

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.838 Disqualification of probate judge.**

Sec. 838.

- (1) A probate judge shall not sit in any proceeding:
  - (a) In which he is a party, or is financially interested.
  - (b) In which he would be excluded from being a juror by reason of consanguinity or affinity to any of the parties.
  - (c) In which he is related within the third degree of consanguinity or affinity to any of the attorneys of any party, witness, or representative in the proceeding. This disqualification may be waived by stipulation filed in the proceeding.
  - (d) Which involves or may involve the validity or interpretation of a will, contract, deed, mortgage, bill of sale, note or other document which he prepared, in the preparation of which he assisted, or to the execution of which he acted as a witness.
  - (e) Which involves a contested matter concerning which he advised a party to the contest.
  - (f) In which a probate register or other employee of the probate court in that county or probate court district, while holding that office or employment, prepared or assisted in the preparation of a will, contract, deed, mortgage, bill of sale, note, or other document involved in the hearing or trial, or acted as a witness to the execution thereof.
- (2) A judge of probate shall not decide nor participate in the decision of any question which is argued in the court when he was not present and sitting therein as a judge.
- (3) When a probate judge is disqualified within the meaning of subsection (1) or (2), the judge shall be deemed incapacitated for purposes of section 824.

**History:** Add. 1978, Act 543, Eff. July 1, 1979