

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 462

INTRODUCER: Senator Grall

SUBJECT: Excusal From Jury Service

DATE: December 12, 2023 REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Davis	Cibula	JU	Pre-meeting
2.		HP	
3.		RC	

## I. Summary:

SB 462 creates a new basis for someone to be excused from jury duty. The bill permits a woman who has given birth within the 6 months before being summoned to be excused from service if she submits the request in writing with a photocopy of the newborn child's birth certificate.

The bill takes effect July 1, 2024.

## II. Present Situation:

### The Right to Trial by Jury

The right to a trial by jury is deeply ingrained in American law. Both the United States Constitution and the State Constitution guarantee the right to a trial by jury. In a jury trial, jurors, not judges, serve as the fact-finders who determine what actually happened in the case before them and render a verdict.<sup>1</sup>

The U.S. Constitution ensures the right to a federal jury trial in the Sixth and Seventh Amendments. The Sixth Amendment states that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed . . ."<sup>2</sup> The Seventh Amendment states that in matters at common law where the amount in controversy exceeds "twenty dollars, the right of trial by jury

<sup>1</sup> Alexis de Tocqueville observed the importance of the American jury system in his 1835 treatise *Democracy in America*. He wrote that "The institution of the jury ... places the real direction of society in the hands of the governed, or of a portion of the governed, instead of leaving it under the authority of the Government. ... Now the institution of the jury raises the people itself, or at least a class of citizens, to the bench of judicial authority." Alexis de Tocqueville, *Democracy in America*, 312 (Henry Reeve, trans., 2002) (1835), <http://seas3.elte.hu/coursematerial/LojkoMiklos/Alexis-de-Tocqueville-Democracy-in-America.pdf>.

<sup>2</sup> U.S. CONST. amend. VI.

shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”<sup>3</sup>

The State Constitution provides that “The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.”<sup>4</sup> Additionally, s. 918.0157, F.S., states, in part, that a defendant in a trial which is punishable by imprisonment, shall have, upon demand, the right to a trial by an impartial jury in the county where the offense was committed. The right to a jury trial is effectuated by laws requiring citizens to appear for jury selection and serve as jurors.

### **State Jury Selection Process**

The clerks of the court are responsible for summoning prospective jurors at least 14 days before they are to appear in court for jury selection.<sup>5</sup>

If a person is summoned to attend as a juror and fails to attend without providing a sufficient excuse, he or she may be fined up to \$100 by the court and held in contempt of court.<sup>6</sup> The statute does not specify or limit the sanctions a court may impose for contempt of court.

Potential jurors are randomly selected from a list of names provided quarterly to the clerk of the circuit court by the Department of Highway Safety and Motor Vehicles.<sup>7</sup> Jurors must:

- Be at least 18 years old.
- Be citizens of the United States.
- Be legal residents of the state and their respective counties.
- Possess a driver license or identification card issued by the Department of Highway Safety and Motor Vehicles or have executed an affidavit, as prescribed by statute, in which they indicate a desire to serve as a juror.<sup>8</sup>

### **People Who are Disqualified or Excused from Jury Service**

Although most adult citizens of this state may be summoned for jury service, the statutes allow any person summoned to postpone his or her service for any reason for a period not to exceed 6 months.<sup>9</sup> Additionally, the statutes specify grounds for many persons summoned to be excused from service upon request. Finally, statutes and court rules identify persons who are disqualified from serving on a jury. The grounds for excusal and disqualification are detailed below.

#### ***Excusal***

These people *must be excused* from jury service *unless* they choose to serve:

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<sup>3</sup> U.S. CONST. amend. VII. The right to a jury trial for crimes in other types of cases, except impeachment cases, is also stated in Article III, Section 2.

<sup>4</sup> FLA. CONST. art. 1, s. 22.

<sup>5</sup> Section 40.23(1), F.S.

<sup>6</sup> Section 40.23(3), F.S.

<sup>7</sup> Section 40.011, F.S.

<sup>8</sup> Section 40.01, F.S.

<sup>9</sup> Section 40.23(2), F.S.

