

Act No. 12
Public Acts of 2004
Approved by the Governor
February 26, 2004
Filed with the Secretary of State
February 26, 2004
EFFECTIVE DATE: June 1, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Rep. Howell

ENROLLED HOUSE BILL No. 5129

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 1301a, 1303a, 1304, 1304a, 1305, 1307a, 1308, 1309, 1310, 1312, 1313, 1315, 1316, 1317, 1319, 1320, 1321, 1322, 1323, 1324, 1326, 1327, 1328, 1329, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1345, 1346, 1347, 1372, and 1375 (MCL 600.1301a, 600.1303a, 600.1304, 600.1304a, 600.1305, 600.1307a, 600.1308, 600.1309, 600.1310, 600.1312, 600.1313, 600.1315, 600.1316, 600.1317, 600.1319, 600.1320, 600.1321, 600.1322, 600.1323, 600.1324, 600.1326, 600.1327, 600.1328, 600.1329, 600.1331, 600.1332, 600.1333, 600.1334, 600.1335, 600.1336, 600.1337, 600.1338, 600.1339, 600.1340, 600.1341, 600.1342, 600.1343, 600.1345, 600.1346, 600.1347, 600.1372, and 600.1375), sections 1301a, 1304, 1310, 1312, and 1375 as amended by 1986 PA 104 and section 1307a as amended by 2002 PA 739; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1301a. (1) Except as provided in subsection (2), this chapter governs the selection of juries in the following courts:

- (a) Circuit court.
- (b) Probate court.
- (c) District court.

(2) Sections 1310, 1311, 1312, 1321(1), 1322, 1323, 1330, 1338, and 1343 do not apply to a court that adopts a method of jury selection described in section 1371.

Sec. 1303a. Before members of a jury board begin their duties, they shall take a constitutional oath of office before the chief circuit judge and file it with the county clerk.

Sec. 1304. The jury board shall select from a list that combines the driver's license list and the personal identification cardholder list the names of persons as provided in this chapter to serve as jurors.

Sec. 1304a. (1) The jury board may use electronic and mechanical devices in carrying out its duties under this chapter.

(2) The jury board may use the historic method of preparing separate slips of paper for the second jury list and drawing slips from a jury board box to determine a panel or array of jurors.

Sec. 1305. The jury board shall meet annually in the month of May. The chief circuit judge shall fix the time and place of the annual meeting and may direct the board to meet at other times and places. The board may meet at other times and places necessary to carry out its duties. The secretary of the board shall keep a record of the proceedings of the board. The members of the board shall sign the record, attested by the secretary, which record shall then be evidence in all courts and places of the proceedings of the board.

Sec. 1307a. (1) To qualify as a juror a person shall:

(a) Be a citizen of the United States, 18 years of age or older, and a resident in the county for which the person is selected, and in the case of a district court in districts of the second and third class, be a resident of the district.

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

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

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

(e) Not have been convicted of a felony.

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

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

(4) For purposes of this section, "felony" means a violation of a penal law of this state, another state, or the United States for which the offender, upon conviction, may be punished by death or by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

Sec. 1308. On or before each May 1, the chief judge of each court of record in the county shall estimate the number of jurors that will be needed by their courts for a 1-year period beginning the following September. This estimate shall be entered on the record of the court, and a copy of the estimate shall be certified by the clerk of the court and delivered to the board. In making the estimate, the judge shall consider the number of names available for the period for which the estimate is made.

Sec. 1309. The board shall secure from the clerk of each court of record in the county, and each clerk shall provide, a list of persons who have served as jurors, pursuant to this chapter, in their courts during the preceding 1 year.

Sec. 1310. (1) The secretary of state shall transmit annually before April 15 to the clerk of each county at no expense a full, current, and accurate copy of a list that combines the driver's license list and personal identification cardholder list pertaining to persons residing in the county. At the request of the board before March 1, the secretary of state shall transmit only a first jury list consisting of the names and addresses of persons selected at random, based on the total number of jurors required as submitted to the secretary of state by the board, using electronic or other mechanical devices. Upon request, the secretary of state shall furnish additional lists to any federal, state, or local governmental agency, other than the clerk of each county, for the purpose of jury selection. An agency which requests and receives a list shall reimburse the secretary of state for actual costs incurred in the preparation and transmittal of the list and all reimbursements shall be deposited in the state general fund.

