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February 19, 2021

By: Howard

An Act relating to the Judiciary; amending 20 O.S. 2011, Section 1402, which relates to disqualification of appellate judges; modifying procedures for assignment of Justices or Judges in substitution of recused or disqualified Justices or Judges; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 20 O.S. 2011, Section 1402, is amended to read as follows:

Section 1402. A. No Justice of the Supreme Court of this state or Judge of the Criminal Court of Appeals shall participate in the decision of any appellate cause ~~in such Court appealed thereto from a lower court of said state,~~ in which court such the Justice or Judge ~~was judge presiding~~ presided at the trial of such cause; ~~and the same qualifications shall apply to the members of the Supreme Court and the Criminal Court of Appeals, as to other courts of record, and whenever any member of either of said Courts is.~~

B. When a Justice of the Supreme Court is recused or  
disqualified the same shall be entered of record in such Court and  
such disqualifications of such member shall forthwith be certified

1 ~~by~~ from deciding a cause for any reason, the remainder of the Court  
2 shall decide the cause. If, during the decision of any cause, there  
3 are less than seven (7) qualified Justices, the Clerk of ~~such~~ the  
4 Court shall certify all such recusals or disqualifications to the  
5 Governor ~~of the state, who shall appoint some member of the Bar of~~  
6 ~~the state, possessing the same qualifications as the members of such~~  
7 ~~Court, to sit as special Judge in said cause~~ assign a retired  
8 Supreme Court Justice to the matter in substitution of the recused  
9 or disqualified Justices. If no retired Supreme Court Justice is  
10 able to serve, the Governor shall assign a member of the Bar of this  
11 state who possesses the same qualifications as the members of the  
12 Supreme Court to the matter in substitution of the recused or  
13 disqualified Justice.

14 C. When a Judge of the Court of Criminal Appeals is recused or  
15 disqualified from deciding a cause for any reason, the Clerk of the  
16 Court shall certify the recusal or disqualification along with the  
17 case number to the Governor who shall assign a retired Judge of the  
18 Court of Criminal Appeals to the matter in substitution of the  
19 recused or disqualified Judge. If no retired Judge of the Court of  
20 Criminal Appeals is able to serve, the Governor shall assign a Judge  
21 of the Court of Civil Appeals to the matter in substitution of the  
22 recused or disqualified Judge. If no Judge of the Court of Civil  
23 Appeals is able to serve, the Governor shall assign a member of the  
24 Bar of this state who possesses the same qualifications as the

1 members of the Court of Criminal Appeals to the matter in  
2 substitution of the recused or disqualified Judge.

3 SECTION 2. This act shall become effective November 1, 2021.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
5 February 19, 2021 - DO PASS  
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