

SENATE BILL No. 1295

June 15, 2004, Introduced by Senators HAMMERSTROM, JACOBS, KUIPERS and BIRKHOLZ and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 1307a, 1314, 1320, 1333, 1334, 1335, 1337, 1343, 1346, and 1348 (MCL 600.1307a, 600.1314, 600.1320, 600.1333, 600.1334, 600.1335, 600.1337, 600.1343, 600.1346, and 600.1348), sections 1307a, 1320, 1333, 1334, 1335, 1337, 1343, and 1346 as amended by 2004 PA 12 and section 1348 as amended by 1982 PA 234, and by adding section 1344a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1307a. (1) It is the policy of this state that all
2 qualified citizens have an obligation to serve on petit juries
3 when summoned by the courts of this state, unless excused.

4 (2) ~~—(1)—~~ To qualify as a juror, a person shall comply with
5 all of the following conditions:

6 (a) Be a citizen of the United States, 18 years of age or

1 older, and a resident in the county for which the person is
2 selected, and in the case of a district court in districts of the
3 second and third class, be a resident of the district.

4 (b) Be able to communicate in the English language.

5 ~~(c) Be physically and mentally able to carry out the~~
6 ~~functions of a juror. Temporary inability shall not be~~
7 ~~considered a disqualification.~~

8 (c) ~~(d)~~ Not have served as a petit or grand juror in a
9 court of record during the preceding 12 months.

10 (d) ~~(e)~~ Not have been convicted of a felony.

11 (3) ~~(2)~~ A person more than 70 years of age may claim
12 exemption from jury service and shall be exempt upon making the
13 request.

14 (4) ~~(3)~~ For the purposes of this section and sections 1371
15 to 1376, a person has served as a juror if that person has been
16 paid for jury service.

17 (5) ~~(4) For purposes of~~ **As used in** this section, "felony"
18 means a violation of a penal law of this state, another state, or
19 the United States for which the offender, upon conviction, may be
20 punished by death or by imprisonment for more than 1 year or an
21 offense expressly designated by law to be a felony.

22 Sec. 1314. On the basis of answers to the juror
23 qualifications questionnaires, the board may excuse from service
24 persons on the first jury list ~~who claim exemption and give~~
25 ~~satisfactory proof of such right, and~~ all persons who are not
26 qualified for jury service. The board may investigate the
27 accuracy of the answers to the questionnaires and may call upon

1 all law enforcement agencies for assistance in the
2 investigation.

3 Sec. 1320. (1) The board shall make a preliminary screening
4 of the qualifications ~~and exemptions~~ of prospective jurors and
5 shall not include in the second jury list the names of persons it
6 finds not qualified; ~~or exempt;~~ but the court may decide upon
7 the qualifications ~~and exemptions~~ of prospective jurors upon a
8 written application and satisfactory legal proof at any time
9 after the jurors attend court.

10 ~~(2) If a prospective juror without legal disqualification or~~
11 ~~exemption applies to the board to be excused from jury service,~~
12 ~~the jury board may, with the written approval of the chief~~
13 ~~circuit judge, exclude his or her name from the second jury list~~
14 ~~when it appears that the interests of the public or of the~~
15 ~~prospective juror will be materially injured by his or her~~
16 ~~attendance or the health of the juror or that of a member of his~~
17 ~~or her family requires his or her absence from court.~~

18 (2) ~~(3)~~ If the name of a person who is deceased is selected
19 for jury service, the name shall be removed from the second jury
20 list and that fact may be forwarded to the local clerk.

21 ~~(4) The trial judge, at his or her discretion, may grant a~~
22 ~~deferral of jury service to a person if the person claims that~~
23 ~~serving on the date he or she is called creates a hardship. If~~
24 ~~the trial judge grants a deferral, the judge shall determine a~~
25 ~~future date on which the person may serve without hardship, and~~
26 ~~shall direct the board to call the person on that date.~~

27 Sec. 1333. (1) A person who is notified to attend as a

1 juror may apply to the chief judge of the court to ~~be excused~~
2 ~~or~~ have his or her term of service postponed. ~~on any ground~~
3 ~~provided in this chapter. He or she may apply in person or by a~~
4 ~~person capable of making the necessary proof of his or her~~
5 ~~claim. An entry of the action of the chief judge upon the~~
6 ~~application and of the reason for that action shall be made on~~
7 ~~the records of the court. Except as provided in subsection (3)~~
8 and section 1348(4), a person may have his or her term of service
9 postponed under this section only once.

