

SENATE BILL NO. 312

March 18, 1997, Introduced by Senator BOUCHARD and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 1304, 1304a, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1319, 1320, 1321, 1322, 1323, 1324, 1326, 1327, 1328, 1330, 1331, 1340, 1341, 1342, 1345, and 1346 (MCL 600.1304, 600.1304a, 600.1308, 600.1309, 600.1310, 600.1311, 600.1312, 600.1313, 600.1314, 600.1315, 600.1316, 600.1317, 600.1319, 600.1320, 600.1321, 600.1322, 600.1323, 600.1324, 600.1326, 600.1327, 600.1328, 600.1330, 600.1331, 600.1340, 600.1341, 600.1342, 600.1345, and 600.1346), sections 1304, 1310, 1311, and 1312 as amended by 1986 PA 104; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1304. ~~(1) The jury board shall select from the~~
2 ~~current voter registration lists or books the names of persons as~~

1 ~~provided in this chapter to serve as jurors. This subsection~~
2 ~~applies to jurors summoned for trials beginning before~~
3 ~~September 1, 1987. (2) The jury board~~ COUNTY CLERK FOR EACH
4 COUNTY shall select from a list which combines the driver's
5 license list and the personal identification cardholder list the
6 names of persons as provided in this chapter to serve as jurors.
7 ~~This subsection applies to jurors summoned for trials beginning~~
8 ~~after August 31, 1987.~~

9 Sec. 1304a. The ~~jury board~~ COUNTY CLERK may use elec-
10 tronic and mechanical devices in carrying out its duties under
11 this chapter.

12 Sec. 1308. On or before each May 1, the CHIEF OR presiding
13 judge of each court of record and district court in the county
14 shall estimate the number of jurors that will be needed by their
15 courts for a 1-year period beginning the following September.
16 This estimate shall be entered on the journal of the court and a
17 copy ~~thereof~~ shall be certified by the clerk of the court and
18 delivered to the ~~board~~ COUNTY CLERK. In making the estimate
19 the judge shall consider the number of slips then in the board
20 box which may be available for the period for which the estimate
21 is made.

22 Sec. 1309. The ~~board~~ COUNTY CLERK shall secure from the
23 clerk of each court of record and district court in the county,
24 and each COURT clerk shall provide, a list of persons who have
25 served as jurors, pursuant to the provisions of this chapter, in
26 their courts during the preceding 1 year.

1 Sec. 1310. ~~(1) The township or city clerk shall annually~~
2 ~~between April 15 and May 1 deliver to and file with the county~~
3 ~~clerk a full, current, and accurate copy of the voter registra-~~
4 ~~tion cards containing the names and addresses of the registered~~
5 ~~voters. In lieu of a copy of the registration card, a full, cur-~~
6 ~~rent, and accurate list of those registered together with the~~
7 ~~current addresses shown on the card may be filed.~~

8 ~~(2) The board shall secure from the county clerk, and the~~
9 ~~county clerk shall provide, copies of the current voter registra-~~
10 ~~tion cards or the current voter registration lists for each pre-~~
11 ~~inct in the county. The board shall treat the cards and lists~~
12 ~~as 1 list, with voters grouped either by precinct or by city,~~
13 ~~township, or village as they may be provided.~~

14 ~~(3) The board, in lieu of receiving a list from the county~~
15 ~~clerk of current registered voters, may, if electronic or mechan-~~
16 ~~ical devices are used by the township, city, or village clerks,~~
17 ~~order the clerks to provide only the names and addresses selected~~
18 ~~by applying the key number and starting number designated by the~~
19 ~~board.~~

20 (1) ~~(4) Beginning in 1987, the~~ THE secretary of state
21 shall transmit annually, before April 15 to the clerk of each
22 county at no expense a full, current, and accurate copy of a list
23 that combines the driver's license list and personal identifica-
24 tion cardholder list pertaining to persons residing in the
25 county. At the request of the ~~board~~ CLERK OF EACH COUNTY
26 before March 1, the secretary of state shall transmit only a
27 first jury list consisting of the names and addresses of persons

