

LEGISLATIVE BILL 113

Passed over the Governor's veto March 20, 1985

Introduced by Withem, 14; Goodrich, 20

AN ACT relating to juries; to amend sections 25-1628, 25-1629, and 25-1637, Reissue Revised Statutes of Nebraska, 1943, and section 25-1601, Revised Statutes Supplement, 1984; to change provisions relating to juror qualifications and preparation of proposed juror lists; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 25-1601, Revised Statutes Supplement, 1984, be amended to read as follows:

25-1601. (1) All citizens of the United States residing in any of the counties of this state ~~and having the qualifications of electors in such counties,~~ who are over the age of nineteen years, able to read, speak, and understand the English language, and free from all disqualifications set forth under this section and from all other legal exceptions are and shall be competent persons to serve on all grand and petit juries in their respective counties. Persons disqualified to serve as either grand or petit jurors are: (a) Judges of any court, (b) clerks of the Supreme or district courts, (c) sheriffs, (d) jailers, (e) persons, or the wife or husband of any such person, who are parties to suits pending in the district court of the county of his, her, or their then residence for trial at that jury panel, (f) persons who have been convicted of a criminal offense punishable by imprisonment in the Department of Correctional Services adult correctional facility, when such conviction has not been set aside or a pardon issued, and (g) persons who are subject to liability for the commission of any offense which by special provision of law does and shall disqualify them. Persons who are husband and wife shall not be summoned as jurors on the same panel. Persons who are incapable, by reason of physical or mental disability, of rendering satisfactory jury service shall not be qualified to serve on a jury; but a person claiming this disqualification may be required to submit a physician's certificate as to the disability and the certifying physician is subject to inquiry by the court at its discretion.

(2) The district court, or any judge thereof, may exercise the power of excusing any grand or petit juror or any person summoned for grand or petit jury service upon

a showing of undue hardship, extreme inconvenience, or public necessity; for such period as the court deems necessary. At the conclusion of such period the person shall reappear for jury service in accordance with the court's direction. All excuses and the grounds for such excuses shall be entered upon the record of the court and shall be considered as a public record. In districts having more than one judge of the district court, the court may by rule or order assign or delegate to the presiding judge or any one or more judges the sole authority to grant such excuses.

(3) No qualified prospective juror is exempt from jury service, except that any person sixty-five years of age or older, who shall make such request to the court at the time the juror qualification form is filed with the jury commissioner, shall be exempt from serving on grand and petit juries.

Sec. 2. That section 25-1628, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1628. The officer having charge of the election records shall furnish to the jury commissioner a complete list of the names and addresses of all registered electors nineteen years of age or older in the county. The Department of Motor Vehicles shall make available to each jury commissioner each December a magnetic tape or printed list containing the names and addresses of all licensed motor vehicle operators nineteen years of age or older in the county. If a county requests additional lists, the cost of processing such lists shall be paid by the requesting county.

Upon receipt of both lists, the jury commissioner shall combine the separate lists and attempt to reduce duplication to the best of his or her ability to produce a master list. The proposed juror list shall be derived by selecting from the master list the name of the person whose numerical order on such list corresponds with the key number and each successive tenth name thereafter. The jury commissioner shall certify that the proposed juror list has been made in accordance with sections 25-1625 to 25-1637.

Any duplication of names on a master list shall not be grounds for quashing any panel pursuant to section 25-1637 or for the disqualification of any juror. The officer having charge of the election records shall select from each current precinct record the names of the registered electors whose numerical order in such registration record corresponds with the key number and each successive tenth name thereafter. He shall make a list of the names thus selected, certify that it has been made in accordance with sections 25-1625 to 25-1638, and within five days after receiving the key number he shall deliver the certified list to the jury commissioner.