10 (2) The judge shall grant a requested postponement if all of
11 the following apply:

12 (a) The prospective juror has not previously been granted a
13 postponement.

14 (b) The prospective juror appears in person or contacts the
15 clerk of the court by telephone, by electronic mail, or in
16 writing to request the postponement.

17 (c) Before the grant of a postponement, the prospective juror
18 fixes a date on which he or she will appear for jury service that
19 is not more than 6 months after the date on which the prospective
20 juror was called to serve and is a date on which the court will
21 be in session.

22 (3) A second postponement of jury service for a prospective
23 juror may be approved by a judge only in the event of an extreme
24 emergency, such as a death in the family, sudden grave illness, a
25 natural disaster, or a national emergency in which the
26 prospective juror is personally involved, that could not have
27 been anticipated when the initial postponement was granted.

1 Before granting a second postponement, the prospective juror must
2 fix a date on which he or she will appear for jury service that
3 is not more than 6 months after the date on which the juror was
4 called to serve and is a date on which the court will be in
5 session.

6 (4) An individual who does not appear in person on the date
7 scheduled for jury service and who has not obtained a
8 postponement under subsections (1) to (3), or who does not appear
9 on the date fixed pursuant to subsection (2)(c) or (3), is guilty
10 of a misdemeanor punishable by imprisonment for not more than 90
11 days or a fine of not more than \$500.00, or both.

12 Sec. 1334. (1) ~~The chief judge may excuse any juror or~~
13 ~~jurors from attendance without pay for any portion of the term.~~
14 The chief judge shall excuse jurors from attendance on days when
15 it is not expected that they will be required. ~~The chief judge~~
16 ~~may postpone the service of a juror to a later term of court if~~
17 ~~the juror has not been called for voir dire examination in any~~
18 ~~action.~~

19 (2) The judge presiding at the trial of an action may excuse
20 jurors from attendance at that trial for cause.

21 Sec. 1335. (1) The chief judge of the court to which a
22 person is returned as a juror may excuse the person from serving
23 when it appears that the interests of the public ~~or of the~~
24 ~~individual juror~~ will be materially injured by his or her
25 attendance. ~~or the health of the juror or that of a member of~~
26 ~~his or her family requires his or her absence from court.~~

27 (2) The chief judge of the court to which a person is

1 returned as a juror shall postpone the person's term of service
2 until the end of the school year if the person is a full-time
3 student enrolled in and attending high school.

4 (3) Upon application by a prospective juror, the chief judge
5 may excuse that individual from jury service for a period of up
6 to 24 months, instead of granting a postponement, in either of
7 the following situations:

8 (a) The prospective juror has a mental or physical condition
9 that causes him or her to be incapable of performing jury
10 service. The juror, or the juror's personal representative, must
11 provide the court with documentation from a licensed physician
12 verifying that a mental or physical condition renders the person
13 unfit for jury service for a period of up to 24 months.

14 (b) Jury service would cause undue or extreme physical or
15 financial hardship to the prospective juror or a person under the
16 prospective juror's care or supervision. As used in this
17 section, "undue or extreme physical or financial hardship" means
18 any of the following:

19 (i) The prospective juror would be required to abandon a
20 person under his or her personal care or supervision due to the
21 impossibility of obtaining an appropriate substitute caregiver
22 during the period of participation in the jury pool or on the
23 jury.

24 (ii) The prospective juror would incur costs that would have
25 a substantial adverse impact on the payment of his or her
26 necessary daily living expenses or on those for whom he or she
27 provides the principal means of support.

1 (iii) The prospective juror would suffer physical hardship
2 that would result in illness or disease.

3 (4) A judge of the court for which the individual was called
4 to jury service shall make determinations as to undue or extreme
5 physical or financial hardship. The authority to make these
6 determinations is delegable only to court officials or personnel
7 who are authorized by law to function as members of the
8 judiciary.

9 (5) A determination of undue or extreme physical or financial
10 hardship shall not be based solely on the fact that a prospective
11 juror will be required to be absent from his or her place of
12 employment.