1 selected at random, based on the total number of jurors required
2 as submitted to the secretary of state by the ~~board~~ CLERK OF
3 EACH COUNTY, using electronic or other mechanical devices. Upon
4 request, the secretary of state shall furnish additional lists to
5 any federal, state, or local governmental agency, other than the
6 clerk of each county, for the purpose of jury selection. An
7 agency which requests and receives a list shall reimburse the
8 secretary of state for actual costs incurred in the preparation
9 and transmittal of the list and all reimbursements shall be
10 deposited in the state general fund.

11 (2) ~~(5)~~ If an agency uses electronic or mechanical devices
12 to carry out its duties, the agency may request and receive a
13 copy of the combined driver's license and personal identification
14 cardholder list on computer tape or another electronically
15 produced medium under specifications prescribed by the secretary
16 of state. The secretary of state shall establish specifications
17 standardizing the size, format, and content of computer tapes and
18 other media utilized to transmit information used for jury
19 selection.

20 ~~(6) Subsections (1), (2), and (3) shall not apply after~~
21 ~~December 31, 1986.~~

22 Sec. 1311. The ~~board~~ COUNTY CLERK shall arrive at a key
23 number as follows:

24 (a) Add the number of jurors the judge has estimated will be
25 needed to the number that experience has shown will be eliminated
26 because of disqualification or exemption. Example: If the judge
27 estimates 100 jurors will be needed and the ~~board~~ COUNTY CLERK

1 has found that to select finally 100 jurors, 50 persons will
2 usually be found to be exempt or disqualified, including those
3 who have moved from the county or died, the ~~board~~ COUNTY CLERK
4 shall add 50 to the 100.

5 (b) Divide the number equal to the total number of names
6 which appear on the list received pursuant to section 1310 by the
7 result, obtaining the nearest integral quotient. Example: If
8 there are 50,000 names on the combined list, divide 50,000 by
9 150.

10 (c) The result is the key number for the period for which
11 jurors are to be selected. Example: 50,000 divided by 150
12 equals $333\frac{1}{3}$, so 333 would be the key number in the example.

13 Sec. 1312. (1) The ~~board~~ COUNTY CLERK shall apply the key
14 number uniformly to the names on the list received pursuant to
15 section 1310 and compile a list or card index, to be known as the
16 first jury list, which shall include every name and only those
17 names as the application of the key number has designated. The
18 ~~board~~ COUNTY CLERK shall do this as follows:

19 ~~(a) Arrange the various voter registration lists into 1~~
20 ~~list. The order in which the lists are arranged or the fact that~~
21 ~~some lists are by precincts, and some lists are alphabetized, is~~
22 ~~not relevant. This subdivision shall not apply after~~
23 ~~December 31, 1986.~~

24 (A) ~~(b)~~ Select by a random method a starting number
25 between 0 and the key number.

1 (B) ~~-(c)-~~ Count down the list the number of names to reach
2 the starting number. That name shall be placed on the first jury
3 list.

4 (C) ~~-(d)-~~ Continue from that name counting down the list,
5 beginning to count again with the number 1, until the key number
6 is reached. That name shall be placed on the first jury list.

7 (D) ~~-(e)-~~ Repeat the process provided in subdivision (d)
8 until the whole list has been counted and the names placed on the
9 first jury list.

10 (E) ~~-(f)- The board shall then remove~~ REMOVE from the first
11 jury list the name of any person who its records show served,
12 pursuant to the provisions of this chapter, as a petit or grand
13 juror in any court of record or district court in the county at
14 any time in the preceding 1 year.

15 (2) The ~~board~~ COUNTY CLERK may use electronic and mechani-
16 cal devices in carrying out its duties under this section.

