

REVISE JURY SELECTION PROCESS

House Bill 5129 as amended First Analysis (10-15-03)

Sponsor: Rep. Jim Howell
Committee: Judiciary

THE APPARENT PROBLEM:

The selection of juries for trials held in state courts is governed by Chapter 13 of the Revised Judicature Act. Since its enactment in 1969, only a few provisions contained in Chapter 13 have been amended. Therefore, many of the provisions are outdated and no longer reflect current practice. For instance, in 1969, many courts selected jurors by having clerks draw slips of paper upon which names of potential jurors had been written. These slips of paper were then put into a "jury box". When jurors were needed for a panel or trial, a clerk would draw the number of jurors needed from the box. Though some counties still use the "slips in a box" approach, most counties have switched to computerized systems (which are also allowed by statute).

More recently, a task force of the State Court Administrative Office (SCAO) recommended that Chapter 13 be updated and revised to reflect the changes in technology and practice. The SCAO also recommended that the statute be amended to allow the jury questionnaire and a written notice summoning a person for court attendance to be mailed together; this would provide a cost savings to the counties.

THE CONTENT OF THE BILL:

The bill would make several technical amendments regarding the jury selection process set forth in Chapter 13 of the Revised Judicature Act of 1961 (Public Act 236). The bill would take effect January 1, 2004. Among the other technical and editorial changes, the bill would amend the act as follows:

- Add that in any county, the jury questionnaire and written summons notice could be provided in the same mailing.
- Delete detailed language pertaining to the second jury list that requires the jury board to: record the names and addresses of persons selected, and whether records indicate that those persons are shown to be freeholders (property owners); fold the

slip of paper with the names of those on the second jury list; and deposit the slips into the board box, the form and construction of which must be approved by the chairman or president of board.

- Delete detailed language pertaining to the jury selection process that requires an employee of the jury board or a board member to shake and turn the board box in such a manner as to fairly mix the slips of paper without exposing them, and to publicly draw names of as many jurors as ordered by the judge. Rather, the bill would require the jury selection to be conducted in a 'random manner as ordered by the chief circuit judge'.

- Add that the jury board would summon jurors for court attendance. Under current law, only the clerk of the court or the sheriff can summon jurors.

- Add that a designee of the clerk of the court could certify the name and residence of each juror who was excused or discharged and the reasons for such excuse or discharge; each person notified who did not attend or serve; and each person punished for contempt. Under current law, only the clerk of the court can perform this function.

The major technical amendments of the bill include the following:

- Delete references to a 'municipal court of record'. [The only such court was the Detroit Recorder's Court, which was merged with the Third Circuit Court (Wayne County) pursuant to Public Act 374 of 1996.]
- Delete an outdated reference to "a common pleas court".
- Delete several date-sensitive provisions that are no longer applicable. [See MCL 600.1304, 600.1310, 600.1312, and 600.1375.]

- Change references to the “presiding” judge of each circuit court or court of record, to instead refer to the “chief” judge of the court.

- Delete language regarding the determinations of the jury board as to whether a person is a freeholder (a property owner).

MCL 600.1301a et al.

FISCAL IMPLICATIONS:

Given that the revisions under the bill are intended to conform to current practices utilized by local courts, the House Fiscal Agency notes that the bill should have no significant fiscal impact. (10-13-03)

ARGUMENTS:

For:

Most of the provisions contained in Chapter 13 of the Revised Judicature Act, which governs the procedures used in selecting persons for jury service, have been unchanged since enactment in 1969. The bill would make a number of mostly technical changes to update language, for example, eliminate obsolete references to juror selection based on voter registration lists (since 1987, lists are drawn from a compilation of the driver’s license list and the state personal identification card list), substitute the term “chief circuit judge” for the outdated “presiding circuit judge”, require a person to be “able to communicate” in English rather than “conversant” in English; make the language gender neutral throughout, and so on. One of the few significant changes would be a cost-cutting measure allowing a county to mail the written notice summons with the jury questionnaire. In another change, the jury board would be allowed to summon jurors for court attendance in addition to the clerk or sheriff.

Against:

Currently, the statute requires all counties to conduct drawings selecting jurors in the same manner – the jury box containing the slips of paper that the names are written on must be shaken or turned to fairly mix the slips of paper; next, the number of names ordered by the judge are publicly drawn from the box. However, the bill would delete this provision and replace it with language allowing each chief circuit judge to order the “selection of jurors in a random manner”. Some feel that instead of having a uniform system, the bill could create a situation in which a different procedure was used in each circuit court

district. Would the losing party in a trial then use a challenge to the way a jury was impaneled as a basis for an appeal? Though perhaps a bit outdated, at least the current procedure is fair and uniform statewide.

POSITIONS:

A representative from the Seventh Circuit Court indicated support for the bill. (10-14-03)

Analyst: S. Stutzky

■ 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.