

CHAPTER 86

COURTS

HOUSE BILL 04-1159

BY REPRESENTATIVE(S) Decker, White, Briggs, Brophy, Hefley, and Hoppe;
also SENATOR(S) Evans, Hanna, Hillman, and Lamborn.

AN ACT**CONCERNING THE MODIFICATION OF THE "COLORADO UNIFORM JURY SELECTION AND SERVICE ACT".**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-71-104 (1) and (3), Colorado Revised Statutes, are amended to read:

13-71-104. Eligibility for juror service - prohibition of discrimination.

(1) Juror service is a duty that every qualified person ~~shall~~ HAS AN OBLIGATION TO perform when selected.

(3) (a) No person shall be exempted or excluded from serving as a trial or grand juror because of race, color, religion, sex, national origin, economic status, or occupation.

(b) A person with a disability shall serve except:

(I) AS OTHERWISE PROVIDED IN SECTION 13-71-105 OR 13-71-119.5; OR

(II) Where the court finds that such person's disability prevents the person from performing the duties and responsibilities of a juror.

(c) Before dismissing a person with a disability ~~on the basis of that person's disability~~ PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), the court shall interview the person to determine the reasonable accommodations, if any, consistent with federal and state law, that the court ~~shall~~ MAY make available to permit the person to perform the duties of a juror.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 13-71-105 (2) (f), Colorado Revised Statutes, is amended to read:

13-71-105. Qualifications for juror service. (2) A prospective trial or grand juror shall be disqualified, based on the following grounds:

(f) SELECTION AND service ~~for five days or more~~ as a AN IMPANELED trial or grand juror in any municipal, tribal, military, state, or federal court within the preceding twelve months or being scheduled for juror service within the next twelve months. Any person claiming this disqualification must submit a letter or certificate from the appropriate authority verifying prior or pending juror service.

SECTION 3. 13-71-111, Colorado Revised Statutes, is amended to read:

13-71-111. Contents of juror summons. The juror summons shall state: Whether the anticipated service is that of a trial or grand juror; the beginning date of the juror service; the name, address, hour, and room number, if any, of the courthouse or office to which the juror shall report on the first day of service; the fact that a knowing failure to obey the summons without justifiable excuse is A VIOLATION OF SECTION 18-8-612, C.R.S., AND a class 3 misdemeanor punishable as provided in section 18-1.3-501, C.R.S.; and such other information and instructions as are deemed appropriate by the state court administrator or the jury commissioner. Every prospective juror shall also receive, with the summons, notice of the qualifications for juror service.

SECTION 4. Part 1 of article 71 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

13-71-116.5. Postponement related to co-employee jury service. UPON NOTICE BY AN EMPLOYEE, A JURY COMMISSIONER SHALL POSTPONE AND RESCHEDULE THE SERVICE OF A SUMMONED JUROR WHO IS REGULARLY EMPLOYED BY AN EMPLOYER WITH FIVE OR FEWER FULL-TIME EMPLOYEES OR THEIR EQUIVALENT IF, DURING THE SAME PERIOD, ANOTHER EMPLOYEE OF THE EMPLOYER HAS BEEN SUMMONED FOR JURY SERVICE. A POSTPONEMENT ISSUED PURSUANT TO THIS SECTION SHALL NOT AFFECT A PERSON'S RIGHT TO A POSTPONEMENT OF JURY SERVICE PURSUANT TO SECTION 13-71-116.

13-71-119.5. Persons entitled to be excused from jury service. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS THE POLICY OF THIS STATE THAT ALL QUALIFIED CITIZENS HAVE AN OBLIGATION TO SERVE ON JURIES WHEN SUMMONED BY THE COURTS OF THIS STATE UNLESS EXCUSED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(2) (a) (I) A PERSON SHALL BE EXCUSED TEMPORARILY FROM SERVICE AS A JUROR IF HIS OR HER JURY SERVICE WOULD CAUSE UNDUE OR EXTREME PHYSICAL HARDSHIP TO HIM OR HER OR TO ANOTHER PERSON UNDER HIS OR HER DIRECT CARE OR SUPERVISION.

(II) THE PROVISIONS OF THIS SUBSECTION (2) SHALL APPLY NOTWITHSTANDING THE FACT THAT THE PERSON DOES NOT HAVE SOLE RESPONSIBILITY FOR THE CARE OF ANOTHER PERSON AS DESCRIBED IN SECTION 13-71-105 (2) (d).

(b) A JUDGE OR JURY COMMISSIONER OF THE COURT FOR WHICH A PERSON WAS SUMMONED FOR JURY SERVICE SHALL DETERMINE WHETHER JURY SERVICE WOULD CAUSE THE PROSPECTIVE JUROR OR ANOTHER PERSON UNDER HIS OR HER DIRECT CARE UNDUE OR EXTREME PHYSICAL HARDSHIP.

(c) A PERSON WHO REQUESTS TO BE EXCUSED UNDER THIS SUBSECTION (2) SHALL TAKE ALL ACTIONS NECESSARY TO OBTAIN A DETERMINATION ON THE REQUEST BEFORE THE DATE ON WHICH THE PERSON IS SCHEDULED TO APPEAR FOR JURY DUTY.

(d) FOR PURPOSES OF THIS SUBSECTION (2), UNDUE OR EXTREME PHYSICAL HARDSHIP SHALL BE LIMITED TO CIRCUMSTANCES IN WHICH A PERSON:

(I) WOULD BE REQUIRED TO ABANDON A PERSON UNDER HIS OR HER DIRECT CARE OR SUPERVISION BECAUSE OF THE INABILITY TO OBTAIN AN APPROPRIATE SUBSTITUTE CARE PROVIDER DURING THE PERIOD OF JURY SERVICE; OR

(II) WOULD SUFFER PHYSICAL HARDSHIP POSSIBLY RESULTING IN ILLNESS OR DISEASE.

(e) A PERSON WHO REQUESTS TO BE EXCUSED UNDER THE PROVISIONS OF THIS SUBSECTION (2) MAY PROVIDE THE JUDGE OR JURY COMMISSIONER DOCUMENTATION THAT SUPPORTS THE REQUEST TO BE EXCUSED, INCLUDING BUT NOT LIMITED TO MEDICAL STATEMENTS FROM LICENSED PHYSICIANS, PROOF OF DEPENDENCY OR GUARDIANSHIP, OR OTHER SIMILAR DOCUMENTS. THE JUDGE OR JURY COMMISSIONER MAY EXCUSE A PERSON IF THE DOCUMENTATION CLEARLY SUPPORTS THE REQUEST TO BE EXCUSED. THE DOCUMENTS COMPRISING THE DOCUMENTATION DESCRIBED IN THIS SUBSECTION (4) SHALL NOT BE DEEMED PUBLIC RECORDS AND SHALL NOT BE DISCLOSED TO THE PUBLIC.

(3) A PERSON WHO IS TEMPORARILY EXCUSED PURSUANT TO THIS SECTION SHALL BECOME ELIGIBLE FOR QUALIFICATION AS A JUROR WHEN THE TEMPORARY EXCUSE EXPIRES, AS DETERMINED BY THE COURT. A PERSON MAY BE PERMANENTLY EXCUSED ONLY IF THE JUDGE OR JURY COMMISSIONER DETERMINES THAT THE GROUNDS FOR BEING EXCUSED FROM JURY SERVICE ARE PERMANENT IN NATURE.

(4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO IMPANELED JURORS OR TO DELIBERATING JURORS DESCRIBED IN SECTION 13-71-119.

SECTION 5. 13-71-115, Colorado Revised Statutes, is amended BY THE ADDITION A NEW SUBSECTION to read:

13-71-115. Juror questionnaires. (3) IF A PERSON'S ANSWERS TO A QUESTIONNAIRE INDICATE THAT THE PERSON IS DISQUALIFIED OR DISABLED FROM PERFORMING JURY SERVICE PURSUANT TO SECTION 13-71-104 (3), 13-71-105, OR 13-71-119.5, OR, IN THE OPINION OF THE COURT, STATE GROUNDS SUFFICIENT TO BE EXCUSED FROM JURY SERVICE PURSUANT TO SECTION 13-71-119.5, THE PERSON'S NAME SHALL NOT BE INCLUDED IN THE JUROR POOL AND THE COURT SHALL NOTIFY THE PERSON THAT HE OR SHE IS EXCUSED FROM JURY SERVICE.

SECTION 6. 13-71-119, Colorado Revised Statutes, is amended to read:

13-71-119. Deferments and excuses - limitations. (1) It shall be the policy of this article that every trial juror shall be prepared to serve three trial days except ~~upon a finding of extreme hardship~~ AS OTHERWISE PROVIDED IN THIS SECTION OR IN SECTION 13-71-104, 13-71-105, OR 13-71-119.5.

(2) The court or the jury commissioner may defer or advance the term of service of the trial or grand juror upon a finding ~~of hardship or inconvenience~~ AS PROVIDED IN SECTION 13-71-104, 13-71-105, OR 13-71-119.5. The court may excuse a juror from grand juror service upon a finding of hardship or inconvenience, taking into consideration the length of grand juror service. The court may excuse a juror from trial juror service upon a finding of extreme hardship. The court may dismiss a trial or grand juror at any time in the best interest of justice.

(3) The court, after a hearing, may excuse and discharge an impaneled juror prior to jury deliberation upon a finding of extreme hardship, and such discharge shall not be grounds for objection or a mistrial as long as the statutorily or constitutionally required number of jurors remain able to proceed with the trial and deliberation. The court, after a hearing, may excuse and discharge a juror participating in jury deliberation only upon a finding of an emergency or for any other compelling reason. If the statutorily or constitutionally required number of jurors does not remain to hear evidence or to participate in jury deliberation after the discharge of a juror, the trial may continue with the lesser number of jurors only upon agreement of all parties on the record. The court may discharge an impaneled juror who has not appeared for juror service upon a finding that there is a strong likelihood that an unreasonable delay in the trial would occur if the court were to await the appearance of the juror. The court may exercise any authority granted in this section at any time before or during a juror's term of service.

SECTION 7. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to persons summoned to appear for jury service on or after the applicable effective date of this act.

Approved: April 6, 2004