

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 393 Jury Service
SPONSOR(S): Judiciary Committee, Stone and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 0 N	DuShane	Luczynski
2) Education Committee	15 Y, 0 N	D'Souza	Hassell
3) Judiciary Committee	16 Y, 0 N, As CS	DuShane	Luczynski

SUMMARY ANALYSIS

To serve on a jury, a person must be 18 years of age or older, a citizen of the United States, a legal resident of Florida and their respective county, and have a driver license or identification card recorded on file with the Florida Department of Highway Safety and Motor Vehicles. Jurors are chosen randomly from a list that the Florida Department of Highway Safety and Motor Vehicles submits to the clerk of the court for each county that includes all persons holding a driver license or identification card in that county. A person reports for jury service in their county of residence.

Certain persons may be disqualified, excused by request, or exempt from jury service based on their position, current physical or mental health condition, or personal beliefs that may affect their opinion in the trial. In addition, the court retains the ability to disqualify a person from jury service if the court determines that person is not qualified to serve.

In Florida, many students attend a postsecondary institution outside their county of residence or in another state. Any person summoned to report for jury service may request to postpone their service for six months. However, a student attending a postsecondary institution outside their county of residence or in another state may not have the ability to travel back to their county of residence while enrolled in school due to academic schedules or requirements.

CS/HB 393 allows students who are between the ages of 18 to 21 to be excused from jury service, upon request, if they are a full-time student attending a high school, state university, private postsecondary educational institution, Florida College System institution, or career center. A student is not prohibited from choosing to report for jury service if they are summoned for jury service while a full-time student. A student's request to be excused only applies to a specific summons for jury service.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In Florida, a defendant has a right to a trial by jury in a criminal¹ and civil case.² A jury must be comprised of no fewer than six jurors.³ However, in a capital case the minimum number must be set at 12 jurors.⁴

Each county sets their own procedure for selecting jurors.⁵ The clerk of the court for each county is responsible for overseeing the jury selection plan.⁶ Jurors are chosen randomly from a list of names that the Department of Highway Safety and Motor Vehicles presents quarterly to the clerk of the court in each county.⁷ The clerk of the court uses the list of names to put together a list for jury venire with no fewer than 250 names included on the list.⁸ To serve on a jury, a juror must be 18 years of age or older, a citizen of the United States, a legal resident of Florida and their respective county, and possess a driver license or identification card issued by the Department of Highway Safety and Motor Vehicles.⁹

A person reports for jury service in their county of residence.¹⁰ Once the clerk of the courts generates a jury venire, the summoned jurors must attend court at least 14 days prior to the sitting of the court.¹¹ A juror who has received a summons may postpone the summons for a period not to exceed six months upon written or oral request.¹² Any person who is summoned as a juror, and fails to attend without a sufficient excuse, shall pay a fine not to exceed \$100 and may be held in contempt of court.¹³ Jurors serve for one day unless assigned to a trial that will not complete their work in one day.¹⁴

Persons Exempt From Jury Service

Under Florida law, certain persons are disqualified, exempt, or excused from jury service based on their position, physical or mental health condition, or personal belief.

The following persons are disqualified from serving on a jury:

- A person convicted of a felony;¹⁵
- A person under prosecution for any crime;¹⁶
- The Governor, Lieutenant Governor, Cabinet officer, clerk of court, or judge;¹⁷
- A person interested in the issue being tried;¹⁸ or
- A person who was summoned and reported as a prospective juror within the past year.¹⁹

¹ Art. I, s. 16, Fla. Const.

² Art. I, s. 22, Fla. Const.; Fla. R. Civ. P. 1.430.

³ Art. I, s. 22, Fla. Const.

⁴ S. 913.10, F.S.

⁵ S. 40.02(1), F.S.

⁶ *Id.*

⁷ S. 40.011(1), F.S.

⁸ Ss. 40.02(1), F.S. and S. 40.225(1), F.S. A jury venire is the group of jurors from which the eventual jury will be chosen.

⁹ S. 40.01, F.S.

¹⁰ S. 40.011(4), F.S.

¹¹ S. 40.23(1), F.S.

¹² S. 40.23(2), F.S.

¹³ S. 40.23(3), F.S.

¹⁴ S. 40.41, F.S.

¹⁵ S. 40.013(1), F.S. However, a person convicted of a felony but has had their civil rights restored is qualified to serve as a juror.

¹⁶ *Id.*

¹⁷ S. 40.013(2)(a), F.S.

¹⁸ S. 40.013(3), F.S.

¹⁹ S. 40.013(7), F.S.