13 (6) A prospective juror asking a judge to grant an excuse
14 based on a finding of undue or extreme physical or financial
15 hardship must take all actions necessary to obtain a ruling on
16 that request no later than the date on which the individual is
17 scheduled to appear for jury duty. The prospective juror shall
18 provide the judge with documentation, such as federal and state
19 income tax returns, medical statements from licensed physicians,
20 proof of dependency or guardianship, or similar documents, which
21 the judge finds to clearly support the request to be excused.
22 Failure to provide satisfactory documentation shall result in a
23 denial of the request to be excused.

24 (7) Except as provided in subsection (8), a person becomes
25 eligible once again for qualification as a juror upon the
26 expiration of 24 months after being excused under this section.

27 (8) A judge may excuse a person from jury service permanently

1 if the judge determines that the underlying grounds for being
2 excused are of a permanent nature.

3 Sec. 1337. When the court finds that a person in attendance
4 at court as a juror is not qualified to serve as a juror, or is
5 exempt **under section 1307a** and claims an exemption, the court
6 shall discharge him or her from further attendance and service as
7 a juror.

8 Sec. 1343. The term of service of petit jurors shall be
9 ~~determined by local court rule but shall not exceed the term of~~
10 ~~court,~~ **no longer than 1 court day** unless at the end of this
11 period a juror is serving in connection with an unfinished case,
12 in which event the juror shall continue to serve, in that case
13 only, until the case in which he or she is serving is finished.
14 Once commenced, the term of service shall be continuous except as
15 provided in sections 1334 to 1336.

16 Sec. 1344a. (1) **The supreme court shall promulgate rules to**
17 **establish a lengthy trial fund that shall be used to provide full**
18 **or partial wage replacement or wage supplementation to jurors who**
19 **serve as petit jurors for more than 10 days. The court rules**
20 **shall provide for the following:**

21 (a) **The selection and appointment of an administrator for the**
22 **fund.**

23 (b) **Procedures for the administration of the fund, including**
24 **payments of salaries of the administrator and other necessary**
25 **personnel.**

26 (c) **Procedures for the accounting, auditing, and investment**
27 **of money in the fund.**

1 (d) A report by the supreme court on the administration of
2 the fund in its annual report on the judicial branch, detailing
3 the money collected for and disbursed from the fund.

4 (2) In addition to any other fees required by law, each trial
5 court in the state shall collect from each attorney who files a
6 civil action, unless otherwise exempted under this section, a fee
7 of \$10.00 per case to be paid into the lengthy trial fund. An
8 attorney is considered to have filed a case when the first
9 pleading or other filing on which an individual attorney's name
10 appears is submitted to the court for filing and opens a new
11 case. The fees shall be forwarded to the administrator of the
12 lengthy trial fund for deposit in the fund.

13 (3) The administrator shall use the money in the lengthy
14 trial fund to pay full or partial wage replacement or
15 supplementation to jurors whose employers pay less than full
16 regular wages when the period of jury service lasts more than 10
17 days. Only jury service occurring after the effective date of
18 this section qualifies for payment under this section.

19 (4) The court may pay replacement or supplemental wages of up
20 to \$300.00 per day per juror beginning on the eleventh day of
21 jury service. In addition, for any jurors who qualify for the
22 payment by virtue of having served on a jury for more than 10
23 days, the court, upon finding that the juror's service posed a
24 significant financial hardship, even in light of payments made
25 with respect to jury service after the tenth day, may award
26 replacement or supplemental wages of up to \$100.00 per day from
27 the fourth to the tenth day of jury service.

1 (5) A juror whose jury service qualifies for payment from the
2 lengthy trial fund may submit a request for payment from the
3 lengthy trial fund on a form provided by the administrator.
4 Payment is limited to the difference between the state-paid jury
5 fee and the actual amount of wages a juror earns, up to the
6 maximum level payable, minus any amount the juror actually
7 receives from the employer during the same period.

8 (6) The form provided by the administrator shall require
9 disclosure of the juror's regular wages, the amount the employer
10 will pay during the term of jury service starting on the eleventh
11 day and after, the amount of replacement or supplemental wages
12 requested, and any other information the administrator considers
13 necessary.

14 (7) Before receiving payment from the fund, the juror also
15 shall be required to submit verification from his or her employer
16 as to the wage information provided to the administrator. For
17 example, the juror may be required to submit his or her most
18 recent earnings statement or similar document.

