



HB 1441

2003

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A bill to be entitled
 An act relating to jurors; providing a popular name;
 creating s. 40.010, F.S.; providing state policy that all
 qualified citizens have an obligation to serve on petit
 juries when called; creating s. 40.012, F.S.; providing
 requirements with respect to postponement of petit jury
 participation; amending s. 40.013, F.S.; revising language
 with respect to persons disqualified or excused from jury
 services; creating s. 40.014, F.S.; providing for excuses
 from petit jury service; amending s. 40.23, F.S.; revising
 language with respect to summoning jurors; creating s.
 40.255, F.S.; providing for a Lengthy Trial Fund; amending
 s. 40.271, F.S.; providing for employment protection while
 on jury service; providing for severability; providing an
 effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act shall be known by the popular name the
 "Florida Jury Patriotism Act."

Section 2. Section 40.010, Florida Statutes, is created to
 read:

40.010 Full participation on petit juries of all
 citizens.--It is the policy of this state that all qualified
 citizens have an obligation to serve on petit juries when
 summoned by the courts of this state, unless excused.

Section 3. Section 40.012, Florida Statutes, is created to
 read:

40.012 Postponement of petit jury participation.--
 (1) Individuals scheduled to appear for jury service have



HB 1441

2003

31 the right to postpone the date of their initial appearance for
32 jury service one time only. When requested, postponements shall
33 be granted, provided that:

34 (a) The juror has not previously been granted a
35 postponement;

36 (b) The prospective juror appears in person or contacts
37 the clerk of the court by telephone, electronic mail, or in
38 writing to request a postponement; and

39 (c) Prior to the grant of a postponement with the
40 concurrence of the clerk of the court, the prospective juror
41 specifies a date certain on which he or she will appear for jury
42 service that is not more than 6 months after the date on which
43 the prospective juror originally was called to serve and on
44 which date the court will be in session.

45 (2) A subsequent request to postpone jury service may be
46 approved by a judicial officer only in the event of an extreme
47 emergency, such as a death in the family, sudden grave illness,
48 a natural disaster, or a national emergency in which the
49 prospective juror is personally involved, that could not have
50 been anticipated at the time the initial postponement was
51 granted. Prior to the grant of a second postponement, the
52 prospective juror must specify a date certain on which the
53 individual will appear for jury service within 6 months after
54 the postponement on a date when the court will be in session.

55 Section 4. Section 40.013, Florida Statutes, is amended to
56 read:

57 40.013 Persons disqualified or excused from jury
58 service.--

59 (1) No person who is under prosecution for any crime, or
60 who has been convicted in this state, any federal court, or any



HB 1441

2003

61 other state, territory, or country of bribery, forgery, perjury,
62 larceny, or any other offense that is a felony in this state or
63 which if it had been committed in this state would be a felony,
64 unless restored to civil rights, shall be qualified to serve as
65 a juror.

66 ~~(2)(a) Neither the Governor, nor Lieutenant Governor, nor~~
67 ~~any Cabinet officer, nor clerk of court, or judge shall be~~
68 ~~qualified to be a juror.~~

69 ~~(b) Any full-time federal, state, or local law enforcement~~
70 ~~officer or such entities' investigative personnel shall be~~
71 ~~excused from jury service unless such persons choose to serve.~~

72 (2)(3) No person interested in any issue to be tried
73 therein shall be a juror in any cause; but no person shall be
74 disqualified from sitting in the trial of any suit in which the
75 state or any county or municipal corporation is a party by
76 reason of the fact that such person is a resident or taxpayer
77 within the state or such county or municipal corporation.