- Any full-time federal, state, or local law enforcement officer or those entities' investigative personnel.<sup>10</sup>

People who *must be excused* from jury service *upon request*:

- Any expectant mother and any parent who is not employed full time and has custody of a child under 6 years of age.
- A person who is 70 years of age or older. This person may be permanently excused upon written request.
- Anyone who is responsible for the care of a person who is incapable of caring for himself or herself because of mental illness, intellectual disability, senility, or other physical or mental incapacity.
- A full-time student between 18 and 21 years of age who is attending high school or any state university, private postsecondary educational institution, Florida College System institution, or career center.<sup>11</sup>

People who *may be excused*:

- A person who demonstrates a showing of hardship, extreme inconvenience, or public necessity.<sup>12</sup>
- A person who, because of mental illness, intellectual disability, senility, or other physical or mental incapacity and is permanently incapable of caring for himself or herself may be permanently excused if a written statement to that effect is provided by a physician.<sup>13</sup>

People who are *exempt* from jury service:

- People who, within the last year, were summoned and reported for jury duty in the county where they reside.<sup>14</sup>

A presiding judge has the discretion to excuse a practicing attorney, a practicing physician, or a person who is physically infirm from jury service.<sup>15</sup>

### ***Disqualification***

Prospective jurors may be disqualified from jury service based upon grounds specified in statute. Others may be excused if the court believes that the juror is not qualified to serve.<sup>16</sup> If a potential juror in a civil trial does not have the reading, writing, and math skills to understand the evidence that will be offered, he or she may be excused.<sup>17</sup>

People who are *disqualified* from the jury selection process include:

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<sup>10</sup> Section 40.013(2)(b), F.S.

<sup>11</sup> Section 40.013(4), (8), (10), (11), F.S.

<sup>12</sup> Section 40.013(6), F.S.

<sup>13</sup> Section 40.013(9), F.S.

<sup>14</sup> Section 40.013(7), F.S.

<sup>15</sup> Section 40.013(5), F.S.

<sup>16</sup> Fla. R. Crim. P. 3.300.

<sup>17</sup> Fla. R. Civ. P. 1.431(c)(3).

- A person under prosecution for a crime or who has been convicted of a felony, unless his or her civil rights have been restored.<sup>18</sup>
- The Governor, Lieutenant Governor, Cabinet officer, clerk of court, or judge.<sup>19</sup>
- A person having an interest in an issue that is being tried.<sup>20</sup>

### **Statutes Permitting Excusal from Jury Service to Take Care of Young Children**

While there is no specific provision in current law exempting a woman from jury service who has recently given birth, existing law may address many of these circumstances indirectly. As discussed above, one statute permits any person who has been summoned for jury duty to postpone his or her service for a period that does not exceed 6 months by making a written or oral request.<sup>21</sup> Another statute, requires a person to be excused from jury service if she is an expectant mother or if he or she is a parent who is not employed full time and has custody of a child under 6 years of age.<sup>22</sup> The potential juror needs only to request the excuse.

### **Legislation Passed by Other States**

According to the National Conference of State Legislatures (NCSL), no state permits a woman to be excused from jury service solely on the basis that she has given birth within the last 6 months. However, NCSL research has found that at least 22 states and Puerto Rico allow mothers who are breastfeeding their infants to postpone or be exempt from jury service.<sup>23</sup>

### **III. Effect of Proposed Changes:**

The bill creates a new basis for someone to be excused from jury duty. If a woman who has given birth within 6 months before being summoned requests to be excused from jury duty service, her request will be honored if she submits a written request and a photocopy of the newborn child's birth certificate. The bill further states that the woman will be excused from that specific summons for jury service.

The bill takes effect July 1, 2024.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>18</sup> Section 40.013(1), F.S.

<sup>19</sup> Section 40.013(2)(a), F.S.

<sup>20</sup> Section 40.013(3), F.S.

<sup>21</sup> Section 40.23(2), F.S.

<sup>22</sup> Section 40.013(4), F.S.

<sup>23</sup> National Conference of State Legislatures, *Breastfeeding State Laws* (Aug. 26, 2021), <https://www.ncsl.org/ncsl-search-results/searchtext/breastfeeding%20laws>.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill will financially benefit businesses employing mothers of newborns and the mothers of newborns themselves to the extent that the mothers of newborns use an excusal from jury service to attend a job instead of jury service.

**C. Government Sector Impact:**

The bill will increase costs to impanel jurors to the extent that courts will be required to issue additional summons for jury service. However, the costs are likely to be minimal as the excusal authorized by the bill somewhat overlaps the right to be excused or postpone jury service under current law.

**VI. Technical Deficiencies:**

The Legislature may wish to simplify the bill to ensure that prospective jurors and court clerks can better understand whether the right to excusal created by the bill applies to a particular prospective juror. The bill conditions the right to excusal on having “given birth less than 6 months before being summoned.” The date of being summoned, however, might be understood as the date the summons is printed, mailed, or delivered. It would be clearer to prospective jurors and court clerks if the 6 month period in the bill were measured from the reporting date on the summons.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 40.013 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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