

No. 1980-78

AN ACT

HB 227

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for jury selection commissions, requiring certain budgetary data from the Court Administrator and providing for the qualifications, selection and service of jurors and providing penalties.

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

Section 1. Sections 2121, 2122 and 2123 of Title 42, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, are amended to read:

§ 2121. Jury selection commissions.

[(a) General rule.—The jury selection commission in each county of this Commonwealth shall consist of three or more persons selected as provided in this subchapter or as provided by home rule charter.]

(b) Home rule charter counties.—The provisions of this subchapter shall be subject to any inconsistent provisions of any home rule charter.]

Except in the first judicial district, the jury selection commission in each county shall consist of three persons selected as provided in this subchapter or as provided by home rule charter.

§ 2122. Composition of jury selection commissions.

[(a) General rule.—Except in the first judicial district, the jury selection commission shall consist of two jury commissioners elected as provided in this section and a judge of the court of common pleas of the judicial district embracing the county designated from time to time by the president judge of such court. The judge so designated shall be the chairman of the commission.]

(a) General rule.—Except in the first judicial district and other home rule charter counties, the jury selection commission shall consist of two jury commissioners elected as provided in this section and the president judge of the court of common pleas of the judicial district embracing the county. The president judge may from time to time assign another judge of court to perform his duties temporarily. The president judge or his assigned replacement shall be chairman.

(b) Election of commissioners.—The jury commissioners shall be elected as provided in this subsection and, to the extent not inconsistent with this subsection, as provided by the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code" and the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," as the case may be, and the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code." Any jury

commissioner shall be eligible for reelection for any number of terms. The two persons elected as jury commissioners shall not be of the same political party. The candidate for the office who receives the highest number of votes shall be one of the jury commissioners, and the other shall be that candidate not being of the same political party as the first who receives the next highest number of votes.

(c) Filling of vacancy.—In case of the inability of a jury commissioner, by sickness, death, or other unavoidable cause, to discharge the duties of his office, or in case of neglect or refusal to serve, the president judge of the court of common pleas of the judicial district shall appoint a suitable person to perform the duties of the office during the period of inability.

(d) Philadelphia.—[In the first judicial district the jury selection commission shall consist of the sheriff and the judges of the Court of Common Pleas of Philadelphia County.] *In the first judicial district, the jury selection board shall constitute the jury selection commission. The clerk of the board shall be the commissioner, the assistant clerk of the board shall be the deputy commissioner and the masters, not to exceed four, shall be the assistant commissioners.*

(e) Quorum.—A jury selection commission may act by [any two] a majority of its members.

[§ 2123. Staff.

The jury selection commission shall appoint and may remove a clerk and such administrative staff of the commission as may be authorized pursuant to law.]

§ 2123. *Expenses, staff and quarters.*

The expenses, staff and quarters shall be provided for the jury selection commission in accordance with sections 1724 (relating to personnel of the system), 3721 (relating to county judicial center or courthouse) and 3722 (relating to general facilities and services furnished by county).

Section 2. Title 42 is amended by adding a section to read:

§ 3531. *Budget implementation data.*

The Court Administrator of Pennsylvania shall make monthly expenditure data available to the Majority or Minority Chairmen of the Appropriations Committees of the Senate or the House of Representatives. Monthly data shall be provided within 15 days after the end of each month. The monthly data shall be prepared in such a way that the last monthly submission is a summary inclusive of the preceding months of the fiscal year and shall be usable to establish a history of expenditure file. This data, at the discretion of the Majority or Minority Chairmen of the Appropriations Committees of the Senate or the House of Representatives, may be provided either in finished reports or on computer tapes. The data shall be provided by fund, by appropriation, by department and by organization within each department and shall include:

- (1) *Number of filled personnel positions and their cost.*
- (2) *Itemized personnel vacancies and their cost.*
- (3) *New positions created and their cost.*
- (4) *Wage and overtime costs.*
- (5) *Allotments and expenditures for itemized personnel expenses.*
- (6) *Allotments and expenditures for itemized operating expenses.*
- (7) *Allotments and expenditures for itemized fixed assets.*

In addition to the above specified budgetary data, the Court Administrator shall make available any other budgetary data as may be requested from time to time by the Majority or Minority Chairmen of the Appropriations Committees of the Senate or the House of Representatives.

Section 3. Chapter 45 of Title 42 is amended to read:

CHAPTER 45
JURIES AND JURORS
[(Reserved)]

Subchapter

- A. Qualifications and Exemptions
- B. Selection and Custody of Jurors
- C. Summoning Jurors
- D. Miscellaneous Provisions
- E. Penalties

SUBCHAPTER A
QUALIFICATIONS AND EXEMPTIONS

Sec.

