

28 USC §144 | BIAS OR PREJUDICE OF JUDGE

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

(June 25, 1948, ch. 646, 62 Stat. 898 ; May 24, 1949, ch. 139, §65, 63 Stat. 99.)

Historical and Revision Notes

Based on title 28, U.S.C., 1940 ed., §25 (Mar. 3, 1911, ch. 231, §21, 36 Stat. 1090).

The provision that the same procedure shall be had when the presiding judge disqualifies himself was omitted as unnecessary. (See section 291 et seq. and section 455 of this title.)

Words, "at which the proceeding is to be heard," were added to clarify the meaning of words, "before the beginning of the term." (See U.S. v. Costea, D.C.Mich. 1943, 52 F.Supp. 3.)

Changes were made in phraseology and arrangement.

1949 Act

This amendment clarifies the intent in section 144 of title 28, U.S.C., to conform to the law as it existed at the time of the enactment of the revision limiting the filing of affidavits of prejudice to one such affidavit in any case.

Editorial Notes**Amendments**

1949-Act May. 24, 1949, substituted "in any case" for "as to any judge" in second sentence of second par.

Statutory Notes and Related Subsidiaries**Abolition of Terms**

For abolition of formal terms of the court and replacement by sessions, see sections 138 and 139 of this title.