78 ~~(4) Any expectant mother and any parent who is not~~
79 ~~employed full time and who has custody of a child under 6 years~~
80 ~~of age, upon request, shall be excused from jury service.~~

81 (3)(5) ~~A presiding judge may, in his or her discretion,~~
82 ~~excuse a practicing attorney, a practicing physician, or a~~
83 ~~person who is physically infirm from jury service, except that~~
84 No person shall be excused from service on a civil trial jury
85 solely on the basis that the person is deaf or hearing impaired,
86 if that person wishes to serve, unless the presiding judge makes
87 a finding that consideration of the evidence to be presented
88 requires auditory discrimination or that the timely progression
89 of the trial will be considerably affected thereby. However,



HB 1441

2003

90 nothing in this subsection shall affect a litigant's right to
 91 exercise a peremptory challenge.

92 ~~(6) A person may be excused from jury service upon a~~
 93 ~~showing of hardship, extreme inconvenience, or public necessity.~~

94 (4)(7) A person who was summoned and who reported as a
 95 prospective juror in any court in that person's county of
 96 residence within 1 year before the first day for which the
 97 person is being considered for jury service is exempt from jury
 98 service for 1 year from the last day of service.

99 (5)(8) A person 70 years of age or older shall be excused
 100 from jury service upon request. A person 70 years of age or
 101 older may also be permanently excused from jury service upon
 102 written request. A person who is permanently excused from jury
 103 service may subsequently request, in writing, to be included in
 104 future jury lists provided such person meets the qualifications
 105 required by this chapter.

106 ~~(9) Any person who is responsible for the care of a person~~
 107 ~~who, because of mental illness, mental retardation, senility, or~~
 108 ~~other physical or mental incapacity, is incapable of caring for~~
 109 ~~himself or herself shall be excused from jury service upon~~
 110 ~~request.~~

111 Section 5. Section 40.014, Florida Statutes, is created to
 112 read:

113 40.014 Excuses from petit jury service.--

114 (1) An individual may apply to be excused from jury
 115 service for a period of up to 24 months, instead of seeking a
 116 postponement, when either:

117 (a) The prospective juror has a mental or physical
 118 condition that causes him or her to be incapable of performing
 119 jury service. The juror, or the juror's personal



HB 1441

2003

120 representative, must provide the court with documentation from a
 121 physician licensed to practice medicine verifying that a mental
 122 or physical condition renders him or her unfit for jury service
 123 for a period of up to 24 months; or

124 (b) Jury service would cause undue or extreme physical or
 125 financial hardship to the prospective juror or a person under
 126 his or her care or supervision.

127 1. A judge of the court for which the individual was
 128 called to jury service shall make undue or extreme physical or
 129 financial hardship determinations. The authority to make these
 130 determinations is delegable only to court officials or personnel
 131 who are authorized by the laws of this state to function as
 132 members of the judiciary.

133 2. A person asking to be excused based on a finding of
 134 undue or extreme physical or financial hardship must take all
 135 actions necessary to have obtained a ruling on that request by
 136 no later than the date on which the individual is scheduled to
 137 appear for jury duty.

138 (2) For purposes of this section, "undue or extreme
 139 physical or financial hardship" is limited to circumstances in
 140 which an individual would:

141 (a) Be required to abandon a person under his or her
 142 personal care or supervision due to the impossibility of
 143 obtaining an appropriate substitute caregiver during the period
 144 of participation in the jury pool or on the jury;

145 (b) Incur costs that would have a substantial adverse
 146 impact on the payment of the individual's necessary daily living
 147 expenses or on those for whom he or she provides the principle
 148 means of support; or



HB 1441

2003

149 (c) Suffer physical hardship that would result in illness
150 or disease.

151 (3) Undue or extreme physical or financial hardship does
152 not exist solely based on the fact that a prospective juror will
153 be required to be absent from his or her place of employment.

154 (4) A person asking a judge to grant an excuse based on
155 undue or extreme physical or financial hardship shall be
156 required to provide the judge with documentation, such as, but
157 not limited to, federal and state income tax returns, medical
158 statements from licensed physicians, proof of dependency or
159 guardianship, and similar documents, which the judge finds to
160 clearly support the request to be excused. Failure to provide
161 satisfactory documentation shall result in a denial of the
162 request to be excused.

