



North Dakota Association for Justice
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The Trial Lawyers of North Dakota

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Madam Chair Larson and members of the Senate Judiciary Committee, my name is Jaclyn Hall, and I am the Executive Director of the North Dakota Association for Justice. Today, I am here to testify in opposition to SB2102.

The ability to demand a judge is requested for a variety of reasons. However, it is not taken lightly by attorneys and is important for several reasons:

1. Protection from Implicit Bias

Even if there is no obvious conflict of interest, judges - like any individual - may have unconscious biases. The ability to demand helps safeguard against any subtle prejudices, biases, or personal opinions that could influence the proceedings. This ensures that individuals feel their case is being handled impartially and will not create a precedent for future cases.

2. Upholding the Right to a Fair Trial

The right to a fair trial is a cornerstone of the judicial process. Allowing parties to demand a new judge prevents parties from feeling coerced into accepting a judge they do not feel comfortable with, thus supporting the principle that justice should not only be done but should be seen to be done.

3. Practical Considerations of Court Dynamics

Judicial systems can be complex, with varying workloads and personalities among judges. The ability to request a change helps prevent delays or disruptions in the trial process due to such personal concerns, allowing the case to continue in a more neutral environment.

5. Safeguarding the Judicial System from Complaints and Challenges

Sometimes, there may be practical or procedural reasons why a party might prefer a different judge, even without the appearance of bias or prejudice. Allowing parties to request a new judge helps prevent potential delays or challenges to the court's rulings that could arise if parties feel



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they have been forced to accept a judge with whom they are uncomfortable.

6. Preventing Conflicts of Interest

In some cases, even minor relationships or prior interactions between a judge and one of the parties may create a perceived conflict of interest. The ability to request a different judge can prevent a situation where a party feels that the judge may have a connection, relationship, or interest that could affect their impartiality, even if that perception is not supported by evidence.

7. Demanding does not allow you to choose your next Judge

After a demand is made, the next judge is chosen by random order. So, this request does not guarantee you will receive a 'better' judge, just a different one.

8. Judge recusals are made without justification

When a judge chooses to recuse themselves, they do not provide a reason. This is done to safeguard their concerns. To only require an attorney to give justification creates a bias.

Conclusion

Overall, the ability to demand a judge without a specific reason is crucial for maintaining the credibility, fairness, and transparency of the judicial process. It helps ensure that all parties involved in legal proceedings feel that their cases will be heard impartially, and it strengthens public trust in the overall legal system.

This system is not broken and has worked for many years. Judges and attorneys in North Dakota work hard to try and create a work life balance. North Dakota is a small state and many of these judges preside over a variety of cases. We feel that removing the anonymity will impact how attorneys and judges work together in the future.

We ask for a Do Not Pass on SB 2102