
SENATE BILL 6629

State of Washington 58th Legislature 2004 Regular Session

By Senators Stevens, Esser, Haugen, Brandland and Jacobsen

Read first time 01/27/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to reducing the burdens of jury service to increase
2 participation in the jury system; amending RCW 2.36.010, 2.36.080,
3 2.36.093, 2.36.100, and 2.36.165; adding new sections to chapter 2.36
4 RCW; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 2.36.010 and 1993 c 408 s 4 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise the definitions in
9 this section apply throughout this chapter.

10 (1) A jury is a body of persons temporarily selected from the
11 qualified inhabitants of a particular district, and invested with
12 power--

13 (a) To present or indict a person for a public offense.

14 (b) To try a question of fact.

15 (2) "Court" when used without further qualification means any
16 superior court or court of limited jurisdiction in the state of
17 Washington.

18 (3) "Judge" means every judicial officer authorized to hold or

1 preside over a court. For purposes of this chapter "judge" does not
2 include court commissioners or referees.

3 (4) "Juror" means any person summoned for service on a petit jury,
4 grand jury, or jury of inquest as defined in this chapter.

5 (5) "Grand jury" means those twelve persons impaneled by a superior
6 court to hear, examine, and investigate evidence concerning criminal
7 activity and corruption.

8 (6) "Petit jury" means a body of persons twelve or less in number
9 in the superior court and six in number in courts of limited
10 jurisdiction, drawn by lot from the jurors in attendance upon the court
11 at a particular session, and sworn to try and determine a question of
12 fact.

13 (7) "Jury of inquest" means a body of persons six or fewer in
14 number, but not fewer than four persons, summoned before the coroner or
15 other ministerial officer, to inquire of particular facts.

16 (8) "Jury source list" means the list of all registered voters for
17 any county, merged with a list of licensed drivers and identicard
18 holders who reside in the county. The list shall specify each person's
19 name and residence address and conform to the methodology and standards
20 set pursuant to the provisions of RCW 2.36.054 or by supreme court
21 rule. The list shall be filed with the superior court by the county
22 auditor.

23 (9) "Master jury list" means the list of prospective jurors from
24 which jurors summoned to serve will be randomly selected. The master
25 jury list shall be either randomly selected from the jury source list
26 or may be an exact duplicate of the jury source list.

27 (10) "Jury term" means ((a)) the period of time ~~((of one or more~~
28 ~~days, not exceeding one month, during which summoned jurors))~~ that a
29 juror must be available to report for juror service.

30 (11) "Juror service" means the period of time a juror is required
31 to be present at the court facility. ~~((This period of time may not~~
32 ~~extend beyond the end of the jury term, and may not exceed two weeks,~~
33 ~~except to complete a trial to which the juror was assigned during the~~
34 ~~two week period.))~~

35 (12) "Jury panel" means those persons randomly selected for jury
36 service for a particular jury term.

1 **Sec. 2.** RCW 2.36.080 and 1992 c 93 s 2 are each amended to read as
2 follows:

3 (1) It is the policy of this state that all persons selected for
4 jury service be selected at random from a fair cross section of the
5 population of the area served by the court, and that all qualified
6 citizens have the opportunity in accordance with chapter 135, Laws of
7 1979 ex. sess. to be considered for jury service in this state and have
8 an obligation to serve as jurors when summoned for that purpose, unless
9 excused.

10 (2) It is the policy of this state to maximize the availability of
11 residents of the state for jury service. It also is the policy of this
12 state to minimize the burden on the prospective jurors, their families,
13 and employers resulting from jury service. (~~The jury term and jury~~
14 ~~service should be set at as brief an interval as is practical given the~~
15 ~~size of the jury source list for the judicial district. The optimal~~
16 ~~jury term is two weeks or less. Optimal juror service is one day or~~
17 ~~one trial, whichever is longer.))~~

18 (3) A citizen shall not be excluded from jury service in this state
19 on account of race, color, religion, sex, national origin, or economic
20 status.

21 (4) This section does not affect the right to peremptory challenges
22 under RCW 4.44.130.

