

1 **AN ACT** *to create* 757.19 (2) (h) of the statutes; **relating to:** judicial disqualification
2 based on campaign financial support.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft, relating to judicial disqualification based on campaign financial support, was prepared for the Joint Legislative Council's Special Committee on Judicial Discipline and Recusal.

3 **SECTION 1.** 757.19 (2) (h) of the statutes is created to read:

4 757.19 (2) (h) When a judge has received financial support from a party [party's
5 business or immediate family; party's attorney; party's law firm, partners, or associates] for
6 [any of] his or her judicial election campaigns [within the previous six years] in [an amount
7 that causes the judge to conclude that his or her impartiality might reasonably be questioned]
8 [in excess of \$____,000]. [In determining whether his or her impartiality might reasonably be
9 questioned, the judge shall consider all of the following:

10 1. The total amount of financial support provided by the party relative to the total amount
11 of the financial support for the judge's election.

12 2. The timing between the financial support and the pendency of the civil or criminal
13 action or proceeding.

14 3. Any additional circumstances pertaining to disqualification.]

NOTE: Section 757.19 (2), stats., provides that a judge must disqualify himself or herself from any civil or criminal action or proceeding under specified circumstances.

This SECTION provides, in general, that a judge also must disqualify himself or herself from a civil or criminal action or proceeding when a party has provided excessive financial support for the election of the

judge. The bracketed options contained in the draft relate to the following questions to be considered by the special committee:

1. Should the question of excessive financial support extend to financial support provided by entities or persons beyond a named party or to persons or entities interested in the outcome of the action or proceeding?
2. Should the question of excessive financial support extend to the judge's most recent campaign, to a subset of the judge's campaigns, or to all of the judge's campaigns?
3. Should excessive financial support be expressed in terms of a stated dollar amount or in terms of a non-stated dollar amount that causes a judge to become concerned about the appearance of impartiality? In this regard, it should be noted that WLCS: /1 incorporates an objective standard into s. 757.19, stats., that, in more general terms than this draft, allows a judge to consider the relative impact on the appearance of impartiality of a party's financial support and the timing of the financial support, among other matters.
4. Should the term "financial support" be defined to mean campaign contributions and independent expenditures made on behalf of a judge or against the judge's opponent?