Sec. 3. That section 25-1629, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:
 25-1629. The jury commissioner shall immediately upon ~~deriving~~ ~~receiving~~ the proposed juror list mail a juror qualification form to each proposed juror pursuant to section 25-1629.01 and investigate the persons whose names are found on the list. If he or she finds that any one of them is not possessed of the qualifications of petit jurors, as set forth in section 25-1601, or is excluded by the terms ~~thereof~~ of section 25-1601, he or she shall strike such name from the list and make a record of each name stricken, which record shall be kept in his or her office subject to inspection by the court and attorneys of record in cases triable to a jury pending before the court, under such rules as the court may prescribe. The list as thus revised shall constitute the list from which petit jurors shall be selected, until such list shall have been exhausted in the manner hereinafter set forth, or until otherwise ordered by the judge or judges. Unless otherwise ordered by the judge or judges, the jury commissioner shall immediately upon completing the revision of the list, in the presence of a judge for such district, select at random the names of eighty persons possessing the qualifications for grand jurors as set out in section 25-1601. ~~When~~ ~~Where~~ no grand jury list is selected, the judge or judges may at any time order the selecting of a grand jury list. This list shall constitute the list from which grand jurors shall be chosen. ~~Any~~ ; ~~PROVIDED~~; ~~that~~ any judge of the district court shall upon the request of any person entitled to access to the list of names stricken, if satisfied that such request is made in good faith, direct the jury commissioner to appear before the judge at chambers and in the presence of the complaining person state his or her reasons for striking the name specified in the request.

Sec. 4. That section 25-1637, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1637. (1) A party may move to stay the proceedings, to quash the entire panel, or for other appropriate relief, on the ground of substantial failure to comply with Chapter 25, article 16, ~~and sections 25-1629-01 to 25-1629-04, and 25-1639~~ in selecting the grand or petit jury. Such motion shall be made within seven days after the moving party discovered or by the exercise of diligence could have discovered the grounds for such motion, and in any event before the petit jury is sworn to try the case.

(2) Upon a motion filed under subsection (1) of this section containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with Chapter 25, article 16, ~~and sections 25-1629-01 to 25-1629-04, and 25-1639~~, the moving party is entitled to present, in support of the motion, the testimony of the jury commissioner or the clerk, any relevant records and

papers not public or otherwise available which were used by the jury commissioner or the clerk, and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with Chapter 25, article 16, and sections 25-1629-01 to 25-1629-04 and 25-1639, the court shall stay the proceedings pending the selection of the jury in conformity with Chapter 25, article 16, and sections 25-1629-01 to 25-1629-04 and 25-1639, quash an entire panel, or grant other appropriate relief.

(3) The procedures prescribed by this section are the exclusive means by which the state, a person accused of a crime, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with Chapter 25, article 16, and sections 25-1629-01 to 25-1629-04 and 25-1639.

(4) The contents of any records or papers used by the jury commissioner or the clerk in connection with the selection process and not made public under Chapter 25, article 16, and sections 25-1629-01 to 25-1629-04 and 25-1639 shall not be disclosed, except in connection with the preparation or presentation of a motion under subsection (1) of this section, until after all persons on the revised proposed juror list have been discharged. The parties in a case may inspect, reproduce, and copy the records or papers at all reasonable times during the preparation and pendency of a motion under subsection (1) of this section.

(5) Whenever the entire panel is quashed the court shall make an order directing the jury commissioner to select a new key number, in the manner provided in section 25-1627, and prepare a new proposed juror list in the manner provided in section 25-1628. The jury commissioner shall revise such list and qualify and summon jurors as provided in sections 25-1629 to 25-1630. deliver the same to the officer in charge of the election records, and it shall be the duty of the said officer upon receiving the new key number to proceed with the selection of a list of names in the manner provided in section 25-1628, to certify the list, and deliver the same to the jury commissioner, who shall proceed in all respects with the said list as hereinbefore set forth.

Sec. 5. This act shall become operative on July 1, 1986.

Sec. 6. That original sections 25-1628, 25-1629, and 25-1637, Reissue Revised Statutes of Nebraska, 1943, and section 25-1601, Revised Statutes Supplement, 1984, are repealed.