

LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

SECOND SPECIAL SESSION

September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

April 28, 1982 to April 29, 1982

AND AT THE

FIFTH SPECIAL SESSION

May 13, 1982

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co.
Augusta, Maine
1981

WORKERS' COMPENSATION COMMISSION

Personal Services

\$11,187

PART G
REVISIONS TO THE STATUTE REGARDING
SELECTION AND SERVICES OF TRAVERSE,
AND GRAND JURORS

Sec. 1. 14 MRSA §1201-A is enacted to read:

§1201-A. Declaration of policy

It is the policy of the State that all persons chosen for jury service be selected at random from the broadest feasible cross section of the population of the area served by the court, that all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service and that qualified citizens fulfill their obligation to serve as jurors when summoned for that purpose.

Sec. 2. 14 MRSA §1202-A is enacted to read:

§1202-A. Prohibition of discrimination

A citizen shall not be excluded from jury service in this State on account of race, color, religion, sex, national origin, ancestry, economic status, marital status, age or physical handicap, except as provided in this chapter.

Sec. 3. 14 MRSA §1203-A is enacted to read:

§1203-A. Definitions

As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

1. Clerk. "Clerk" means the Clerk of Court of the Superior Court and includes any of his deputies.

2. Court. "Court" means the Superior Court of this State and includes, when the context requires, any justice of the court.

3. Juror. "Juror," for the purposes of this chapter, means any person who attends court for the purpose of serving on a jury, is on call and available to report to court to serve on a jury when so needed and so requested by the court or whose summoned service on a jury is postponed to a future date certain.

4. Master list. "Master list" means a list of names and addresses, or identifying numbers, of prospective jurors that have been randomly selected from the source list.

5. Random selection. "Random selection" means the selection of names in a manner immune from the purposeful or inadvertent introduction of subjective bias, so that no recognizable class of the population on the lists from which the names are being selected can be purposely or inadvertently included or excluded.

6. Source list. "Source list" means the list or lists from which names of prospective jurors are drawn.

Sec. 4. 14 MRSA §1211, as amended by PL 1973, c. 461, is further amended to read:

§1211. Disqualifications and exemptions from jury service

A prospective juror is disqualified to serve on a jury if he: ~~is~~ is not a citizen of the United States, 18 years old and a resident of the county; or is unable to read, speak and understand the English language; ~~is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service;~~ but a person claiming this disqualification may be required to submit a physician's certificate as to the disability and the certifying physician is subject to inquiry by the court at its discretion; ~~or has lost the right to vote because of a criminal conviction.~~ The following persons are exempt from serving as jurors and their names shall not be placed on the list: The Governor, councilors, judges, clerks and deputy clerks of common law courts, Secretary and Treasurer of State, all officers of the United States, judges of probate, physicians and surgeons, dentists, sheriffs, counselors and attorneys at law, attorneys-at-law and all persons exempt under Title 37-A, section 1117.

Sec. 5. 14 MRSA §1212, as enacted by PL 1971, c. 391, §1, is repealed.

Sec. 6. 14 MRSA §1213, as enacted by PL 1971, c. 391, §1, is repealed and the following enacted in its place:

§1213. Excuses from jury service

1. Determination. The presiding justice or the clerk of court acting under the supervision of the presiding justice, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, supplemented by other competent evidence when

deemed necessary to such determination, whether the prospective juror should be excused from jury service.

2. Basis for excuse; record. A qualified prospective juror may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, public necessity, or that he is incapable of rendering satisfactory jury service by reason of physical or mental disability. A person claiming a disability excuse may be required to submit a physician's certificate or accredited Christian Science practitioner's certificate and the certifying physician or Christian Science practitioner is subject to inquiry by the court at its discretion. The decision concerning a request for excuse shall be made by the presiding justice or by a clerk of court acting under the supervision of the presiding justice. Depending upon the circumstances, such a juror may be excused from jury service finally, be required to serve at a later specific time or be required to serve for a period of time less than the usual 15 court days. The clerk shall enter this determination and the reason therefor in the appropriate record kept for that purpose.

Sec. 7. 14 MRSA §1216, as enacted by PL 1971, c. 391, §1, is amended by adding at the end a new paragraph to read:

The terms of the grand jury in any county shall be set by the Chief Justice with a maximum of 12 months' service required. When the number of grand jurors is reduced by death or otherwise, additional grand jurors may be selected and summoned under the direction of the court at any time.

Sec. 8. 14 MRSA §1217, last sentence, as amended by PL 1979, c. 663, §79, is repealed and the following enacted in its place:

Notwithstanding Title 17-A, section 4-A, a prospective juror who fails to show good cause for noncompliance with the summons is guilty of contempt and upon conviction may be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

Sec. 9. 14 MRSA §1251, as repealed and replaced by PL 1979, c. 57, §1, is repealed.

Sec. 10. 14 MRSA §1251-A is enacted to read:

§1251-A. Juror selection plan

The Supreme Judicial Court shall adopt and implement a written master plan for the random selection and usage of grand and traverse jurors that shall be designed to foster

the policy, protect the rights secured and otherwise comply with the provisions of this chapter.

Sec. 11. 14 MRSA §§1252-A, 1252-B, 1252-C and 1252-D are enacted to read:

§1252-A. Source list

1. Lists used. The lists of licensed drivers, persons issued an identification card by the Secretary of State and any person who notifies the clerk of the court in the county of their residence and requests to be put on the source list of prospective jurors shall serve as the source for prospective jurors in each county. These lists may be supplemented with names from other lists specified by the Supreme Judicial Court.

