

1 **AN ACT** *to create* 757.19 (4m) of the statutes; **relating to:** the authority of the
 2 supreme court to review a decision of a justice to deny a motion to disqualify the
 3 justice.

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 the authority of the supreme court to review a decision of a justice to deny a motion to disqualify the justice, was prepared for the Joint Legislative Council’s Special Committee on Judicial Discipline and Recusal.

4 **SECTION 1.** 757.19 (4m) of the statutes is created to read:

5 757.19 **(4m)** If a motion is made in the supreme court requesting that a justice disqualify
 6 himself or herself, the supreme court may review a justice’s denial of the motion to disqualify
 7 the justice and may affirm or reverse the denial of the motion.

NOTE: The denial of a disqualification motion by a circuit court judge or an appellate court judge is subject to review upon appeal, but the supreme court appears to be divided over the question of whether the supreme court as a whole may review a single justice’s denial of a disqualification motion. [Regarding the authority of the supreme court to review a justice’s decision to deny a motion to disqualify, see the discussion in *State v. Allen*, 2010 WI 10, 322 Wis.2d 372, 778 N.W.2d 863.]

This SECTION provides that the supreme court may review a justice’s denial of a motion to disqualify the justice and may affirm or reverse the denial of the motion.