(2) If an agency uses electronic or mechanical devices to carry out its duties, the agency may request and receive a copy of the combined driver's license and personal identification cardholder list on any electronically produced medium under specifications prescribed by the secretary of state. The secretary of state shall establish specifications standardizing the size, format, and content of media utilized to transmit information used for jury selection.

Sec. 1312. The board shall apply the key number uniformly to the names on the list received pursuant to section 1310 and compile a list or card index, to be known as the first jury list, which shall include every name and only those names as the application of the key number has designated. The board shall do this as follows:

(a) Select by a random method a starting number between 0 and the key number.

(b) Count down the list the number of names to reach the starting number. That name shall be placed on the first jury list.

(c) Continue from that name counting down the list, beginning to count again with the number 1, until the key number is reached. That name shall be placed on the first jury list.

(d) Repeat the process provided in subdivision (c) until the whole list has been counted and the names placed on the first jury list.

(e) The board shall then remove from the first jury list the name of any person who its records show served, pursuant to the provisions of this chapter, as a petit or grand juror in any court of record in the county at any time in the preceding 1 year.

Sec. 1313. (1) The board shall supply a juror qualifications questionnaire to persons on the first jury list. This questionnaire shall contain blanks for the information the board desires, concerning qualifications for, and exemptions from, jury service. Persons on the first jury list are required to return the questionnaire fully answered to the jury board within 10 days after it is received.

(2) In any county, the jury questionnaire described in this section and the written summons notice described in section 1332 may be provided together in the same mailing.

(3) If a qualifying questionnaire is returned with an indication by the United States postal service that the person to whom the questionnaire is addressed is deceased, the name of the person shall be removed from the first juror list and that name and circumstance may be forwarded to the local clerk.

Sec. 1315. The juror qualifications questionnaires shall be kept on file by the board for a period of 3 years but the chief circuit judge may order them to be kept on file for a longer period. The answers to the qualifications questionnaires shall not be disclosed except that the chief circuit judge may order that access be given to the questionnaires and the answers.

Sec. 1316. The chief circuit judge, or the board, may require any person on the first jury list to appear before a board member at a specified time, for the purpose of testifying under oath or affirmation concerning his or her qualification to serve as a juror, in addition to completing the questionnaire. Notice shall be given, personally or by mail, to a person required to appear not less than 7 days before he or she is to appear before the board. The board shall hold evening sessions as necessary for the examination of prospective jurors who are unable to attend at other times.

Sec. 1317. The board may dispense with the personal attendance of a person notified to appear before the board when another person cognizant of facts which will qualify or disqualify the person from service or which prevent the person from appearing is produced and testifies in his or her stead or when a board member has personal knowledge of facts and enters them in the board member's report on that person's qualifications.

Sec. 1319. The board shall keep a record of the board member's report on each person examined, and a record showing the qualifications to serve as a juror of each person on the first jury list.

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

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

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

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

Sec. 1321. (1) The names of those persons on the first jury list whom the board accepts as persons qualified for and not exempt from jury service shall be compiled into a list to be known as the second jury list. The list shall remain sealed until otherwise ordered by the chief circuit judge.

(2) The board shall make an additional list consisting of the names on the second jury list segregated by the geographical area of the jurisdiction of each district court district. If there are not sufficient names on the segregated list for any district court district, the board shall apply again the key number to that district only and obtain as many additional jurors as needed for that district.

Sec. 1322. The first deposit of names shall take place as soon as the second jury list is prepared. Subsequent deposits shall be made when the supply of names is exhausted. An earlier deposit may be ordered by the chief circuit judge. The board shall keep a record of the number of names deposited, and the number withdrawn, and upon request shall inform the chief circuit judge of the number of names remaining. Nothing in this section affects the validity of a panel of jurors that was drawn for a term of court before the first deposit of names as provided in this section.

Sec. 1323. If the names are not to be immediately used, they shall be sealed up by the board and remain in the custody of the board until additional names are needed or when ordered by the chief circuit judge.

Sec. 1324. (1) From time to time, the chief judge of each court of record in the county shall order the board to select jurors for jury service. Each such order shall contain all of the following information:

- (a) A time limit within which the selection shall be completed.
- (b) The number of jurors to be selected for a panel.
- (c) The number of panels to be selected.
- (d) The court or courts in which each panel shall serve.
- (e) The period of service of each panel, subject to section 1343.