163 (5) After 24 months, a person excused from jury service
164 shall become eligible once again for qualification as a juror
165 unless the person was excused from service permanently. A
166 person is excused from jury service permanently only when the
167 deciding judge determines that the underlying grounds for being
168 excused are of a permanent nature.

169 Section 6. Section 40.23, Florida Statutes, is amended to
170 read:

171 40.23 Summoning jurors.--

172 (1) The clerk of the court shall generate a venire as
173 prescribed in s. 40.221 and shall summon the persons named in
174 such venire to attend court as jurors at least 14 days prior to
175 the sitting of such court by mailing to each person so named in
176 the venire a written notice, addressed to his or her place of
177 residence, and placing such notice in the United States mail



HB 1441

2003

178 with sufficient postage to carry the same. Upon order of the
179 court, jurors may be summoned with less than 14 days' notice.

180 ~~(2) The jury service of any person who has been summoned~~
181 ~~may be postponed for a period not to exceed 6 months upon~~
182 ~~written or oral request. The request may specify a date or~~
183 ~~period of time to which service is to be postponed and, if so,~~
184 ~~shall be given consideration when the assignment of the~~
185 ~~postponed date of jury service is made.~~

186 (2)(3) Any person who is duly summoned to attend as a
187 juror in any court and who fails to attend without having
188 obtained a postponement or exemption according to the provisions
189 of s. 40.014 any sufficient excuse shall have committed a
190 misdemeanor of the second degree punishable as provided in ss.
191 775.082 or s. 775.083 pay a fine not to exceed \$100, which fine
192 shall be imposed by the court to which the juror was summoned,
193 and, in addition, such failure may be considered a contempt of
194 court.

195 Section 7. Section 40.255, Florida Statutes, is created to
196 read:

197 40.255 Lengthy Trial Fund.--The Supreme Court of Florida
198 shall promulgate rules to establish a Lengthy Trial Fund that
199 shall be used to provide full or partial wage replacement or wage
200 supplementation to jurors who serve as petit jurors for more than
201 10 days.

202 (1) The court rules shall provide for the following:

203 (a) The selection and appointment of an administrator for
204 the fund.

205 (b) Procedures for the administration of the fund,
206 including payments of salaries of the administrator and other
207 necessary personnel.



HB 1441

2003

208 (c) Procedures for the accounting, auditing, and
209 investment of money in the Lengthy Trial Fund.

210 (d) A report by the Supreme Court of Florida on the
211 administration of the Lengthy Trial Fund in its annual report on
212 the judicial branch, setting forth the money collected for and
213 disbursed from the fund.

214 (2) Notwithstanding any other fees collected under state
215 law, each trial court in the state shall collect from each
216 attorney who files a civil case, unless otherwise exempted under
217 the provisions of this section, a fee of \$20 per case to be paid
218 into the Lengthy Trial Fund. A lawyer will be deemed to have
219 filed a case at the time the first pleading or other filing on
220 which an individual lawyer's name appears is submitted to the
221 court for filing and opens a new case. All such fees shall be
222 forwarded to the administrator of the Lengthy Trial Fund for
223 deposit.

224 (3) The administrator shall use the fees deposited in the
225 Lengthy Trial Fund to pay full or partial wage replacement or
226 wage supplementation to jurors whose employers pay less than
227 full regular wages when the period of jury service lasts more
228 than 10 days.

229 (4) The court may pay replacement or supplemental wages of
230 up to \$300 per day per juror beginning on the 11th day of jury
231 service. In addition, for any jurors who qualify for payment by
232 virtue of having served on a jury for more than 10 days, the
233 court may, upon finding that such service posed a significant
234 financial hardship to a juror, even in light of payments made
235 with respect to jury service after the 10th day, award
236 replacement or supplemental wages of up to \$100 per day from the
237 4th through the 10th day of jury service.



