

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 Health Policy

BILL: CS/SB 462

INTRODUCER: Judiciary Committee and Senator Grall

SUBJECT: Excusal from Jury Service

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Brown</u>	<u>Brown</u>	<u>HP</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 462 creates a new basis for someone to be excused from jury duty. The bill provides that a woman who has given birth within the 6-month period immediately prior to the date on which she is to report for jury service shall be excused from service if she submits the request in writing with a photocopy of the newborn child's birth certificate.

The bill provides an effective date of 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 U.S. 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 and render a verdict.¹

¹ 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>.

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”² The Seventh Amendment states that in matters at common law where the amount in controversy exceeds “twenty dollars, the right of trial by jury 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.”³

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.”⁴

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.⁵

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.⁶ 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.⁷ A juror must:

- Be at least 18 years old.
- Be a U.S. citizen.
- Be a legal resident of the state and his or her respective county.
- 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 he or she indicates a desire to serve as a juror.⁸

² U.S. CONST. amend. VI.

³ 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.

⁴ FLA. CONST. art. 1, s. 22.

⁵ Section 40.23(1), F.S.

⁶ Section 40.23(3), F.S.

⁷ Section 40.011, F.S.

⁸ Section 40.01, F.S.

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.⁹ 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

The following persons *must be excused* from jury service *unless* they choose to serve:

- Any full-time federal, state, or local law enforcement officer.
- Federal, state, or local law enforcement investigative personnel.¹⁰

The following persons *must be excused* from jury service *upon their request*:

- Any expectant mother.
- 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.¹¹

The following persons *may be excused*:

- A person who demonstrates a showing of hardship, extreme inconvenience, or public necessity.¹²
- A person who, because of mental illness, intellectual disability, senility, or other physical or mental incapacity, is permanently incapable of caring for himself or herself.¹³

The following persons are *exempt* from jury service:

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

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

⁹ Section 40.23(2), F.S.

¹⁰ Section 40.013(2)(b), F.S.

¹¹ Section 40.013(4), (8), (10), (11), F.S.

¹² Section 40.013(6), F.S.

¹³ Section 40.013(9), F.S. Such person may be permanently excused if a written statement to this effect is provided by a physician.

¹⁴ Section 40.013(7), F.S.

¹⁵ Section 40.013(5), F.S.

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 prospective juror is not qualified to serve.¹⁶ 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.¹⁷

The following persons are *disqualified* from the jury selection process:

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

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.²¹ 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.²² 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.²³

III. Effect of Proposed Changes:

The bill amends s. 40.013, F.S., to create a new basis for someone to be excused from jury duty. The bill provides that a woman who has given birth within the 6-month period immediately prior to the date on which she is to report for jury service shall be excused from service if she submits the request in writing with a photocopy of the newborn child's birth certificate.

The bill provides an effective date of July 1, 2024.

¹⁶ Fla. R. Crim. P. 3.300.

¹⁷ Fla. R. Civ. P. 1.431(c)(3).

¹⁸ Section 40.013(1), F.S.

¹⁹ Section 40.013(2)(a), F.S.

²⁰ Section 40.013(3), F.S.

²¹ Section 40.23(2), F.S.

²² Section 40.013(4), F.S.

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

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

Section 382.025, F.S., provides that, except for birth records that are more than 125 years old which are not under seal pursuant to court order, all birth records of this state shall be confidential and exempt from public records requirements. That statute also provides that the Department of Health will issue certified copies of original birth certificates based on a limited set of circumstances.²⁴

According to the Office of the State Courts Administrator, Rule 2.420(c)(7) of the Florida Rules of General Practice and Judicial Administration provides that the following records of the judicial branch are confidential: “All records made confidential under the Florida and United States Constitutions and Florida and federal law.” Because birth certificates are confidential and exempt under s. 382.025(1), F.S., the judicial branch would treat copies of birth certificates submitted under the bill as confidential.²⁵

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

None.

B. Private Sector Impact:

The bill may financially benefit businesses employing mothers of newborns and the mothers of newborns themselves to the extent that such women use the bill’s excusal from jury service to attend a job instead of jury service.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

²⁴ See s. 382.025(1)(a), F.S.

²⁵ Email from the Office of the State Courts Administrator, Jan. 10, 2024, on file with the Senate Judiciary Committee.

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 Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on December 13, 2023:

The committee substitute clarifies that the “6 months” period in the bill is measured from the birth date of the child to the reporting date on the summons.

- B. **Amendments:**

None.