(2) Upon the order of the chief circuit judge, jury panels or parts of jury panels selected for any court in the county may be used for jury selection in any court of record in the county, if jurors on the panel or part of a panel selected for such use are otherwise eligible to serve as jurors in the particular court.

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

Sec. 1326. If a grand jury is ordered by the court, or required by statute, the board shall select the names of a sufficient number of persons, as determined by the chief circuit judge, to serve as grand jurors in accordance with the provisions of section 11 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.11. The names shall be selected in the same manner and from the same source as petit jurors. The term of service of grand jurors shall be as prescribed by section 7a of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.7a.

Sec. 1327. The selection of jurors shall take place in public within the time limit fixed by the chief circuit judge and at a time and place designated by the board. At the time and place appointed, the clerk or the clerk's deputy and a judge or an elected official other than the clerk, as designated by the chief judge, shall attend to witness and assist in the selection of jurors.

Sec. 1328. The board shall proceed in the selection of jurors in a random manner as ordered by the chief circuit judge as provided in this section. A board member or an employee of the board shall keep a record of the selection process, listing the names of jurors selected. If the name of a person is selected who is not qualified to serve as a juror to the knowledge of any member of the board, an entry of this fact shall be made on the record and that person shall be excused. A record of the selection process shall then be signed by the board member and filed in the office of the board. The signature constitutes a certificate that the record is correct and that all provisions of law have been complied with.

Sec. 1329. (1) The legality or regularity of the selection of jurors shall not be questioned if the record of the selection is properly signed. If the name of any person not qualified to serve as a juror is included in the names selected, this fact shall not be a ground of challenge to the array, but only a ground of personal challenge to the person shown to be so disqualified.

(2) If the jurors were selected in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that the person who selected them was a party or interested in the cause or was counsel or attorney for, or related to, either party in the cause.

(3) If the jurors were selected in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that they were summoned by the sheriff who was a party or interested in the cause, or related to either party in the cause, unless it is alleged in the challenge and satisfactorily shown that some of the jurors selected were not summoned and that this omission was intentional.

Sec. 1331. The board shall deliver to the clerk lists containing the names and addresses of the jurors selected.

Sec. 1332. The clerk, jury board, or sheriff shall summon jurors for court attendance at such times and in such manner as directed by the chief judge or by the judge to whom the action in which jurors are being called for service is assigned. For a juror's first required court appearance, service shall be by a written notice addressed to the juror at the juror's place of residence as shown by the records of the board, which notice may be by ordinary mail or by personal

service. For subsequent service notice may be in any manner directed by the judge. The officer giving notice to jurors shall keep a record of the service of the notice and shall make a return if directed by the court. The return shall be presumptive evidence of the fact of service.

Sec. 1333. A person who is notified to attend as a juror may apply to the chief judge of the court to be excused or have his or her term of service postponed on any ground provided in this chapter. He or she may apply in person or by a person capable of making the necessary proof of his or her claim. An entry of the action of the chief judge upon the application and of the reason for that action shall be made on the records of the court.

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

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

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

(2) The chief judge of the court to which a person is returned as a juror shall postpone the person's term of service until the end of the school year if the person is a full-time student enrolled in and attending high school.

Sec. 1336. If the chief judge finds that the number of jurors in attendance is greater than that needed, the chief judge may order the panel or any part of the panel discharged for the balance of its term or excused until a day certain in the term. Any juror discharged, but not excused, under this section is considered to have served his or her term of service but shall receive compensation only for the time of his or her actual service on the panel.

Sec. 1337. When the court finds that a person in attendance at court as a juror is not qualified to serve as a juror, or is exempt and claims an exemption, the court shall discharge him or her from further attendance and service as a juror.

Sec. 1338. When any person is excused from serving on the ground that he or she is exempt by law from serving on juries or is not qualified to serve as a juror, the clerk of the court shall remove the name of that person from the second jury list.

Sec. 1339. The chief judge shall report to the board the names of all jurors whose service has been postponed to a subsequent time, and the names shall be placed upon the list of jurors selected for that time.

Sec. 1340. The clerk of the court or the clerk's designee, within 10 days after the close of each term for which jurors have been selected, shall certify as follows:

(a) The name and residence of each juror who was excused or discharged by the court, with the reason for the excuse or discharge.

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

(c) The name and residence of each person punished for contempt as provided in this chapter.

