

## No. 292

## AN ACT

## SB 822

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.

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

Section 1. Short Title.—This act shall be known and may be cited as the “Second Class County Jury Selection Act.”

Section 2. Declaration of Policy.—It is the policy of the Commonwealth of Pennsylvania that all persons entitled to a jury trial in a civil or criminal action shall have the right to jurors selected at random from a representative cross section of the eligible population of the county. It is further the policy of the Commonwealth of Pennsylvania that all citizens shall have the opportunity to be considered for service as jurors in the courts of counties of the second class, and shall have an obligation to serve as jurors when summoned for that purpose and no citizen shall be excluded from service as a juror on the basis of race, color, religion, sex, national origin or economic status.

Section 3. Commission; Selection, Etc.—An improved and impartial selection of persons is needed to serve as jurors in the several courts, civil and criminal, of counties of the second class. There is hereby created for each such county a commission known as the Jury Commission, hereinafter called “commission.” Said commission shall consist of three members. One of said members and its chairman shall be the president judge of the court of common pleas of the respective county. The president judge may from time to time for cause assign a judge of said court to perform his duties temporarily. The other two members of said commission shall be chosen by the qualified electors of said county at the municipal elections at which other county officers are chosen: Provided, however, That in no event shall both of said elective members of the commission be members of the same political party, but the majority political party in said county shall elect one of said elective commissioners, and the other shall be the candidate for such office receiving the highest number of votes of the next ranking or minority political party; the elective members of the commission shall be chosen for a term of four years. Any jury commissioner shall be eligible for reelection for any number of terms. In the event that two of the members of the commission are unable by reason of illness or other cause to temporarily perform the duties imposed upon them by this act, the remaining member, if he be the president judge or judge assigned to act in the place of the president judge, may act alone.

Section 4. Office Quarters for Commission.—The county commissioners of the respective county, upon requisition of said commission, shall provide suitable office quarters for the commission and shall furnish and equip the same.

Section 5. Salaries and Expenses.—All expenses incurred in the maintenance and operation of said commission and the salaries of its employes shall be payable out of the county funds of the respective county upon payrolls approved by the commission. All salaries shall be payable monthly or semi-monthly and shall be fixed by the commission, acting in conjunction with the county commissioners and the county controller of the respective county, acting as a salary board, and said salary board is hereby authorized to fix the number of employes and their salaries. The president judge shall represent the commission on the salary board.

Section 6. Qualifications of Jurors.—Every citizen of the minimum age required to vote for State or local officials residing in a second class county shall be eligible to serve as a juror therein unless disqualified for one or more of the following reasons:

(1) He is unable to read, write, speak and understand the English language.

(2) He is incapable, by reason of mental or physical infirmity, to render efficient jury service.

(3) He has been convicted of a crime punishable by imprisonment for more than one year and has not been granted pardon or amnesty therefor.

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.

(b) Each year there shall be selected from the master list the number of names designated by the president judge, said names to be selected in random order to insure a fair cross section of the eligible population of the county.

(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 commission through its investigating officers to appear at the offices of the commission to fill out a juror qualification form. 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.

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 to the district justice of the peace in whose district he resides. The commission shall provide with such notice a simple form for appeal. If such an appeal is taken, the court shall take evidence and determine whether the appeal shall be denied or sustained.

Section 10. Selection of Jurors for Service.—Except as otherwise provided in section <sup>1</sup>13, the jury commission shall maintain a jury wheel or wheels and shall place therein the names of persons included on the list of qualified jurors. From time to time, the commission shall publicly draw at random from the qualified jury wheel such number of names of persons as may be required for assignment to jury panels. A separate list of names and addresses of persons assigned to each jury panel shall be prepared and made available for public inspection at the offices of the commission no later than thirty days prior to the date on which said panel is to serve.

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.