HB 1441

2003

238 (5) Any juror who is serving or has served on a jury that
239 qualifies for payment from the Lengthy Trial Fund, provided the
240 service commenced on or after the effective date of this act,
241 may submit a request for payment from the Lengthy Trial Fund on
242 a form that the administrator provides. Payment shall be
243 limited to the difference between the state paid jury fee and
244 the actual amount of wages a juror earns, up to the maximum
245 level payable, minus any amount the juror actually receives from
246 the employer during the same time period. This payment shall be
247 paid in addition to any other compensation that a juror may
248 receive according to the laws of this state.

249 (a) The form shall disclose the juror's regular wages, the
250 amount the employer will pay during the term of jury service
251 starting on the 11th day and thereafter, the amount of
252 replacement or supplemental wages requested, and any other
253 information the administrator deems necessary for proper
254 payment.

255 (b) The juror also shall be required to submit
256 verification from the employer as to the wage information
257 provided to the administrator, for example, the employee's most
258 recent earnings statement or similar document, prior to
259 initiation of payment from the fund.

260 (c) If an individual is self-employed or receives
261 compensation other than wages, the individual may provide a
262 sworn affidavit attesting to his or her approximate gross weekly
263 income, together with such other information as the
264 administrator may require, in order to verify weekly income.

265 (6) The following attorneys and causes of action are
266 exempt from payment of the Lengthy Trial Fund fee:

267 (a) Government attorneys entering appearances in the



HB 1441

2003

268 course of their official duties.

269 (b) Pro se litigants.;

270 (c) Cases in small claims court or the state equivalent
271 thereof.

272 (d) Claims seeking social security disability
273 determinations; individual veterans' compensation or disability
274 determinations; recoupment actions for government backed
275 educational loans or mortgages; child custody and support cases;
276 actions brought in forma pauperis; and any other filings
277 designated by rule that involve minimal use of court resources
278 and that customarily are not afforded the opportunity for a
279 trial by jury.

280 Section 8. Section 40.271, Florida Statutes, is amended to
281 read:

282 40.271 Jury service; employment protection.--

283 (1) No person summoned to serve on any grand or petit jury
284 in this state, or accepted to serve on any grand or petit jury
285 in this state, shall be dismissed from employment for any cause
286 or otherwise be subject to any adverse employment action because
287 of the nature or length of service upon such jury.

288 (2) Threats of dismissal from employment for any cause, by
289 an employer or his or her agent to any person summoned for jury
290 service in this state, because of the nature or length of
291 service upon such jury may be deemed a contempt of the court
292 from which the summons issued.

293 (3) A civil action by the individual who has been
294 dismissed may be brought in the courts of this state for any
295 violation of this section, and said individual shall be entitled
296 to collect not only compensatory damages, but, in addition



HB 1441

2003

297 thereto, punitive damages and reasonable attorney fees for
298 violation of this act.

299 (4) An employee may not be required or requested to use
300 annual, vacation, or sick leave for time spent responding to a
301 summons for jury service, time spent participating in the jury
302 selection process, or time spent actually serving on a jury.
303 Nothing in this provision shall be construed to require an
304 employer to provide annual, vacation, or sick leave to employees
305 under the provisions of this subsection who otherwise are not
306 entitled to such benefits under company policies.

307 (5) A court shall automatically postpone and reschedule
308 the service of a summoned juror of an employer with five of
309 fewer full-time employees, or their equivalent, if another
310 employee of that employer is summoned to appear during the same
311 period. Such postponement will not affect an individual's right
312 to one automatic postponement under s. 40.012.

313 Section 9. The provisions of this act are severable. If
314 any portion of this act is declared unconstitutional or the
315 application of any part of this act to any person or
316 circumstance is held invalid, the remaining portions of the act
317 and their applicability to any person or circumstance shall
318 remain valid and enforceable.

319 Section 10. This act shall take effect October 1, 2003.