17 Sec. 1313. The ~~board~~ COUNTY CLERK shall supply a juror
18 qualifications questionnaire to persons on the first jury list.
19 This questionnaire shall contain blanks for the information the
20 ~~board~~ COUNTY CLERK desires, concerning qualifications for, and
21 exemptions from, jury service. Persons on the first jury list
22 are required to return the questionnaire fully answered to the
23 ~~jury board~~ COUNTY CLERK within 10 days after it is received.

24 Sec. 1314. On the basis of answers to the juror qualifica-
25 tions questionnaires, the ~~board~~ COUNTY CLERK may excuse from
26 service persons on the first jury list who claim exemption and
27 give satisfactory proof of such right, and all persons who are

1 not qualified for jury service. The ~~board~~ COUNTY CLERK may
2 investigate the accuracy of the answers to the questionnaires and
3 may call upon all law enforcement agencies for assistance in the
4 investigation.

5 Sec. 1315. The juror qualifications questionnaires shall be
6 kept on file by the ~~board~~ COUNTY CLERK for a period of 3 years
7 but the ~~presiding~~ CHIEF circuit judge may order them to be kept
8 on file for a longer period. The answers to the qualifications
9 questionnaires shall not be disclosed except that the ~~presiding~~
10 CHIEF circuit judge may order that access be given to the ques-
11 tionnaires and the answers.

12 Sec. 1316. The ~~presiding~~ CHIEF circuit judge, or the
13 ~~board~~ COUNTY CLERK, may require any person on the first jury
14 list to appear ~~before a board member~~ at a specified time, for
15 the purpose of testifying under oath or affirmation concerning
16 his OR HER qualification to serve as a juror, in addition to com-
17 pleting the questionnaire. Notice shall be given, personally or
18 by mail, to a person required to appear not less than 7 days
19 before he OR SHE is to appear. ~~before the board.~~ The ~~board~~
20 COUNTY CLERK shall hold evening sessions as necessary for the
21 examination of prospective jurors who are unable to attend at
22 other times.

23 Sec. 1317. The ~~board~~ COUNTY CLERK may dispense with the
24 personal attendance of a person notified to appear ~~before the~~
25 ~~board,~~ UNDER SECTION 1316, when another person cognizant of
26 facts which will qualify or disqualify the person from service,
27 or which prevent ~~him~~ THE PERSON from appearing is produced and

1 testifies in his OR HER stead, or when ~~a board member~~ AN
2 EMPLOYEE OR OFFICER OF THE COUNTY CLERK'S OFFICE has personal
3 knowledge of facts, and enters them in his OR HER report on that
4 person's qualifications.

5 Sec. 1319. The ~~board~~ COUNTY CLERK shall keep a record of
6 ~~the board member's~~ A report on each person examined, and a
7 record showing the qualifications to serve as a juror of each
8 person on the first jury list. ~~and whether or not he is a~~
9 ~~freeholder.~~

10 Sec. 1320. (1) The ~~board~~ COUNTY CLERK shall make a prelim-
11 inary screening of the qualifications and exemptions of prospec-
12 tive jurors and shall not include in the second jury list the
13 names of persons ~~it~~ THAT THE COUNTY CLERK finds not qualified
14 or exempt; but the court may decide upon the qualifications and
15 exemptions of prospective jurors upon a written application and
16 satisfactory legal proof at any time after the jurors attend
17 court.

18 (2) If a prospective juror without legal disqualification or
19 exemption ~~shall apply~~ APPLIES to the ~~board~~ COUNTY CLERK to be
20 excused from jury service, the ~~jury board~~ COUNTY CLERK may,
21 with the written approval of the ~~presiding~~ CHIEF circuit judge,
22 exclude his OR HER name from the second jury list when it appears
23 that the interests of the public or of the prospective juror will
24 be materially injured by his OR HER attendance, or the health of
25 the juror or that of a member of his OR HER family requires his
26 OR HER absence from court.