Section 12. Exemptions and Excuses.—No person shall be exempt or excused from jury duty except the following:

- (1) Persons in active service of the armed forces of the United States or of the Commonwealth of Pennsylvania.
- (2) Persons who have served within three years next preceding.
- (3) Persons demonstrating to the court undue hardship or extreme inconvenience may be excused for such period as the court determines necessary, at the end of which period, the juror shall again be summoned for jury duty: Provided, however, That nothing herein contained shall affect the existing practice with respect to peremptory challenges and challenges for cause.

Section 13. Use of Electro-mechanical Devices or Business Machines.—The commission for the selection of jurors in its discretion, in the interest of efficiency, speed, and economy is authorized to use mechanical or electro-mechanical devices or business machines, including, but not limited to, punch cards, sorting, computing and data processing-type

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<sup>1</sup>"12" in original.

devices or machines as an aid to it in the random selection, drawing, investigating, summoning, and listing of jurors.

Section 14. Jury Advisory Panel.—The jury commission is authorized to create a jury advisory panel to meet with the commission and make recommendations to effectuate the declaration of policy of this act.

Section 15. Venire for Jurors; Form.—Venire for jurors in the several courts of the respective counties shall be issued from time to time in the manner now provided by law and shall be substantially in the following form:

COMMONWEALTH OF PENNSYLVANIA }  
COUNTY OF ..... } SS:

To the sheriff and the commission for the selection of jurors:

You are hereby directed to draw the name of ..... persons to serve as ..... jurors in the court of ..... to be held in and for the county of ..... on ..... at ..... o'clock .... M. to serve as jurors in that court or in any other court of the county, civil or criminal, as the president judge of the court of common pleas may direct, and you are directed to summon the persons so selected to appear in said court at said time and place and to have then and there this writ, with the names, addresses, and occupations of the persons summoned respectively in a panel hereto annexed, and then and there make return as to the manner in which you have executed this writ.

WITNESS the hand and seal of the Honorable ..... Judge of said court this ..... day of .....

..... (Seal)

Attest

.....

Section 16. Form of Summons.—The summons to the jurors drawn upon each venire shall be in substantially the following form:

SHERIFF'S OFFICE

COMMONWEALTH OF PENNSYLVANIA }  
COUNTY OF ..... } SS:

TO .....

Sir:

You are hereby summoned to appear before the judges of the court of ..... at (the building in which the court will be held) on the ..... day of ..... at ..... o'clock .... M., there to serve as a ..... juror in that court or in any other court of the county, civil or criminal, as the president judge of the court of common pleas may direct.

WITNESS the hand and seal of the Honorable ..... Judge of said court this ..... day of .....

..... (Seal)

Attest

.....

..... (Sheriff)

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 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 and upon conviction thereof shall be forthwith removed from his said office of employment and shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to undergo imprisonment for not exceeding two years, 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 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 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.

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 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.

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 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 20. Repealer.—The act of May 11, 1925 (P.L.561), entitled, as amended, “An act to provide for the selection of jurors to serve in the several courts, criminal and civil, of counties of the second and second A class, and 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 authorizing it to investigate as to the qualifications of prospective jurors; imposing the expense of maintaining and operating said commission upon said counties, and requiring the county commissioners to provide suitable quarters, equipment, and supplies; authorizing the employment of the necessary clerks and other employes, and providing for a salary board composed of the commission, the county commissioners, and the controller of said counties, to fix the number and compensation of such employes; requiring county officers and boards to furnish information to said commission concerning taxables resident in said county as to their eligibility for jury service; repealing inconsistent legislation; and prescribing punishment for the violation hereof,” is repealed in so far as inconsistent herewith. All other acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 21. Effective Date.—This act shall take effect January 1, following its enactment but it shall not become effective within less than eleven months following such enactment: Provided, further, That incumbent commissioners shall continue in service until successors are duly qualified.

APPROVED—The 6th day of December, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 292.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style.

*Secretary of the Commonwealth.*