Sec. 1341. The chief judge of a court may order additional jurors selected by the board for service during the period of service of a jury panel or a part of a panel. A judge of a court of record may order additional jurors selected by the board for immediate service in a particular case. The order shall specify the number to be selected and the time and place of selection. If additional jurors are needed for immediate service in a particular case, any member of the jury board may conduct the selection if witnessed by the clerk or the clerk's deputy and by the judge ordering the selection. Jurors whose names are so selected shall be given notice to attend court in the manner that the court directs. Additional jurors so selected shall become members of the panel then serving unless otherwise directed by the chief judge.

Sec. 1342. If the board fails to meet and return the second jury list at the time prescribed or if any list of jurors becomes exhausted or declared illegal, the chief circuit judge may order the board to meet and make a new list of jurors.

Sec. 1343. The term of service of petit jurors shall be determined by local court rule but shall not exceed the term of court, unless at the end of this period a juror is serving in connection with an unfinished case, in which event the juror shall continue to serve, in that case only, until the case in which he or she is serving is finished. Once commenced, the term of service shall be continuous except as provided in sections 1334 to 1336.

Sec. 1345. A board member shall report to the prosecuting attorney and the chief circuit judge the name of any person who in any manner seeks by request, hint, or suggestion to influence the board or its members in the selection of any juror.

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

- (a) Failing to answer the questionnaire provided for in section 1313.
- (b) Failing to appear before the board or a member of the board, without being excused at the time and place notified to appear.
- (c) Refusing to take an oath or affirmation.
- (d) Refusing to answer questions pertaining to his or her qualifications as a juror, when asked by a member of the board.
- (e) Failing to attend court, without being excused, at the time specified in the notice, or from day to day, when summoned as a juror.
- (f) Giving a false certificate, making a false representation, or refusing to give information that he or she can give affecting the liability or qualification of a person other than himself or herself to serve as a juror.
- (g) Offering, promising, paying, or giving money or anything of value to, or taking money or anything of value from, a person, firm, or corporation for the purpose of enabling himself or herself or another person to evade service or to be wrongfully discharged, exempted, or excused from service as a juror.
- (h) Tampering unlawfully in any manner with a jury list or the jury selection process.
- (i) Willfully doing or omitting to do an act with the design to subvert the purpose of this act.
- (j) Willfully omitting to put on the jury list the name of a person qualified and liable for jury duty.
- (k) Willfully omitting to prepare or file a list or slip.
- (l) Doing or omitting to do an act with the design to prevent the name of a person qualified and liable to serve as a juror from being placed on a jury list or from being selected for service as a juror.
- (m) Willfully placing the name of a person upon a list who is not qualified as a juror.

Sec. 1347. (1) A person selected or summoned as a juror who takes anything to give his or her verdict or receives any gift or gratuity from any party to an action for the trial of which he or she has been selected or summoned is liable to the party aggrieved for actual damages sustained plus 10 times the amount or value of the thing which he or she has taken, in addition to any criminal punishment to which he or she may be subject by law.

(2) An embraceor who procures a person selected or summoned as a juror to take gain or profit as prohibited under subsection (1) is liable to the aggrieved party for the actual damages sustained plus 10 times the amount or value of the thing which was taken.

Sec. 1372. (1) Sections 1371 to 1376 apply only to those districts of the district court, circuits of the circuit court, and county or probate court districts of the probate court that adopt the 1 day, 1 trial jury system.

(2) Any court in this state may adopt a 1 day, 1 trial jury system.

Sec. 1375. (1) The secretary of state shall transmit annually, before April 15, to the clerk of each county a full, current, and accurate copy of a list that combines the driver's license and personal identification cardholder lists pertaining to persons residing in the county. At the request of the board before March 1, the secretary of state shall transmit only a first jury list consisting of the names and addresses of persons selected at random, based on the total number of jurors required as submitted to the secretary of state by the board, using electronic or other mechanical devices. Upon request, the secretary of state shall furnish additional lists to any other federal, state, or local governmental agency, other than the clerk of each county, for the purpose of jury selection. An agency which requests and receives a list shall reimburse the secretary of state for actual costs incurred in the preparation and transmittal of the list and all reimbursements shall be deposited in the state general fund.

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

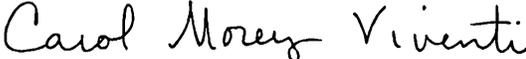
Enacting section 1. Section 1374 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1374, is repealed.

Enacting section 2. This amendatory act takes effect June 1, 2004.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor