

26A.015 Disqualification of justice or judge of the Court of Justice, or master commissioner.

- (1) For the purposes of this section the following words or phrases shall have the meaning indicated:
 - (a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;
 - (b) "Fiduciary" includes such relationships as executor, administrator, conservator, trustee, and guardian;
 - (c) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:
 1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;
 2. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.
- (2) Any justice or judge of the Court of Justice or master commissioner shall disqualify himself in any proceeding:
 - (a) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding;
 - (b) Where in private practice or government service he served as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter in controversy, or the judge, master commissioner or such lawyer has been a material witness concerning the matter in controversy;
 - (c) Where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a pecuniary or proprietary interest in the subject matter in controversy or in a party to the proceeding;
 - (d) Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
 1. Is a party to the proceeding, or an officer, director, or trustee of a party;
 2. Is acting as a lawyer in the proceeding and the disqualification is not waived by stipulation of counsel in the proceeding filed therein;
 3. Is known by the judge or master commissioner to have an interest that could be substantially affected by the outcome of the proceeding;
 4. Is to the knowledge of the judge or master commissioner likely to be a material witness in the proceeding.

- (e) Where he has knowledge of any other circumstances in which his impartiality might reasonably be questioned.
- (3) (a) Any justice or judge of the Court of Justice disqualified under the provisions of this section shall be replaced by the Chief Justice.
- (b) Any master commissioner disqualified under the provisions of this section or unable to discharge the duties of his office for any other reason shall be replaced by a special commissioner who shall be appointed by the judge of the court before whom the action is pending. The special commissioner shall meet the same qualifications as a master commissioner and shall take an oath and execute a bond as the regular commissioner is required to do.

Effective: July 1, 1982

History: Amended 1982 Ky. Acts ch. 141, sec. 41, effective July 1, 1982. -- Created 1976 (1st Extra. Sess.) Ky. Acts ch. 22, sec. 4.

Note: 1980 Ky. Acts ch. 396, sec. 44 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.