

§ 15A-1223. Disqualification of judge.

(a) A judge on his own motion may disqualify himself from presiding over a criminal trial or other criminal proceeding.

(b) A judge, on motion of the State or the defendant, must disqualify himself from presiding over a criminal trial or other criminal proceeding if he is:

- (1) Prejudiced against the moving party or in favor of the adverse party; or
- (2) Repealed by Session Laws 1983 (Regular Session 1984), c. 1037, s. 6.
- (3) Closely related to the defendant by blood or marriage; or
- (4) For any other reason unable to perform the duties required of him in an impartial manner.

(c) A motion to disqualify must be in writing and must be accompanied by one or more affidavits setting forth facts relied upon to show the grounds for disqualification.

(d) A motion to disqualify a judge must be filed no less than five days before the time the case is called for trial unless good cause is shown for failure to file within that time. Good cause includes the discovery of facts constituting grounds for disqualification less than five days before the case is called for trial.

(e) A judge must disqualify himself from presiding over a criminal trial or proceeding if he is a witness for or against one of the parties in the case. (1977, c. 711, s. 1; 1983 (Reg. Sess., 1984), c. 1037, s. 6.)