23 **Sec. 3.** RCW 2.36.093 and 1992 c 93 s 3 are each amended to read as
24 follows:

25 (1) At such time as the judge or judges of any court of any county
26 shall deem that the public business requires a jury term to be held,
27 the judge or judges shall direct that a jury panel be selected and
28 summoned to serve for the ensuing jury term or terms.

29 (2) (~~The court shall establish the length and number of jury terms~~
30 ~~in a consecutive twelve month period, and shall establish the time of~~
31 ~~juror service consistent with the provisions of RCW 2.36.010)) The jury
32 term shall be for no more than five days, and should be set at as brief
33 an interval as is practical given the size of the jury source list for
34 the judicial district.~~

35 (3) Juror service shall be for no more than one court day in actual
36 attendance, unless a prospective juror is selected to serve in a trial
37 or is under consideration to serve on a trial and this consideration

1 covers a period of two or more days. Once selected, a juror shall
2 serve on the jury for the duration of the trial unless excused by the
3 presiding judge.

4 (4) A juror who has served on a petit jury in this state shall not
5 be summoned to serve again as a petit juror in any court of this state
6 for two years following the last day of service.

7 NEW SECTION. Sec. 4. A new section is added to chapter 2.36 RCW
8 to read as follows:

9 (1) Individuals scheduled to appear for jury service have the right
10 to postpone the date of their initial appearance for jury service one
11 time only. When requested, postponements shall be granted if:

12 (a) The juror has not previously been granted a postponement;

13 (b) The prospective juror appears in person or contacts the clerk
14 of the court by telephone, electronic mail, or in writing to request a
15 postponement; and

16 (c) Prior to the grant of a postponement with the concurrence of
17 the clerk of the court, the prospective juror fixes a date certain on
18 which he or she will appear for jury service that is not more than six
19 months after the date on which the prospective juror originally was
20 called to serve and on which date the court will be in session.

21 (2) A subsequent request to postpone jury service may be approved
22 by a judicial officer only in the event of an extreme emergency, such
23 as a death in the family, sudden grave illness, or a natural disaster
24 or a national emergency in which the prospective juror is personally
25 involved, that could not have been anticipated at the time the initial
26 postponement was granted. Prior to the grant of a second postponement,
27 the prospective juror must fix a date certain on which the individual
28 will appear for jury service within six months of the postponement on
29 a date when the court will be in session.

30 **Sec. 5.** RCW 2.36.100 and 1992 c 93 s 5 are each amended to read as
31 follows:

32 (1) Except for a person who is not qualified for jury service under
33 RCW 2.36.070, ~~((no))~~ a person may be excused from jury service by the
34 court ~~((except))~~ upon a showing of a mental or physical condition that
35 causes him or her to be incapable of performing jury service, undue or
36 extreme physical or financial hardship to the prospective juror or a

1 person under his or her care or supervision, ((extreme inconvenience,))
2 or public necessity((, or any reason deemed sufficient by the court for
3 a period of time the court deems necessary)). The excuse shall be for
4 a period not exceeding twenty-four months, unless the grounds for the
5 excuse are shown to be permanent.

6 (2) ~~((At the discretion of the court's designee, after a request by~~
7 ~~a prospective juror to be excused, a prospective juror excused from~~
8 ~~juror service for a particular time may be assigned to another jury~~
9 ~~term within the twelve month period. If the assignment to another jury~~
10 ~~term is made at the time a juror is excused from the jury term for~~
11 ~~which he or she was summoned, a second summons under RCW 2.36.095 need~~
12 ~~not be issued.~~

13 ~~(3))~~ If the prospective juror has a mental or physical condition
14 that causes him or her to be incapable of performing jury service, the
15 juror, or the juror's personal representative, must provide the court
16 with documentation from a licensed physician verifying that a mental or
17 physical condition renders the person unfit for jury service for a
18 period of up to twenty-four months.

19 (3) For claims that jury service would cause undue or extreme
20 physical or financial hardship to the prospective juror or a person
21 under his or her care or supervision, a judge of the court for which
22 the individual was called to jury service shall make undue or extreme
23 physical or financial hardship determinations. The authority to make
24 these determinations is delegable only to court officials or personnel
25 who are authorized by the laws of this state to function as members of
26 the judiciary.