19 (8) If an individual is self-employed or receives
20 compensation other than wages, the individual may provide a sworn
21 affidavit attesting to his or her approximate gross weekly
22 income, together with any other information the administrator may
23 require, in order to to verify weekly income.

24 (9) The following attorneys and causes of action are exempt
25 from payment of the lengthy trial fund fee:

26 (a) Government attorneys entering appearances in the course
27 of their official duties.

1 (b) Pro se litigants.

2 (c) Cases in the small claims division of district court.

3 (d) Claims seeking social security disability determinations;
4 individual veterans' compensation or disability determinations;
5 recoupment actions for government-backed educational loans or
6 mortgages; child custody and support cases; actions brought in
7 forma pauperis; and any other filings designated by rule that
8 involve minimal use of court resources and that customarily are
9 not afforded the opportunity for a trial by jury.

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

12 (a) Failing to answer the questionnaire provided for in
13 section 1313.

14 (b) Failing to appear before the board or a member of the
15 board, without being excused at the time and place notified to
16 appear.

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

18 (d) Refusing to answer questions pertaining to his or her
19 qualifications as a juror, when asked by a member of the board.

20 ~~(e) Failing to attend court, without being excused, at the~~
21 ~~time specified in the notice, or from day to day, when summoned~~
22 ~~as a juror.~~

23 (e) ~~(f)~~ Giving a false certificate, making a false
24 representation, or refusing to give information that he or she
25 can give affecting the liability or qualification of a person
26 other than himself or herself to serve as a juror.

27 (f) ~~(g)~~ Offering, promising, paying, or giving money or

1 anything of value to, or taking money or anything of value from,
2 a person, firm, or corporation for the purpose of enabling
3 himself or herself or another person to evade service or to be
4 wrongfully discharged, exempted, or excused from service as a
5 juror.

6 (g) ~~(h)~~ Tampering unlawfully in any manner with a jury list
7 or the jury selection process.

8 (h) ~~(i)~~ Willfully doing or omitting to do an act with the
9 design to subvert the purpose of this act.

10 (i) ~~(j)~~ Willfully omitting to put on the jury list the name
11 of a person qualified and liable for jury duty.

12 (j) ~~(k)~~ Willfully omitting to prepare or file a list or
13 slip.

14 (k) ~~(l)~~ Doing or omitting to do an act with the design to
15 prevent the name of a person qualified and liable to serve as a
16 juror from being placed on a jury list or from being selected for
17 service as a juror.

18 (l) ~~(m)~~ Willfully placing the name of a person upon a list
19 who is not qualified as a juror.

20 Sec. 1348. (1) An employer or the employer's agent, who
21 threatens to discharge or discipline or who discharges,
22 disciplines, or causes to be discharged from employment or to be
23 disciplined, **or takes any adverse employment action against,** a
24 person because that person is summoned for jury duty, serves on a
25 jury, or has served on a jury, is guilty of a misdemeanor — and
26 may also be punished for contempt of court.

27 (2) An employer or the employer's agent who requires a person

1 having jury duty to work any number of hours during a day which,
2 if added to the number of hours ~~which~~ **that** the person spends on
3 jury duty during that day, exceeds the number of hours normally
4 and customarily worked by the person during a day — or the
5 number of hours normally and customarily worked by the person
6 during a day ~~which~~ **that** extends beyond the normal and customary
7 quitting time of that person unless voluntarily agreed to by that
8 person — or as provided in a collective bargaining agreement is
9 guilty of a misdemeanor — and may also be punished for contempt
10 of court.

11 (3) An employer shall not require an employee to use annual,
12 vacation, or sick leave for time spent responding to a summons
13 for jury duty, time spent participating in the jury selection
14 process, or time spent actually serving on a jury. This
15 subsection does not require an employer to provide annual,
16 vacation, or sick leave to employees under this act who otherwise
17 are not entitled to those benefits under company policies.

18 (4) A court shall automatically postpone and reschedule the
19 service of a summoned juror of an employer with 5 or fewer
20 full-time employees, or their equivalent, if another employee of
21 that employer has previously been summoned to appear during the
22 same period. That postponement does not affect an individual's
23 right to 1 automatic postponement under section 1333.