

No. 39

AN ACT

HB 366

Amending the act of December 6, 1972 (P.L. 1376, No. 292), entitled "An act to provide for the selection of jurors to serve in the court of common pleas of counties of the second class; defining the qualifications of such jurors; providing for the organization of a commission for the selection of jurors in such counties, and prescribing its powers and duties; and repealing inconsistent acts," providing for a master list, further defining offenses and penalties, clarifying appeal procedure, and providing protection for juror's employment.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsections (a) and (c) of section 7, and sections 8, 9, 11, 17, 18 and 19, act of December 6, 1972 (P.L. 1376, No. 292), known as the "Second Class County Jury Selection Act," are amended to read:

Section 7. Selection of Prospective Jurors.—(a) In order to accomplish the objectives of the policy declared in section 2 of this act, the jury commission, hereinbefore created, shall **[prepare a list which shall contain as near as may be the names of all persons residing in the county who meet the qualifications set forth in section 6 of this act. In so doing, the commission shall include but not be limited to those persons in all of the following categories:**

- (1) **Persons registered to vote.**
- (2) **Persons listed in telephone, city, municipal directories and similar directories.**
- (3) **Persons who pay taxes or are assessed for taxes imposed by the State or county or by cities, boroughs, townships or school districts located within the county. State and local officials having custody, possession, or control of said tax records shall make such records available to the jury commission or its employes for inspection, reproduction, and copying as the commission may deem necessary and proper for the performance of its duties under this act. The court of common pleas shall have jurisdiction upon application by the commission to compel compliance with this clause by appropriate process.**
- (4) **Persons in the county participating in any State, county or local program authorized by law, and to the extent such names are available persons participating in any Federal program authorized by law. State and local officials having custody, possession or control of such records bearing the names of such persons shall make them available to the jury commission or its employes for inspection, reproduction, and copying as the commission may deem necessary and proper for the performance**

of its duties under this act. The court of common pleas shall have jurisdiction upon application by the commission to compel compliance with this clause by appropriate process.

(5) Any other person whose name does not appear in the master file and who meets the qualifications for jurors set forth in this act and who makes application to be listed on the list of prospective jurors.

The group of names compiled as set forth in this clause shall constitute the master list of prospective jurors. The list shall be maintained in a currently accurate state at all times and shall be open to the public.] *each year obtain from the Bureau of Elections a list of all electors of the said county registered to vote in the current year. The names on this list of electors shall constitute the master list of prospective jurors. Said list shall be available in the office of the jury commission and shall be open to the public. Any person who was not registered to vote in the current year and who meets the qualifications for jurors set forth in this act may be added to the master list of prospective jurors by the commission on its own initiative or upon the application of said person. Said master list may also be supplemented with names from other lists from time to time designated by the jury commission, as, in its discretion, may be desirable to foster the policies of this act. Names of persons which have been obtained by the jury commission from the lists mentioned in section 7, which persons were not registered to vote in the current year may nevertheless be retained by the commission in the master list of prospective jurors and may be considered by the commission in the selection of jurors.*

* * *

(c) There shall be mailed to each person whose name has been selected in a random manner as set forth in subsection (b) a juror qualification form devised by or for the jury commission in such manner that there may be determined from the answers thereto whether or not the prospective juror is qualified. The juror qualification form shall be executed by the prospective juror under penalty of perjury, or if the person is unable to fill out the form, another shall do it for him, indicate that he has done so, and the reason therefor. In any case, where the form does not appear to be properly executed, the commission shall return the form to the prospective juror with instructions to make such additions or corrections as may be necessary and return it to the commission within the time specified. **[Any person who fails to return the juror qualification form as directed may be summoned by the]** The commission **[through its investigating officers]** *may request any prospective juror to appear at the offices of the commission to [fill out a juror qualification form.] complete the questionnaire or resolve any ambiguity contained therein.* In the event the prospective juror fails to appear as directed, the commission may make application to the court of common pleas for an order requiring the prospective juror to appear

before said court to show cause why he has failed to appear. Failure to comply with such order or any further order of the court after he has appeared shall **[be punishable as contempt of court.] constitute contempt of court, and the court may impose a fine not exceeding two hundred fifty dollars (\$250) or imprisonment not exceeding ten days, or both.**

Section 8. Qualifications Ascertained; Withdrawing Names.—After receipt of the juror qualification form as provided in section 7, the commission, through its members or its duly authorized employes, shall ascertain whether or not those individuals returning the questionnaire are qualified for jury service, as provided in section 6 of this act.

[All actions by the commission disqualifying, exempting, or excusing any person or persons from jury service shall be taken by the commission in session and a minute made thereof as part of the record of such session.]