27 (a) A person asking to be excused based on a finding of undue or
28 extreme physical or financial hardship must take all actions necessary
29 to have obtained a ruling on that request by no later than the date on
30 which the individual is scheduled to appear for jury duty.

31 (b) For purposes of this chapter, undue or extreme physical or
32 financial hardship is limited to circumstances in which an individual
33 would:

34 (i) Be required to abandon a person under his or her personal care
35 or supervision due to the impossibility of obtaining an appropriate
36 substitute caregiver during the period of participation in the jury
37 pool or on the jury; or

1 (ii) Incur costs that would have a substantial adverse impact on
2 the payment of the individual's necessary daily living expenses or on
3 those for whom he or she provides the principle means of support; or

4 (iii) Suffer physical hardship that would result in illness or
5 disease.

6 (c) Undue or extreme physical or financial hardship does not exist
7 solely based on the fact that a prospective juror will be required to
8 be absent from his or her place of employment.

9 (d) A person asking a judge to grant an excuse based on undue or
10 extreme physical or financial hardship shall be required to provide the
11 judge with documentation, such as, but not limited to, federal and
12 state income tax returns, medical statements from licensed physicians,
13 proof of dependency or guardianship, and similar documents, which the
14 judge finds to clearly support the request to be excused. Failure to
15 provide satisfactory documentation shall result in a denial of the
16 request to be excused.

17 (4) After twenty-four months, a person excused from jury service
18 shall become eligible once again for qualification as a juror unless
19 the person was excused from service permanently. A person is excused
20 from jury service permanently only when the deciding judge determines
21 that the underlying grounds for being excused are of a permanent
22 nature.

23 (5) When the jury source list has been fully summoned within a
24 consecutive ((~~twelve-month~~)) twenty-four month period and additional
25 jurors are needed, jurors who have already served during the
26 consecutive ((~~twelve-month~~)) twenty-four month period may be summoned
27 again for service. A juror who has previously served may only be
28 excused if he or she served ((~~at least two weeks of juror service~~))
29 within the preceding ((~~twelve~~)) twenty-four months. An excuse for
30 prior service shall be granted only upon the written request of the
31 prospective juror, which request shall certify the terms of prior
32 service. Prior jury service may include service in superior court, in
33 a court of limited jurisdiction, in the United States District Court,
34 or on a jury of inquest.

35 NEW SECTION. Sec. 6. A new section is added to chapter 2.36 RCW
36 to read as follows:

37 The supreme court of Washington shall adopt rules to establish a

1 lengthy trial fund that is used to provide full or partial wage
2 replacement or wage supplementation to jurors who serve as petit jurors
3 in civil proceedings for more than ten days.

4 (1) The court rules shall provide for the following:

5 (a) The selection and appointment of an administrator for the fund;

6 (b) Procedures for the administration of the fund, including
7 payments of salaries of the administrator and other necessary
8 personnel;

9 (c) Procedures for the accounting, auditing, and investment of
10 money in the fund;

11 (d) A report by the supreme court of Washington on the
12 administration of the fund in its annual report on the judicial branch,
13 setting forth the money collected for and disbursed from the fund.

14 (2) Notwithstanding any other fees paid under state law, each trial
15 court in the state shall collect from each attorney who files a civil
16 case, unless otherwise exempted under the provisions of this section,
17 a fee of ten dollars per case to be paid into the lengthy trial fund.
18 A lawyer will be deemed to have filed a case at the time the first
19 pleading or other filing on which an individual lawyer's name appears
20 is submitted to the court for filing and opens a new case. All fees
21 shall be forwarded to the administrator of the lengthy trial fund for
22 deposit.

23 (3) The administrator shall use the fees deposited in the lengthy
24 trial fund to pay full or partial wage replacement or supplementation
25 to jurors whose employers pay less than full regular wages when the
26 period of jury service lasts more than ten days.