4501. Declaration of policy.
4502. Qualifications of jurors.
4503. Exemptions from jury duty.

§ 4501. Declaration of policy.

It is the policy of this Commonwealth that:

(1) All persons entitled to a jury trial in a civil action or criminal proceeding shall have the right to jurors selected at random from a representative cross section of the eligible population of the county.

(2) All qualified citizens shall have the opportunity to be considered for service as jurors in the courts of this Commonwealth and shall have an obligation to serve as jurors when summoned for that purpose.

(3) A citizen shall not be excluded from service as a juror on the basis of race, color, religion, sex, national origin or economic status.

§ 4502. Qualifications of jurors.

Every citizen of this Commonwealth who is of the required minimum age for voting for State or local officials and who resides in

the county shall be qualified to serve as a juror therein unless such citizen:

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

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

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

§ 4503. Exemptions from jury duty.

(a) General rule.—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 on any jury except a person who served as a juror for fewer than three days in any one year in which case the exemption period shall be one year.

(3) Persons demonstrating to the court undue hardship or extreme inconvenience may be excused permanently or for such period as the court determines necessary, and if excused for a limited period, at the end of the period the juror shall be assigned to the next jury array.

(b) Challenges.—This section shall not affect the existing practice with respect to peremptory challenges and challenges for cause.

SUBCHAPTER B SELECTION AND CUSTODY OF JURORS

Sec.

4521. Selection of prospective jurors.

4522. List of qualified jurors.

4523. List of disqualified jurors.

4524. Selection of jurors for service.

4525. Equipment used for selection of jurors.

4526. Challenging compliance with selection procedures.

§ 4521. Selection of prospective jurors.

(a) Preparation of master list.—In order to accomplish the objectives of section 4501 (relating to declaration of policy), the jury selection commission shall at least annually prepare a master list of prospective jurors. The list shall contain all voter registration lists for the county, which lists may be incorporated by reference, or names from such other lists which in the opinion of the commission will provide a number of names of prospective jurors which is equal to or greater than the number of names contained in the voter registration list. The commission may, but will not be required to, supplement the list which supplemental list may include but need not be limited to those persons in any of the following categories:

(1) Persons listed in telephone, city, municipal directories and similar directories.

(2) Persons who pay taxes or are assessed for taxes imposed by any political subdivisions. Officials of political subdivisions having custody, possession or control of the tax assessment lists of names shall upon request of the commission make such records available to the commission. This paragraph shall not be construed to require or permit any official having custody, possession or control of such tax records to provide the commission with any information other than the name, mailing address and municipality of residence of such persons.

(3) 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 and residences or mailing addresses of such persons shall make them available to the commission for inspection, reproduction and copying. This paragraph shall not be construed to require or permit an official having custody, possession or control of records of programs authorized by law:

(i) to provide the commission with information other than the name, mailing address and municipality of residence of such persons; or

(ii) to provide the commission or otherwise disclose records or information which the Department of Justice by regulation determines to be privileged from disclosure.

(4) Persons who are on school census lists.

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

(b) Maintenance and access to master list.—The group of names compiled as set forth in subsection (a) shall constitute the master list of prospective jurors. The list shall be open to the public for inspection.

(c) Selection of names for jury service.—At least once each year the commission shall select from the master list of prospective jurors the number of names designated by the president judge, which names shall be selected at random.

(d) Juror qualification form.—

(1) The commission may mail to each person whose name has been selected in the manner set forth in subsection (c) a juror qualification form devised by the commission in such manner that the commission may determine from the answers to the questions on the form whether or not the prospective juror is qualified. The questions asked in such juror qualification form shall be limited to matters reasonably calculated to permit a determination of the person's qualifications to serve as a juror.

(2) The juror qualification form shall be executed by the prospective juror and shall plainly and conspicuously state thereon that its execution is subject to the penalty for perjury. If the person is unable to fill out the form, another person may fill it out for him, indicate that he has done so, and the reason therefor.

(3) If 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.

(4) Any person who fails to return the juror qualification form as directed may be summoned by the commission to appear at the offices of the commission to fill out a juror qualification form or to resolve any ambiguity contained therein.

(e) Selection in certain counties.—In those counties which do not use the juror qualification form as provided for in subsection (d), the selection of persons for jury service shall be made in accordance with section 4524 (relating to selection of jurors for service) and provision shall be made for the collection of information with the summons in order to comply with sections 4502 (relating to qualifications of jurors) and 4503 (relating to exemptions from jury duty).

(f) Compelling compliance with section.—On application by the commission, the court shall compel compliance with subsections (a)(2), (3) and (4) and (d).

§ 4522. List of qualified jurors.

After receipt of the juror qualification forms as provided in section 4521(d) (relating to selection of prospective jurors), the jury selection commission shall determine whether or not those individuals returning the forms are qualified for jury service, as provided in section 4502 (relating to qualifications of jurors). The names of qualified persons compiled as set forth in this section shall constitute the list of persons who are qualified to serve as jurors and shall be open for public inspection.

§ 4523. List of disqualified jurors.

The jury selection commission shall create and maintain a list of names of all prospective jurors who have been disqualified and the reasons for their disqualification. The list shall be open for public inspection.

§ 4524. Selection of jurors for service.

Except as otherwise provided in section 4525 (relating to equipment used for selection of jurors), the jury selection commission shall maintain a master list or jury wheel and shall place therein the names of persons included on the list of qualified jurors. Upon receipt of a court order pursuant to section 4541 (relating to issuance of court orders for jurors), the commission shall publicly select at random from the master list or jury wheel such number of names of persons as may be required to be summoned for assignment to jury arrays. A separate list of names and addresses of persons assigned to each jury

array shall be prepared and made available for public inspection at the offices of the commission no later than 30 days prior to the first date on which the array is to serve.

§ 4525. Equipment used for selection of jurors.

The jury selection commission is authorized, but not required, to use mechanical or electro-mechanical devices or business machines in the random selection, drawing, investigating, summoning and listing of jurors.

§ 4526. Challenging compliance with selection procedures.

(a) Challenge to array.—Within ten days after publication of the array a party to a matter on a then published list of cases scheduled for jury trial may petition the court to stay the proceedings in the case where he is a party and to select a new jury array, or for other appropriate relief, on the ground of failure to substantially comply with this subchapter.

(b) Hearing on petition.—At the hearing on the petition filed under subsection (a), the moving party is entitled to present in support of the petition the testimony of the jury commissioners or their clerks, any relevant records and papers not public or otherwise available used by the jury commissioners or their clerks and any other relevant evidence. If the court determines that in selecting persons to fill the array the commissioners have failed to substantially comply with this subchapter, the court shall stay the proceedings requiring the service of jurors pending the selection of a new array in conformity with this subchapter or may grant other appropriate relief.

(c) Exclusive remedy.—Unless and until suspended or superseded by general rules, the procedures prescribed by this section are the exclusive means by which a person accused of a crime, the Commonwealth or a party in a civil case may challenge an array of jurors on the ground that the array was not selected in conformity with this subchapter.

(d) Records.—The contents of any records or papers used by the jury commissioners or their clerks in connection with the selection process and not made public under this subchapter shall not be disclosed (except in connection with the preparation or presentation of a petition filed under subsection (a)) until after the list of qualified jurors or jury wheel has been emptied and refilled and all persons selected to serve as jurors before the list of qualified jurors or jury wheel was emptied have been discharged.

(e) Challenge to panel of jurors.—A jury panel for the trial of any case may be challenged only on the grounds that it was not selected at random from the array. Such challenge must be made by a party immediately after the panel of jurors has been selected by the administrative staff of the court and before interrogation of jurors commences.

(f) Other challenges.—Nothing in this subchapter shall affect the existing practice with respect to peremptory challenges and challenges for cause.

SUBCHAPTER C SUMMONING JURORS

Sec.

4541. Issuance of court orders for jurors.

4542. Summoning jurors for service.

§ 4541. Issuance of court orders for jurors.

Court orders directing the jury selection commission to select an array of jurors shall be issued in the form prescribed by general rules or rule of court.

§ 4542. Summoning jurors for service.

Jurors who have been selected for service shall be summoned to serve in a manner determined by the jury selection commission with the concurrence of the president judge.

SUBCHAPTER D MISCELLANEOUS PROVISIONS

Sec.

4561. Compensation of jurors.

4562. Juror's right to refuse inquiries.

4563. Protection of employment of jurors.

4564. Alternate jurors.

4565. Competency of certain petit jurors where political subdivision is a party.

§ 4561. Compensation of jurors.

(a) Compensation.—A juror summoned to serve shall receive compensation at the rate of \$9 a day for the first three days in any calendar year he shall be required to report for service and \$25 a day for each day thereafter in such calendar year that such juror is required to report. In addition, jurors shall be compensated for mileage at the rate of 17¢ per mile circular except that no mileage shall be paid in the first judicial district.

(b) State reimbursement.—The Commonwealth shall reimburse each county 80% of the amount expended by the county for such compensation and mileage beyond the first three days of service if the juror is participating in a trial. Application for reimbursement shall be made by the county to the State Treasurer through the Administrative Office on forms and pursuant to uniform procedures prescribed by said office.

§ 4562. Juror's right to refuse inquiries.

Except where jury tampering is being investigated by the proper authorities, a juror shall not be required to answer to any person concerning the manner in which the jury reached its verdict or why it was unable to agree upon a verdict.

§ 4563. Protection of employment of jurors.

(a) General rule.—An employer shall not deprive an employee of his employment, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a juror or attends court for prospective jury service.

(b) Penalty.—Any employer who violates subsection (a) commits a summary offense.

(c) Civil remedy available.—If an employer penalizes an employee in violation of subsection (a) the employee within six months after the violation occurs may bring a civil action for recovery of wages and other benefits lost as a result of the violation and for an order requiring his reinstatement. Damages recoverable shall not exceed wages and benefits actually lost. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

§ 4564. Alternate jurors.

Alternate jurors shall be selected and shall serve as jurors under terms and conditions prescribed by general rules.

§ 4565. Competency of certain petit jurors where political subdivision is a party.

A person shall not be challenged for cause and excluded from serving as a juror in any action or proceeding in which a political subdivision is a party or is interested because such person was an officer, rated citizen or inhabitant in such political subdivision or owns assessed or taxable property or is liable to the assessment or payment of taxes in such political subdivision. This section shall not apply to peremptory challenges of such persons.

SUBCHAPTER E PENALTIES

Sec.

4581. Interfering with selection of jurors.

4582. Tampering with names of jurors.

4583. Tampering with jurors.

4584. Failure of juror to appear.

§ 4581. Interfering with selection of jurors.

(a) Commission members and employees.—Any member of the jury selection commission or any employee, clerk, investigator or assistant in the employ of the commission, who shall violate any of the provisions of this chapter for the purpose of unlawfully procuring the selection or nonselection of any person for jury service commits a misdemeanor of the second degree and upon conviction thereof shall be forthwith removed from his office or employment and in addition thereto shall be ineligible to hold any public office or employment under the laws of this Commonwealth. In the case of the judicial member of the commission, such member shall be disqualified to hold his position on the commission and the matter shall be referred to the Judicial Inquiry and Review Board.

(b) Other persons.—Any person other than the persons described in subsection (a), who undertakes or offers by illegal 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 affecting the selection or exemption of any persons from jury service or performs any of these acts for the purpose of enabling himself or another to evade jury service, commits a misdemeanor of the second degree.

§ 4582. Tampering with names of jurors.

Any person who directly or indirectly unlawfully tampers with the names drawn from the master list of prospective jurors or jury wheel or with the master list of prospective jurors or jury wheel or with any array or jury list commits a misdemeanor of the second degree.

§ 4583. Tampering with jurors.

Any person who, having in any manner ascertained the names of persons drawn from the master list of prospective jurors or jury wheel, shall thereafter discuss with any prospective juror the facts or alleged facts of any particular suit or cause then listed for trial in the court for which the prospective juror has been summoned for jury service, with the intent to influence the juror in his service or in the consideration of the evidence in the matter, commits a misdemeanor of the second degree. The penalty provided in this section shall be in addition to the penalties now provided by law for bribery.

§ 4584. Failure of juror to appear.

A prospective juror who has been summoned to serve as a juror and who fails to appear as summoned shall, unless exempt or excused pursuant to section 4503 (relating to exemptions from jury duty), be punishable for contempt of court and may be fined in an amount not exceeding \$500 or imprisoned for a term no more than ten days or both.

Section 4. (a) The act of May 22, 1933 (P.L.851, No.153), entitled "An act fixing the pay and mileage of jurors and witnesses," is repealed.

(b) The act of April 18, 1978 (P.L.35, No.17), entitled "An act permitting any person required to serve as a juror to absent himself from any service or employment in which he is then engaged or employed; prohibiting employers from dismissing or threatening to dismiss such persons; granting such persons civil relief," is repealed.

(c) All other acts or parts of acts are repealed to the extent they are inconsistent with this act.

Section 5. This act shall apply and be implemented as follows:

(1) This act shall apply in all counties on and after January 1, 1981.

(2) By order of the president judge of the court of common pleas, this act, except 42 Pa.C.S. § 4561 (relating to compensation of jurors), may be put into effect in the respective county, in whole or in part or in successive stages, at any time prior to January 1, 1981.

(3) Incumbent jury commissioners shall continue in office until successors are duly qualified.

Section 6. Proceedings occurring on and after the effective date of this act and prior to January 1, 1981, which relate to matters affected by this act shall be valid if conducted in a manner that would be or was authorized either under this act or any act or part of an act repealed or superseded by this act or repealed or suspended by the act of April 28, 1978 (P.L.202, No.53), known as the "Judiciary Act Repealer Act."

Section 7. This act shall take effect immediately.

APPROVED—The 26th day of June, A. D. 1980.

DICK THORNBURGH