The following persons are excused from jury service upon written or oral request:

- An expectant mother and parent, who is not employed full time and has custody of a child under 6 years of age;²⁰
- A presiding judge may excuse a practicing attorney, physician, or person who is physically infirm;²¹
- A person who shows hardship, extreme inconvenience, or public necessity;²²
- A person 70 years of age or older;²³
- A person, who because of mental illness, intellectual disability, senility, or other physical or mental capacity, is permanently incapable of caring for himself or herself;²⁴ or
- A person who is responsible for the care of a person who, because of mental illness, intellectual disability, senility, or other physical or mental incapacity, is incapable of caring for himself or herself.²⁵

The following persons are exempt from jury service:

- A full-time federal, state, or local law enforcement officer;²⁶
- During the time of a person's service in the Florida State Defense Force;²⁷ or
- In a capital case, a person who holds beliefs that would preclude him or her from finding a defendant guilty of an offense punishable by death.²⁸

In a criminal case, if upon examination, the court determines that a juror is not qualified to serve, the court may choose to excuse the juror.²⁹

Current Situation

Nationally, there were over 19 million full-time students enrolled in postsecondary institutions in 2017 in addition to over seven million part-time students.³⁰ In 2017, Florida had 798,045 students enrolled in a postsecondary institution of which 409,114 were full-time and 388,931 were part-time.³¹ Many students in Florida attend a postsecondary institution outside of their county of residence³² or outside of the state.³³ In 2016, 19,042 Florida residents attended a postsecondary institution in another state.³⁴

While a student selected for jury service may postpone jury service for six months by either written or oral request,³⁵ academic schedules or requirements may not allow students to travel to their county of residence when these six months have elapsed.

²⁰ S. 40.013(4), F.S.

²¹ S. 40.013(5), F.S.

²² S. 40.013(6), F.S.

²³ S. 40.013(8), F.S.

²⁴ S. 40.013(9), F.S.

²⁵ S. 40.103(10), F.S.

²⁶ S. 40.013(2)(b), F.S.

²⁷ S. 251.13, F.S.

²⁸ S. 913.13, F.S.

²⁹ Fla. R. Crim. P. 3.330.

³⁰National Center for Education Statistics, *Digest of Education Statistics*, https://nces.ed.gov/programs/digest/d18/tables/dt18_303.10.asp (last visited Feb. 13, 2020).

³¹National Center for Education Statistics, *Digest of Education Statistics*, https://nces.ed.gov/programs/digest/d18/tables/dt18_304.35.asp (last visited Feb. 13, 2020). 2017 is the most recent year that this data is available.

³² Florida State University, *Florida State University Fact-book 2015-2016*, <https://www.ir.fsu.edu/factbooks/2015-16/2015-16%20FSU%20Fact%20Book.pdf> (last visited Feb. 7, 2020).

³³National Center for Education Statistics, *Digest of Education Statistics*, https://nces.ed.gov/programs/digest/d18/tables/dt18_309.10.asp (last visited Feb. 13, 2020).

³⁴*Id.* 2016 is the most recent year that this data is available.

³⁵ S. 40.23(2), F.S.

Several states allow students to be excused from jury service if they are a student or to postpone jury service until the end of the academic year. Georgia³⁶ and South Carolina³⁷ allow full-time college, university, or vocational school students to be excused from jury service if they are enrolled in classes or taking exams. Texas allows high school students and college students who are enrolled, either part-time or full-time, to be excused from jury service.³⁸ North Carolina allows students enrolled at an out-of-state public or private educational institution to be excused from jury service.³⁹ Michigan allows postponement of jury service until the end of the school year if the student is attending high school.⁴⁰

Effect of Proposed Changes

CS/HB 393 allows students who are between the ages of 18 to 21 to be excused from jury service, upon request, if they are a full-time student attending a high school, state university, private postsecondary educational institution, Florida College System institution, or career center. A student's request to be excused only applies to a specific summons for jury service and does not permanently excuse a student between the ages of 18 to 21 from receiving a jury summons.

The bill does not affect a student's ability to choose to report for jury service if they are enrolled as full-time student. The bill does not impact students over the age of 21.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 40.013, F.S., relating to persons disqualified or excused from jury service.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

³⁶ Ga. Code § 15-12-1 (2019).

³⁷ S.C. Code Ann. § 14-7-845 (2019).

³⁸ Tex. Code Ann. § 62.106 (2109).

³⁹ N.C. Gen. Stat. § 9-6 (2019).

⁴⁰ Mich. Laws § 600.1335 (2019).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 12, 2020 the Judiciary Committee adopted a strike-all amendment, and reported the bill favorably as a committee substitute. The amendment:

- Changed the excusal requirement from “enrolled” to “attending.”
- Clarified that a requested excusal by a full-time student will only apply to a specific summons for jury service.
- Made non-substantive re-ordering and wording changes.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.