2. Release to court. Notwithstanding any provision regarding confidentiality, whoever has custody, possession or control of the lists referred to in subsection 1 shall provide those lists to the court at cost for selection of prospective jurors at all reasonable times. All lists so supplied shall contain the name and address of each person on the lists.

3. Use of source list. The source list shall be used for the random selection of names or identifying numbers of prospective jurors to whom questionnaires shall be sent to determine their qualifications for jury service, as provided in sections 1253-A and 1254-A. When supplemental lists are used, selection of names shall be accomplished in a manner which accords the names on all lists an equal probability of selection.

4. Notice. At least once each year, the clerk shall give public notice to the residents of the county that their names may be placed on the source list of prospective jurors by notifying the clerk of the court. This notice may be made by newspapers, radio or any other method or combination of methods which will reasonably assure as broad a dissemination as possible to the residents of the county.

§1252-B. Master list

When the volume of names on the source list is, in the judgment of the court, so large as to render the drawing of names by the means available to the court unduly cumbersome, burdensome and uneconomical, the court may order that a secondary list be created. This list shall be created by randomly drawing from the source list the number of names

the court deems necessary to permit subsequent random selections of names, over a period of time administratively convenient for the court, for the mailing of qualification questionnaires and summonses for jury service.

§1252-C. Creation and maintenance of lists

The lists required to be created and maintained by this subchapter may be created and maintained by use of electronic data processing equipment.

§1252-D. Limitation on use of certain information

The lists of licensed drivers provided by the Secretary of State may only be used for the selection of traverse and grand jurors pursuant to this chapter.

Sec. 12. 14 MRSA §1253-A is enacted to read:

§1253-A. Drawing of names to determine qualified jurors

From time to time and in a manner prescribed by the juror selection plan, the clerk shall draw, or cause to be drawn, at random, from the source or master list, as appropriate, the names or identifying numbers of as many prospective jurors as the court deems necessary for service on trials during the time period established by the court.

Sec. 13. 14 MRSA §1254, as last amended by PL 1979, c. 57, §4, is repealed.

Sec. 14. 14 MRSA §§1254-A and 1254-B are enacted to read:

§1254-A. Qualification questionnaire; juror selection

1. Procedure. The clerk shall, at times deemed reasonable and necessary to promote the efficient operation of the court and the juror selection system, but in no event less than 30 days before service by jurors is required, mail a juror qualification form to every prospective juror whose name has been drawn in accordance with section 1253-A. The form shall be accompanied by instructions directing the prospective juror to fill out and return the form by mail to the clerk within the time specified. The clerk shall prepare or cause to be prepared a list of the names to whom questionnaires are mailed. Neither the list of questionnaire recipients nor the names drawn may be disclosed to any person, except as provided in this chapter.

2. Content. The juror qualification form shall conform, in form and content, to the qualification form prescribed by the Supreme Judicial Court and shall solicit information sufficient to determine the prospective juror's qualification for jury service. The qualification questionnaire may also solicit other information including, but not limited to, education and employment.

3. Ambiguous or erroneous responses. If it appears there is an omission, ambiguity or error in a returned form, the clerk may, at his discretion, contact the prospective juror by telephone to obtain the additional information, clarification or correction.

4. Failure to complete form; penalty. A prospective juror, who fails to return a completed juror qualification form as instructed, may be ordered by the court to appear and show cause why he should not be held in contempt for his failure to complete and submit the questionnaire. Notwithstanding Title 17-A, section 4-A, a prospective juror, who fails to show good cause for his failure to complete and submit the questionnaire or who without good cause fails to appear pursuant to a court order, may be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

5. Intentional misrepresentation. Notwithstanding Title 17-A, section 4-A, a person, who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror, may upon conviction for a violation of this section be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

6. Determination of qualification. The clerk shall determine on the basis of information provided on the juror qualification form, supplemented by other competent evidence when deemed necessary to such determination, whether the prospective juror is qualified for jury service. This determination shall be reflected on the juror qualification form or any other record designated by the court.

7. Availability of qualification forms. The names of prospective jurors and the contents of juror qualification forms shall be made available to the public upon specific request to the court, supported by an affidavit setting forth the reasons therefor, unless the court determines in any instance that this information in the interest of justice should be kept confidential or its use limited in whole or in part. The contents of juror qualification forms may at the discretion of the court be made available to attor-

neys at the courthouse for use in the conduct of voir dire examination.

§1254-B. Preservation of records

1. Records preserved. The clerk shall cause to be preserved all records and lists compiled and maintained in connection with selection and service of jurors for the length of time ordered by the court.

2. Records' confidentiality; limits. The contents of any records or lists used in connection with the selection process and not made public under any other provision of this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under section 1214, until all persons selected to serve as grand jurors or traverse jurors from those lists have been discharged.

Sec. 15. 14 MRSA §1255, as repealed and replaced by PL 1979, c. 57, §5, is repealed.

Sec. 16. 14 MRSA §1255-A is enacted to read:

§1255-A. Summoning prospective qualified jurors

From time to time, as specified in the juror selection plan, the clerk shall summon or cause to be summoned sufficient prospective jurors as in his judgment are necessary to supply traverse jurors or grand jurors, or both, for the Superior Court.

The summons shall require the prospective juror to report for possible jury service at a specified time and place unless advised by the clerk in advance that his attendance will not be required.

Sec. 17. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Part.

1982-83

JUDICIAL DEPARTMENT

Administrative Office of the Court

All Other \$1,500

Sec. 18. Implementation; application of current law. Sections 10, 11, 12, 14, and 16 of this Part, shall be