

REVISE JURY SELECTION PROCESS

House Bill 6287 as introduced First Analysis (12-2-98)

Sponsor: Rep. Ted Wallace
Committee: Judiciary

THE APPARENT PROBLEM:

As part of the Michigan Supreme Court's effort to examine the existing law, court rules, and local practices regarding jury management within the state, the court established a jury management work group. The work group consisted of 15 members representing the state's trial courts and other individuals who work closely with or are effected by jury management. The group issued its conclusions and recommendations, "Standards for Juror Use and Management in Michigan," July 10, 1998. The recommendations included several statutory changes that the work group concluded could improve jury management within the state. Those changes include the use of a broader source list for drawing jurors, allowing the courts to combine the juror questionnaire and summons to appear for jury service into a single step, and allowing courts to use stratification techniques in the questionnaire and summons steps to achieve a broader representation of the community.

The means of selecting persons who may serve as jurors currently are set forth in the Revised Judicature Act. Potential jurors are selected from a list compiled by the secretary of state made up of the combined driver's license and personal identification cardholder list. Public Act 441 of 1994 amended the Michigan election law to comply with the national voter registration law (known as the "Motor-Voter" law). The act provided for the creation of a statewide qualified voter file (QVF), which is compiled by the secretary of state. Some people believe that drawing potential jurors from the qualified voter file, rather than the list of licensed drivers and personal i.d. holders, would result in a broader cross-section of the community serving on juries.

The current system also requires a court to send a juror qualification questionnaire to persons randomly selected from the list provided by the secretary of state, and then to send a summons to appear for service to those persons that returned their questionnaires and are not exempt from service. There is significant disparity in the response and

qualification rate between cities within a county. For some cities the percentage of persons who return the questionnaire and qualify as juror may be as high as 95 percent, while other cities may only have qualification rates of 65 percent. This generally means that the majority of jurors tend to be drawn from the same area. The work group has suggested that efforts be made to increase the number of jurors from the low yield communities.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to change the procedures for the creation of juror lists. For trials that begin before January 1, 2000, jurors would continue to be selected by the jury board from a list that combines the driver's license list and the personal identification cardholder list. For trials that began on or after January 1, 2000, jurors would be selected by the jury board from the statewide qualified voter file established under the Michigan Election Law (MCL 168.509o).

Beginning in 1999, the secretary of state would be required to provide each county clerk with a full, current, and accurate copy of the statewide qualified voter file for persons residing in that county. The list would have to be transmitted annually before April 15 of each year. The secretary of state could also provide the statewide qualified voter file to any federal, state, or local government agency for the purpose of jury selection and could do so on an electronically produced medium, if the agency so requested.

In addition, each county's jury board could attempt to ensure that all areas of the county were proportionately represented on the first jury list by way of an exception to the existing requirement that individuals placed on the first jury list be selected through a random process. The board could, for example, select a greater number of names from areas that typically have been under represented in jury

pools or replace undeliverable or unanswered questionnaires from under represented areas with names from those same areas. Any techniques that the board employed would have to first be approved by the chief circuit judge for that county.

Furthermore, the jury boards would be allowed to serve the jury questionnaire with the written summons to appear, instead of requiring the summons to be sent later and separately.

Finally, the bill would also delete a number of obsolete provisions whose effectiveness expired on December 31, 1986.

MCL 600.1304 et al.

BACKGROUND INFORMATION:

Qualified Voter File. Under Public Act 441 of 1994, the secretary of state is required to direct and supervise the establishment and maintenance of a statewide qualified voter file. The file is to be the official file for conducting all elections held in the state. (The secretary of state may direct that all or any part of the city, township, or village registration files be used in conjunction with the qualified voter file at the first state primary and election held after creation of the file.) As of January 1, 1998, notwithstanding any provision to the contrary, anyone who appeared to vote in an election and whose name appeared in the qualified voter file for the jurisdiction would be considered a registered voter.

The secretary of state is responsible for establishing and maintaining the computer system and programs needed to operate the file, and allowing each county, city, township, or village access to the file. Local clerks are required to verify the accuracy of names and addresses in the file. State and local clerks are responsible for compiling the file from the following sources and in the following order of priority: a driver's license or state identification card, including renewals and changes of address; an application for benefits or services, including renewals and changes of address, taken by a designated voter registration agency; and an application to register to vote taken by a county, city, township, or village clerk, or a secretary of a school board.

The file consists of all of the following: a computer file with the capacity to maintain a number of records equal to or greater than the voting age population of t

the state; an electronic network that would allow participating designated executive departments, state agencies, and county, township, and village clerks to electronically add change, and delete records; a statewide street address system in an electronic medium that could accurately identify the city or township of each record and the precinct of each record; and an interactive electronic communication system that would allow access to records in county, city, and township files for the purposes of receiving copies of those files, transmitting data to those files, or reviewing and printing the files. (The interactive communication system is designed to permit counties, cities, or townships capable of accessing the system to add, change, or delete records regarding qualified voters.)

For each qualified voter, the voter file contains the voter's name, address, and date of birth; a driver's license number, state identification card number, or similar number issued by a designated voter registration agency; jurisdictional information (including school district); precinct and ward numbers; a five-year voting history; and other information determined by the secretary of state to be necessary to assess voter eligibility or to administer elections.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

According to the work group report, adoption of statewide juror management standards is necessary to realize the values of accountability, fairness, effectiveness, and accessibility in the Michigan court system and particularly in jury management. The bill is intended to represent the legislative changes recommended by the group to help improve the current juror-management practices and improve both the overall number of jurors available and the spectrum of individuals represented in juror pool.

The use of the qualified voter file will provide a larger source for potential jurors and is more likely to have up-to-date addresses for individuals than the current list. The QVF includes a broader cross-section of people for jury duty because many people who do not have driver's licenses or state identification cards are now given the opportunity to register to vote through the "Motor-Voter" law.

Also, by allowing the courts to reduce their mailings by combining the questionnaire and the summons in one mailing, the bill will provide flexibility and allow the courts to manage the process of juror management more efficiently. This would also reduce duplication of work, reduce costs, and eliminate the loss of prospective jurors who may move before the summons is mailed. In addition, the work group asserts that the combined mailing of the questionnaire and summons has been shown to have the effect of increasing the percentage of eligible persons who respond to the notice.

Finally, allowing the use of techniques to ensure that all areas of each county are proportionately represented in the jury list will help to make the juries that are eventually selected from these lists more representative of the county as a whole.

Against:

Use of the QVF as the sole source for selecting jurors likely will decrease the number of persons available for jury duty. It seems that many people misunderstand the QVF and what it contains. According to the Department of State, the QVF does not include driver's license holders or personal identification cardholders unless they also are registered to vote. The file would list only registered voters -- although the "Motor-Voter" law allows for easier registration, those people who do not take advantage of those expanded voter registration opportunities are not included in the list. Therefore, if a person who gets a driver's license does not choose to register to vote, he or she is not included in the QVF. A better means of expanding the pool of potential jurors would be to add the QVF to the current sources. This would accomplish what apparently is intended by the bill -- an expansion of the number of potential jurors by making a broader set of people eligible for jury duty.

Furthermore, it should be noted that in 1986 the legislature changed the jury selection method from the use of voter registration lists to the current list that uses driver's license holders and personal identification card holders. This change was endorsed because the voter list was argued to be insufficient since it represented a smaller portion of the eligible adult population (83 to 85 percent) than the current list (95 percent). Further, it was argued that certain

segments of the population were seriously under-represented on the voter lists and that the use of the driver's license and personal identification card holder list would not only increase the overall number of persons on the jury selection list, but would also increase the representation of certain segments of the population that had been previously left out. Yet another reported problem with using the voter list as a jury selection list was that many people would cancel their voter registration in order to avoid jury duty. As a result, it was suggested that using the driver's license and personal identification card holder list might also have the effect of increasing voter registration. One could now assume that all of these arguments could be turned around as arguments against the changes proposed in the bill.

Response:

By making it easier for people to register to vote, the "Motor-Voter" law will, over time, create a voter list that is more reflective of the region's population. For example, the law allows people who apply for services or benefits at designated state agencies or offices, such as Family Independence Agency offices or county health department offices, to register to vote. It is believed that the changes made by the "Motor-Voter" law will increase the overall number of registered voters and will also serve to increase the number of people who were previously under-represented in the voter lists.

Against:

Although according to Public Act 441 of 1994 the creation of the qualified voter file was to be completed by January 1, 1998, apparently not all counties in the state have complete access to the file and the file as such is not complete at this time. In fact, it is believed that at present only one county has a complete and fully working access to the file in accordance with the requirements of the current act. Thus, there is some concern about the effective date of the bill -- it is believed that complete access and other aspects of the file's creation may not be completed by April 15 of 1999 for use as required by the bill. As a result, it would make more sense to delay the effective date of the bill until such time as the qualified voter file has been completed and the bill's requirements can be met.

Response:

The Department of State does not anticipate any difficulty in meeting the bill's proposed effective date.

POSITIONS:

The State Court Administrative Office supports the bill. (11-24-98)

Analyst: W. Flory

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.