

2022 Regular Session

HOUSE BILL NO. 184

BY REPRESENTATIVE GREGORY MILLER

(On Recommendation of the Louisiana State Law Institute)

CIVIL/PROCEDURE: Provides relative to the recusal of judges

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 154(B) and 4862 and to enact Code
3 of Civil Procedure Article 158(C), relative to the recusal of judges; to provide for
4 time limitations; to provide for the denial of motions to recuse; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Articles 154(B) and 4862 are hereby amended
8 and reenacted and Code of Civil Procedure Article 158(C) is hereby enacted to read as
9 follows:

10 Art. 154. Procedure for recusal of district court judge

11 * * *

12 B. If the motion to recuse sets forth a ground for recusal under Article 151,
13 not later than seven days after the judge's receipt of the motion from the clerk of
14 court, the judge shall either recuse himself or make a written request to the supreme
15 court for the appointment of an ad hoc judge as provided in Article 155.

16 * * *

17 Comments – 2022

18 A new time limitation has been added to Paragraph B to require the judge
19 who is the subject of the motion to recuse to act within seven days after receiving the
20 motion from the clerk of court.

21 * * *

1 Art. 158. Recusal of judge of court of appeal

2 * * *

3 C. If the motion to recuse fails to set forth a ground for recusal under Article
4 151, the judge may deny the motion without the appointment of an ad hoc judge or
5 a hearing but shall provide written reasons for the denial.

6 Comments – 2022

7 Paragraph C of this Article is similar to Article 154 in that it allows a judge
8 of a court of appeal to deny a motion to recuse that fails to set forth a ground for
9 recusal without the appointment of an ad hoc judge or a hearing, but the judge must
10 give written reasons for the denial.

11 * * *

12 Art. 4862. Motion to recuse

13 A. When a written motion is made to recuse a judge of a parish court or city
14 court judge or a justice of the peace, not later than seven days after the judge or
15 justice of the peace receives the motion from the clerk of court, the judge or justice
16 of the peace shall either recuse himself, or the motion to recuse shall be tried in the
17 manner provided by Article 4863.

18 B. If the motion to recuse fails to set forth a ground for recusal under Article
19 151, the judge or justice of the peace may deny the motion without the appointment
20 of another judge or a hearing but shall provide written reasons for denial.

21 Comments - 2022

22 (a) A new time limitation has been added to Paragraph A of this Article to
23 require the judge or justice of the peace who is the subject of the motion to recuse
24 to act within seven days after receiving the motion from the clerk of court.

25 (b) Paragraph B of this Article is similar to Article 154 in that it allows a
26 judge of a parish or city court or a justice of the peace to deny a motion to recuse that
27 fails to set forth a ground for recusal under Article 151 without a hearing or the
28 appointment of another judge or justice of the peace, but the judge or justice of the
29 peace must give written reasons for the denial.

30 Section 2. The Louisiana Law Institute is hereby directed to print the following
31 Comment to Code of Civil Procedure Article 153:

32 The factual basis for the judge's recusal must pertain to one of the grounds
33 for recusal set forth in Article 151. The fact that a judicial complaint has been filed
34 against the judge by one of the parties, without more, is not sufficient to constitute
35 a ground for recusal.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 184 Engrossed

2022 Regular Session

Gregory Miller

Abstract: Provides with respect to the recusal of judges.

Present law (C.C.P. Art. 154(B)) requires a district judge who is the subject of a motion to recuse to either recuse himself or request that the supreme court appoint an ad hoc judge to hear the motion.

Proposed law provides that the actions required by present law must be done no later than seven days after the district judge's receipt of the motion from the clerk of court.

Present law (C.C.P. Art. 158) provides for the recusal of a judge of a court of appeal.

Proposed law provides that if a motion to recuse a judge of a court of appeal fails to set forth a ground for recusal, the judge who is the subject of the motion may deny it without the appointment of another judge or hearing, but the judge shall give written reasons for the denial.

Present law (C.C.P. Art. 153) allows a judge to recuse himself in any cause in which a ground for recusal exists.

Proposed law adds a Comment to present law providing that the fact that a judicial complaint has been filed against the judge by one of the parties, without more, does not constitute a ground for recusal.

Present law (C.C.P. Art. 4862) provides that when a written motion is made to recuse a parish or city court judge or a justice of the peace, the judge or justice of the peace shall either recuse himself or the motion to recuse shall be tried.

Proposed law provides that the actions required by present law must be done no later than seven days after the parish or city court judge's or justice of the peace's receipt of the motion from the clerk of court.

Proposed law provides that if a motion to recuse a parish or city court judge or justice of the peace fails to set forth a ground for recusal, the judge or justice of the peace who is the subject of the motion may deny it without the appointment of another judge or hearing, but the judge shall give written reasons for the denial.

(Amends C.C.P. Arts. 154(B) and 4862; Adds C.C.P. Art. 158(C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Add recusal provisions relative to parish and city court judges and justices of the peace.