1 Sec. 1321. (1) The names of those persons on the first jury
2 list whom the ~~board~~ COUNTY CLERK accepts as persons qualified
3 for and not exempt from jury service shall be compiled into a
4 list or card index to be known as the second jury list. The
5 ~~board~~ COUNTY CLERK shall write the names and addresses of the
6 persons thus selected ~~, and whether or not the records of the~~
7 ~~board show them to be freeholders,~~ on separate slips of paper of
8 the same size and appearance as nearly as may be. The ~~board~~
9 COUNTY CLERK shall fold up each slip of paper in the same manner
10 so as to conceal the name ~~thereon~~ and shall deposit it at the
11 times herein provided, in a box, to be called and labeled the
12 board box. The form and construction of the board box shall be
13 approved by the ~~chairman or president~~ COUNTY CLERK, and may
14 from time to time be changed with his approval. Immediately
15 after preparing the slips the board shall seal the second jury
16 list. The list shall remain sealed until otherwise ordered by
17 the ~~presiding~~ CHIEF circuit judge.

18 (2) The ~~board~~ COUNTY CLERK shall make an additional list
19 consisting of the names on the second jury list segregated by the
20 geographical area of the jurisdiction of each district court. If
21 there are not sufficient names on ~~such~~ THE segregated list for
22 any district court, the ~~board~~ COUNTY CLERK shall apply again
23 the key number to that district only and obtain as many addi-
24 tional jurors as needed for such district.

25 Sec. 1322. The first deposit of slips shall take place as
26 soon as the slips are prepared. ~~Slips drawn under previous~~
27 ~~statutes shall first be removed.~~ Subsequent deposits shall be

1 made when the supply of slips in the board box is exhausted. An
2 earlier deposit may be ordered by the ~~presiding~~ CHIEF circuit
3 judge. The ~~board~~ COUNTY CLERK shall keep a record of the
4 number of slips deposited, and the number withdrawn, and shall
5 inform the ~~presiding~~ CHIEF circuit judge of the number of slips
6 remaining in the board box on request, without opening the box.
7 ~~Nothing herein shall affect the validity of a panel of jurors~~
8 ~~which was drawn for a term of court before the first deposit of~~
9 ~~slips as provided herein.~~

10 Sec. 1323. If the slips are not to be immediately deposited
11 in the board box, they shall be sealed up by the ~~board~~ COUNTY
12 CLERK and SHALL remain in the custody of the ~~board~~ COUNTY CLERK
13 to be deposited when the previous supply of slips in the board
14 box is exhausted or when ordered by the ~~presiding~~ CHIEF circuit
15 judge.

16 Sec. 1324. (1) From time to time the CHIEF OR presiding
17 judge of each court of record and district court in the county
18 shall order the ~~board~~ COUNTY CLERK to draw jurors for jury
19 service. Each ~~such~~ order shall contain the following
20 information:

21 (a) A time limit within which the drawing shall be
22 completed.

23 (b) The number of jurors to be drawn for a panel.

24 (c) The number of panels to be drawn.

25 (d) The court or courts in which each panel shall serve.

26 (e) The period of service of each panel, subject to ~~the~~
27 ~~provisions of~~ section 1343.

1 (2) Upon the order of the ~~presiding~~ CHIEF circuit judge,
2 jury panels or parts of jury panels drawn for any court in the
3 county may be used for jury selection in any court of record or
4 in the district court, if jurors on the panel or part of a panel
5 selected for such use are otherwise eligible to serve as jurors
6 in the particular court.

7 (3) If a city located in more than 1 county is placed
8 entirely within a single district of the district court pursuant
9 to the provisions of chapter 81, the supreme court by rule shall
10 specify the procedure for compiling the second jury list for that
11 district court so as to include names and addresses of residents
12 from the parts of the counties which comprise ~~such~~ THE
13 district.

