act shall become effective on the  
10       first day of the third month following its passage and  
11       approval by the Governor, or its otherwise becoming law.

