

IC 35-36-5

Chapter 5. Change of Judge

IC 35-36-5-1

Preemptory change of venue from judge; procedure

Sec. 1. In any criminal action, either the defendant or the state is entitled as a substantive right to a preemptory change of venue from the judge without specifically stating the reason. The defendant or the state may obtain a change of judge under this section by motion filed in a manner and within the time limitations as specified in the Indiana Rules of Criminal Procedure. Each party is entitled to only one (1) change of judge under this section.

As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.170-1984, SEC.4.

IC 35-36-5-2

Other grounds; motion; affidavit; time limitation

Sec. 2. The defendant and the state may obtain a change of judge if the judge:

- (1) is biased or prejudiced against the moving party and that the moving party cannot obtain a fair trial before the judge;
- (2) is related by blood or marriage to any party to the cause;
- (3) is unable to properly perform the functions of his office because of mental or physical disabilities;
- (4) is disqualified by reason of any conflict of interest; or
- (5) should be disqualified for any other cause.

A motion made under this section must be verified or accompanied by an affidavit specifically stating facts showing that at least one (1) of these causes exists.

The motion must be filed within the time limitations specified in Indiana Rules of Criminal Procedure.

As added by Acts 1981, P.L.298, SEC.5.