27 (4) The court may pay replacement or supplemental wages of up to
28 three hundred dollars per day per juror beginning on the eleventh day
29 of jury service. In addition, for any jurors who qualify for payment
30 by virtue of having served on a jury for more than ten days, the court
31 may, upon finding that the service posed a significant financial
32 hardship to a juror, even in light of payments made with respect to
33 jury service after the tenth day, award replacement or supplemental
34 wages of up to one hundred dollars per day from the fourth to the tenth
35 day of jury service.

36 (5) Any juror who is serving or has served on a jury that qualifies
37 for payment from the lengthy trial fund, provided the service commenced
38 on or after the effective date of this act, may submit a request for

1 payment from the lengthy trial fund on a form that the administrator
2 provides. Payment is limited to the difference between the state paid
3 jury fee and the actual amount of wages a juror earns, up to the
4 maximum level payable, minus any amount the juror actually receives
5 from the employer during the same time period.

6 (a) The form shall disclose the juror's regular wages, the amount
7 the employer will pay during the term of jury service starting on the
8 eleventh day and thereafter, the amount of replacement or supplemental
9 wages requested, and any other information the administrator deems
10 necessary for proper payment.

11 (b) The juror shall also be required to submit verification from
12 the employer as to the wage information provided to the administrator,
13 for example, the employee's most recent earnings statement or similar
14 document, prior to initiation of payment from the fund.

15 (c) If an individual is self-employed or receives compensation
16 other than wages, the individual may provide a sworn affidavit
17 attesting to his or her approximate gross weekly income, together with
18 any other information the administrator requires, in order to verify
19 weekly income.

20 (6) The following attorneys and causes of action are exempt from
21 payment of the lengthy trial fund fee:

22 (a) Government attorneys entering appearances in the course of
23 their official duties;

24 (b) Pro se litigants;

25 (c) Cases in small claims court or the state equivalent thereof; or

26 (d) Claims seeking social security disability determinations;
27 individual veterans' compensation or disability determinations;
28 recoupment actions for government backed educational loans or
29 mortgages; child custody and support cases; actions brought in forma
30 pauperis; and any other filings designated by rule that involve minimal
31 use of court resources and that customarily are not afforded the
32 opportunity for a trial by jury.

33 **Sec. 7.** RCW 2.36.165 and 1988 c 188 s 13 are each amended to read
34 as follows:

35 (1) An employer shall provide an employee with a sufficient leave
36 of absence from employment to serve as a juror when that employee is
37 summoned pursuant to chapter 2.36 RCW. An employee may not be required

1 or requested to use annual, vacation, or sick leave for time spent
2 responding to a summons for jury duty, time spent participating in the
3 jury selection process, or time spent actually serving on a jury.
4 Nothing in this section shall be construed to require an employer to
5 provide annual, vacation, or sick leave to employees under the
6 provisions of this section who otherwise are not entitled to benefits
7 under company policies.

8 (2) An employer shall not deprive an employee of employment or
9 threaten, coerce, or harass an employee, or deny an employee
10 promotional opportunities because the employee receives a summons,
11 responds to the summons, serves as a juror, or attends court for
12 prospective jury service.

13 (3) An employer who intentionally violates subsection (1) or (2) of
14 this section shall be guilty of a misdemeanor.

15 (4) If an employer commits an act in violation of subsection (2) of
16 this section the employee may bring a civil action for damages as a
17 result of the violation and for an order requiring the reinstatement of
18 the employee. If the employee prevails, the employee shall be allowed
19 a reasonable attorney's fee as determined by the court.

20 (5) For purposes of this section employer means any person,
21 association, partnership, or private or public corporation who employs
22 or exercises control over wages, hours, or working conditions of one or
23 more employees.

24 (6) A court shall automatically postpone and reschedule the service
25 of a summoned juror who is employed by an employer who employs five or
26 fewer full-time employees, or their equivalent, if another employee of
27 that employer has previously been summoned to appear during the same
28 period. The postponement will not affect an individual's right to one
29 automatic postponement under section 4 of this act.

30 NEW SECTION. Sec. 8. If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. Sec. 9. This act takes effect July 1, 2004.

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