

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 206

INTRODUCER: Senator Clemens

SUBJECT: Jury Service

DATE: February 4, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAloon</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Stovall</u>	<u>Stovall</u>	<u>HP</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 206 authorizes a person to be permanently excused from jury service upon written request due to mental illness, intellectual disability, senility, or other physical or mental incapacity. The person's request must be accompanied by a written statement from a doctor verifying the disability. The clerk of the court may approve or deny the request for permanent excuse from jury service.

**II. Present Situation:**

**Background on Jury Selection**

To be selected for a jury pool in Florida, a person must be chosen at random from a list of names provided quarterly to the clerk of court by the Department of Highway Safety and Motor Vehicles.<sup>1</sup> All persons on the jury list are required to be United States citizens and legal residents of Florida. Additionally, all persons must be at least 18 years of age and have a driver's license or identification card issued by the Department of Motor Vehicles.<sup>2</sup>

The Florida Statutes set out two processes for developing a group of persons who may be summoned to court. First, the clerk, under the supervision of a judge, may randomly select from a list of people necessary for a given session.<sup>3</sup> Alternatively, the court may request authority of the Florida Supreme Court to operate a special selection process using a mechanical, electronic, or electrical device.<sup>4</sup> The court has procedures in place to ensure that once a potential juror is selected, he or she is given proper notice of the summons to ensure compliance, or the person

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<sup>1</sup> Section 40.011, F.S. The Clerk of the Court may also add to the list the name of any person who is 18 years of age or older, a U.S. citizen, and a legal resident of the state who requests to be added upon execution of an affidavit.

<sup>2</sup> Section 40.01, F.S.

<sup>3</sup> Section 40.221, F.S.

<sup>4</sup> Section 40.225, F.S.

may face penalties imposed by the court.<sup>5</sup> Once the potential jurors are summoned, they may be placed into the jury pool from which the jury in any given case will be chosen.<sup>6</sup>

### **Persons Disqualified or Excused from Jury Service**

There are two opportunities for a person who has been summoned for jury service to be excused. First, when a person receives a summons for jury service, he or she may provide an excuse from a list of acceptable statutory excuses for why he or she cannot serve. The person will send this notification to the clerk's office. Second, a potential juror may also raise one of the statutory excuses once the person has reported for jury service. Section 40.013, F.S., specifies persons who are disqualified from jury service, persons whom a judge may excuse from jury service, and persons who must be excused from jury service upon request.

Persons who are disqualified from jury service include:

- A person who is under prosecution for a crime, or a felon, unless the person's civil rights have been restored.<sup>7</sup>
- The Governor and Lieutenant Governor, Cabinet officers, clerks of court, and judges.<sup>8</sup>
- Full-time federal, state, or local law enforcement officers and investigative personnel of law enforcement agencies.<sup>9</sup>
- A person interested in any issue to be tried in a case on which the person would serve as a juror.<sup>10</sup>
- A person who would be serving as a juror within 1 year of the last day of previous jury service.<sup>11</sup>
- Any person who does not possess sufficient knowledge of reading, writing or arithmetic to understand a civil case, if the civil case requires such knowledge.<sup>12</sup>

Persons who may be excused include:

- A practicing attorney, a practicing physician, or a person who is physically infirm.<sup>13</sup>
- Any person upon showing of hardship, extreme inconvenience, or public necessity.<sup>14</sup>

Persons who must be excused upon request include:

- An expectant mother or parent who is not employed full time and who has custody of a child under 6 years of age.<sup>15</sup>
- A person 70 years of age or older.<sup>16</sup>

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<sup>5</sup> Section 40.23, F.S.

<sup>6</sup> Section 40.231, F.S.

<sup>7</sup> Section 40.013(1), F.S.

<sup>8</sup> Section 40.013(2)(a), F.S.

<sup>9</sup> Section 40.013(2)(b), F.S.

<sup>10</sup> Section 40.013(3), F.S.

<sup>11</sup> Section 40.013(7), F.S.

<sup>12</sup> Fla. R. Civ. P. 1.431(c)(3).

<sup>13</sup> Section 40.013(5), F.S.

<sup>14</sup> Section 40.013(6), F.S.

<sup>15</sup> Section 40.013(4), F.S.

<sup>16</sup> Section 40.013(8), F.S.

- 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.<sup>17</sup>

### **Persons Permanently Excused from Jury Service**

Currently, only individuals 70 years of age or older can request to be permanently excused.<sup>18</sup> The request must be in writing.<sup>19</sup> Individuals who are permanently excused can also request to be added back into the jury pool as long as they are otherwise qualified.<sup>20</sup>

### **Persons Excused for Care of Disabled Individual**

The Florida Statutes provide a mandatory exemption from jury service, upon request, for any person who is responsible for the care of a person who is mentally ill, intellectually disabled, senile, or has other physical or mental incapacity, and is incapable of caring for himself or herself.<sup>21</sup> An individual who cares for a person with a listed condition must be excused from jury service upon request.<sup>22</sup> However, the statute currently does not contain an exemption from jury service for the person who is permanently incapable for caring for himself or herself.

### **Florida Rules of Civil Procedure**

The Florida Rules of Civil Procedure require that a juror be excused in a civil trial if the individual does not possess sufficient knowledge of reading, writing or arithmetic to understand the case, if the case requires such knowledge.<sup>23</sup> However, the rule only applies to civil cases and only arises through a challenge for cause.

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

SB 206 creates a permanent exemption from jury duty upon request for a person who is permanently incapable for caring for himself or herself. The permanent incapacity must be due to “mental illness, intellectual disability, senility, or other physical or mental incapacity.” The request must include a letter from a physician verifying the permanent incapacity. The clerk, in his or her discretion, may decide to issue the permanent exemption from jury service.

The bill takes effect July 1, 2016.

## **IV. Constitutional Issues:**

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

None.

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<sup>17</sup> Section 40.013(9), F.S.

<sup>18</sup> Section 40.013(8), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Section 40.013(9), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Fla. R. Civ. P. 1.431(c)(3).

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The language of the bill provides that a person *may* be permanently excused upon request. This gives the clerk the discretion in making the ultimate decision. In comparison, existing s. 40.013(8), F.S., provides that an individual 70 years of age or older *shall* be permanently excused upon request.

**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.