14 Sec. 1326. If a grand jury is ordered by the court, or
15 required by statute, the ~~board~~ COUNTY CLERK shall draw the
16 names of a sufficient number of persons, as determined by the
17 ~~presiding~~ CHIEF circuit judge, to serve as grand jurors in
18 accordance with the provisions of section 11 of chapter 7 of ~~Act~~
19 ~~No. 175 of the Public Acts of 1927, as amended, being section~~
20 ~~767.11 of the Compiled Laws of 1948~~ THE CODE OF CRIMINAL PROCE-
21 DURE, 1927 PA 175, MCL 767.11. The names shall be drawn in the
22 same manner and from the same source as petit jurors. The term
23 of service of grand jurors shall be as prescribed by section 7a
24 of chapter 7 of ~~Act No. 175 of the Public Acts of 1927, as~~
25 ~~added, being section 767.7a of the Compiled Laws of 1948~~ THE
26 CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 767.7A.

1 Sec. 1327. A drawing of jurors shall take place in public
2 within the time limit fixed by the ~~presiding~~ CHIEF circuit
3 judge and at a time and place designated by the ~~board~~ COUNTY
4 CLERK. At the time and place appointed, the clerk or ~~his~~ THE
5 CLERK'S deputy, and a judge or an elected official, other than
6 the clerk, as designated by the ~~presiding~~ CHIEF OR presiding
7 judge shall attend to witness and assist in the drawing of
8 jurors.

9 Sec. 1328. The ~~board~~ COUNTY CLERK shall proceed in the
10 drawing as ~~hereinafter~~ provided IN THIS SECTION. ~~An employee~~
11 ~~of the board, or a board member,~~ THE COUNTY CLERK OR HIS OR HER
12 EMPLOYEE shall shake or turn the board box to fairly mix the
13 slips of paper deposited ~~therein~~ IN THE BOARD BOX without
14 exposing them. The ~~employee or board member~~ COUNTY CLERK OR
15 EMPLOYEE OF THE COUNTY CLERK, in the presence of the officer or
16 officers attending, without seeing the names on the slips, shall
17 then draw publicly from the box the names of as many jurors as
18 were ordered by the judge. An attending officer or ~~board member~~
19 ~~or an employee of the board~~ THE COUNTY CLERK OR EMPLOYEE shall
20 keep a minute of the drawing, in which ~~he shall enter~~ SHALL BE
21 ENTERED the name written on every slip of paper drawn before any
22 other slip is drawn. If the name of a person is drawn who is not
23 qualified to serve as a juror, ~~to the knowledge of any member of~~
24 ~~the board,~~ an entry of this fact shall be made on the minute of
25 the drawing, the slip of paper containing his OR HER name shall
26 be destroyed, and another slip then drawn in place of that
27 destroyed. The minutes of the drawing shall be signed by the

1 ~~board member~~ COUNTY CLERK OR EMPLOYEE and the attending
2 officers and filed in the office of the ~~board~~ COUNTY CLERK.
3 The signature shall constitute a certificate that the minutes are
4 correct and that all provisions of law have been complied with.

5 Sec. 1330. When the drawing is finished, the board box
6 shall be closed and sealed in the presence of the officers. All
7 slips drawn out of the board box, unless destroyed as provided in
8 this chapter, shall be delivered to the clerk of the court for
9 which the jurors were drawn. The board box shall be kept in the
10 custody of the ~~board~~ COUNTY CLERK at all times, and shall not
11 be opened nor the seal be broken until another drawing, unless
12 ordered by the court.

13 Sec. 1331. The ~~board~~ COUNTY CLERK shall deliver to the
14 clerk OF THE COURT lists containing the names and addresses of
15 the jurors drawn.

16 Sec. 1340. The clerk of the court, within 10 days after the
17 close of each term for which jurors have been drawn, shall
18 deliver to the ~~board his~~ COUNTY CLERK A certificate specifying
19 distinctly and in detail as follows:

20 (a) The name and residence of each juror who was excused or
21 discharged by the court, with the reason therefor.

22 (b) The name and residence of each person notified who did
23 not attend or serve.

24 (c) The name and residence of each person punished for con-
25 tempt as provided in this chapter.