The names of qualified persons compiled as set forth in this section shall constitute the list of qualified jurors and shall be open to the public.

Section 9. Challenging Exclusion.—Any prospective juror who has been disqualified shall **[be notified as soon as possible by the commission of such disqualification, the reason therefor, and his right to appeal within thirty days] have the right to appeal** to the district justice of the peace in whose district he resides ***within thirty days after learning of such disqualification.*** The commission shall provide **[with such notice]** a simple form for appeal. If such an appeal is taken, the **[court] district justice** shall take evidence and determine whether the appeal shall be denied or sustained.

Section 11. Summons by Mail.—Jurors who have been selected for service shall be summoned to serve by the commission in a manner determined by the commission with the concurrence of the president judge **;** **in the absence of such determination, jurors who have been selected to serve shall be served by certified mail with a suitable return receipt: Provided, however, That if service cannot be effected by mail, the commission may direct the sheriff to serve the jurors personally.]** ***A prospective juror who has been summoned to serve and fails to appear as summoned shall, unless exempt or excused pursuant to section 12, be punishable for contempt of court, and the court may impose a fine not exceeding two hundred fifty dollars (\$250), or imprisonment not exceeding ten days, or both.***

Section 17. Penalty for Violation.—Any member of such commission or any employe, clerk, investigator, or assistant in the employ of said commission, who shall ***wilfully*** violate any of the provisions of this act, for the purpose of unlawfully procuring the selection of any person for jury service, shall be guilty of a misdemeanor ***of the third degree*** and upon conviction thereof **[shall] may** be forthwith

removed from his said office of employment and shall be sentenced to pay a fine not exceeding [**five thousand dollars (\$5,000)**] **one thousand dollars (\$1,000)** or to undergo imprisonment for not exceeding [**two years**] **six months**, or both, at the discretion of the court [, and in addition thereto shall be ineligible to hold any public office existing under the laws of the Commonwealth of Pennsylvania]. Any person other than a member of the commission or employe, clerk, assistant, or investigator of and for said commission, who undertakes or offers **by unlawful means** to influence the selection or excusing of any person from jury service or who gives money or anything of value to any person for the purpose of effecting the impartial selection of jurors or to procure exemption from jury service or who solicits, demands, or receives money or anything of value or the promise thereof from any person for the purpose of in any manner effecting the selection or exemption of any persons from jury service or does any of these things for the purpose of enabling himself or another to evade or escape jury service, shall be guilty of a misdemeanor **of the third degree** and upon conviction thereof shall be sentenced to pay a fine not exceeding [**five thousand dollars (\$5,000)**] **one thousand dollars (\$1,000)** or to undergo imprisonment not exceeding [**two years**] **six months**, or both, at the discretion of the court.

Section 18. Tampering with Names; Penalty.—Any person who directly or indirectly unlawfully tampers with the names drawn from the jury wheel or with the jury wheel or with any jury list, with intent to hinder the operation of any of the provisions of this act, shall be guilty of a misdemeanor **of the third degree** and upon conviction thereof shall be sentenced to pay a fine not exceeding [**five thousand dollars (\$5,000)**] **one thousand dollars (\$1,000)** or to undergo imprisonment not exceeding [**two years**] **six months**, or both, at the discretion of the court.

Section 19. Tampering with Juror; Penalty.—Any person, who having in any way ascertained the names of persons drawn from the jury wheel, shall thereafter discuss with such prospective juror the facts of any particular suit, action, or cause then listed for trial in the court for which said prospective juror has been summoned for jury service, with the intent to influence the said juror in his service or in the consideration of the evidence in such suit, action, or cause, shall be guilty of a misdemeanor **of the second degree** and upon conviction thereof shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to undergo imprisonment not exceeding two years, or both, at the discretion of the court. The penalty provided herein shall be in addition to the penalties now prescribed by law for bribery.

Section 2. The act is amended by adding a section to read:

Section 19.1. Protection of Jurors' Employment.—(a) **An employer shall not deprive an employe of his employment, or threaten or otherwise coerce him with respect thereto, because the employe receives**

a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

(b) Any employer who violates subsection (a) is guilty of a misdemeanor of the third degree and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000) or to undergo imprisonment not exceeding six months, or both, at the discretion of the court.

(c) If an employer penalizes an employe in violation of subsection (a) the employe within six months may bring a civil action for recovery of wages or benefits lost as a result of the violation and for an order requiring the reinstatement of the employe. Damages recoverable shall be double the wages and benefits actually lost. The employe shall be allowed a reasonable attorney's fee fixed by the court.

Section 3. This act shall take effect immediately.

APPROVED—The 16th day of July, A. D. 1975.

MILTON J. SHAPP