

IC 34-35-4

Chapter 4. Change of Venue in Cases on Remand

IC 34-35-4-1

Affidavit of undue influence, local prejudice, or inconvenience

Sec. 1. (a) This section applies where:

- (1) an appeal to the court of appeals or supreme court of the state of Indiana has been taken from a judgment rendered against any party; and
- (2) the judgment is reversed, and the cause is remanded for a new trial.

(b) Either party in the cause is entitled to a change of venue from the county notwithstanding any changes of venue already taken, upon filing an affidavit:

(1) stating that:

- (A) the opposite party has an undue influence over the citizens of the county;
- (B) an odium attaches to the applicant, or to the applicant's cause of action or defense, on account of local prejudice; or
- (C) the county is a party to the suit; or

(2) showing to the satisfaction of the court that the convenience of witnesses and the ends of justice would be promoted by the change.

(c) All laws and parts of laws defining rights and duties in order to perfect a change of venue from the county in original actions and proceedings apply with equal force to the change of venue provided by this section.

As added by P.L.1-1998, SEC.31.

IC 34-35-4-2

Affidavit of judicial bias or prejudice

Sec. 2. (a) This section applies where:

(1) an appeal to the court of appeals or the supreme court has been taken from a judgment rendered against any party, and the judgment is reversed with the cause remanded for a new trial; or

(2) the action of the trial court in granting a new trial is affirmed on appeal.

(b) Either party in the cause is entitled to a change of venue from the judge before whom the cause is pending, notwithstanding any changes of venue previously taken, upon filing an affidavit stating that the party cannot have a fair trial of the cause before that judge because of bias or prejudice on the part of the judge before whom the cause is pending.

(c) The judge shall grant the requested change, and it is unlawful for any judge so challenged to appoint in that case as special judge any relative by blood or marriage of the judge.

As added by P.L.1-1998, SEC.31.