26 Sec. 1341. The CHIEF OR presiding judge of a court may
27 order additional jurors drawn by the ~~board~~ COUNTY CLERK for

1 service during the period OR PARTIAL PERIOD of service of a jury
2 panel. ~~or a part thereof.~~ A judge of a court of record or dis-
3 trict court may order additional jurors drawn by the ~~board~~
4 COUNTY CLERK for immediate service in a particular case. The
5 order shall specify the number to be drawn, and the time and
6 place of drawing. If additional jurors are needed for immediate
7 service in a particular case, ~~any member of the jury board~~ THE
8 COUNTY CLERK OR AN EMPLOYEE OF THE COUNTY CLERK may conduct the
9 drawing if witnessed by the COURT clerk or ~~his~~ THE COURT
10 CLERK'S deputy and by the judge ordering the drawing. Jurors
11 whose names are so drawn shall be given notice to attend court in
12 such manner as the court directs. Additional jurors so drawn
13 shall become members of the panel then serving unless otherwise
14 directed by the CHIEF OR presiding judge.

15 Sec. 1342. If the ~~board~~ COUNTY CLERK fails to meet and
16 return the second jury list at the time prescribed, or if any
17 list of jurors becomes exhausted or declared illegal, the
18 ~~presiding~~ CHIEF circuit judge may order the ~~board to meet and~~
19 COUNTY CLERK TO make a new list of jurors.

20 Sec. 1345. ~~A board member~~ THE COUNTY CLERK shall report
21 to the prosecuting attorney and the ~~presiding~~ CHIEF circuit
22 judge the name of any person who in any manner seeks by request,
23 hint, or suggestion to influence the ~~board or its members~~
24 COUNTY CLERK OR AN EMPLOYEE OF THE COUNTY CLERK in the selection
25 of any juror.

26 Sec. 1346. The following acts are punishable by the circuit
27 court as contempts of court:

1 (a) Failing to answer the questionnaire provided for in
2 section 1313.

3 (b) Failing to appear before ~~the board or a member thereof~~
4 THE COUNTY CLERK, without being excused at the time and place
5 notified to appear.

6 (c) Refusing to take an oath or affirmation.

7 (d) Refusing to answer questions pertaining to his qualifi-
8 cations as a juror, when asked by ~~a member of the board~~ THE
9 COUNTY CLERK.

10 (e) Failing to attend court, without being excused, at the
11 time specified in the notice, or from day to day, when summoned
12 as a juror.

13 (f) Giving a false certificate, or making a false represen-
14 tation, or refusing to give information which he OR SHE can give
15 affecting the liability or qualification of a person other than
16 himself to serve as a juror.

17 (g) Offering, promising, paying, or giving money or anything
18 of value to, or taking money or anything of value from, a person,
19 firm or corporation for the purpose of enabling himself OR
20 HERSELF, or another person, to evade service or to be wrongfully
21 discharged, exempted or excused from service as a juror.

22 (h) Tampering unlawfully in any manner with a jury list, the
23 board box, the jury box or the slips.

24 (i) ~~Wilfully~~ WILLFULLY doing or omitting to do an act with
25 the design to subvert the purpose of this act.

26 (j) ~~Wilfully~~ WILLFULLY omitting to put on the jury list
27 the name of a person qualified and liable for jury duty.

1 (k) ~~Wilfully~~ WILLFULLY omitting to prepare or file a list
2 or slip.

3 (l) Doing, or omitting to do, an act with the design to pre-
4 vent the name of a person qualified and liable to serve as a
5 juror from being placed in the board box or jury box, or from
6 being drawn for service as a juror.

7 (m) ~~Wilfully~~ WILLFULLY placing the name of a person upon a
8 list, or preparing a slip with the name of a person thereon or
9 placing a slip in the jury box with the name of a person thereon,
10 who is not qualified as a juror.

11 Enacting section 1. Sections 1301, 1302, 1303, 1303a, 1305,
12 and 1318 of the revised judicature act of 1961, 1961 PA 236, MCL
13 600.1301, 600.1302, 600.1303, 600.1303a, 600.1305, and 600.1318,
14 are repealed.