

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

SENATE BILL 42

5 By: Senator Higginbothom
6
7

For An Act To Be Entitled

8
9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE
10 PROCESS OF SELECTING JURORS; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13
14 AN ACT TO MAKE TECHNICAL CORRECTIONS TO
15 THE PROCESS OF SELECTING JURORS.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 16-31-102(a), pertaining to persons
21 disqualified to act as jurors, is amended to read as follows:

22 (a) The following persons are disqualified to act as grand or petit
23 jurors:

24 (1) Persons who do not meet the qualifications of § 16-31-101;

25 (2) Persons who are unable to speak or understand the English
26 language;

27 (3) Persons who are unable to read or write the English
28 language, except that the circuit judge, in the exercise of his discretion,
29 may waive these requirements when the persons are otherwise found to be
30 capable of performing the duties of jurors;

31 (4) Persons who have been convicted of a felony and have not
32 been pardoned;

33 (5) Persons who are not of good character or approved integrity,
34 are lacking in sound judgment or reasonable information, are intemperate, or
35 are not of good behavior; ~~and~~

36 (6) Persons who, by reason of a physical or mental disability,



1 are unable to render satisfactory jury service, except that no person shall
 2 be disqualified solely on the basis of loss of hearing or sight in any
 3 degree; and

4 (7) Persons who are less than eighteen (18) years of age at the
 5 time they are required to appear.

6
 7 SECTION 2. Arkansas Code § 16-32-103(d) and (e), pertaining to the
 8 master list of prospective jurors selected from the current list of
 9 registered voters, are amended to read as follows:

10 (d) Subsections (a)-(c) of this section shall be applicable to all
 11 circuit courts and counties within the state that are not using a
 12 computerized random jury selection process.

13 (e)(1)(A) All circuit clerks who maintain on computers voter
 14 registration lists or the enhanced list of prospective jurors authorized by §
 15 16-32-302 on computers, whether in-house or contracted, may utilize the
 16 computers and associated equipment for the purpose of selecting jury panels
 17 from the voter registration lists or the enhanced list of prospective jurors
 18 instead of compiling a master list under subsections (a)-(c) of this section
 19 if the computer program is capable of randomly selecting names for the jury
 20 panels from the voter registration lists or enhanced list of prospective
 21 jurors.

22 (B) If the computer program is not capable of randomly
 23 selecting names for the jury panels from the voter registration lists or
 24 enhanced list of prospective jurors, the clerks may use the computers and
 25 associated equipment for the purpose of creating the master list under
 26 subsections (a)-(c) of this section.

27 (2) The master list of jurors' names and addresses shall not be
 28 available for public inspection, publication, or copying, but it may be
 29 examined in the presence of the circuit judge by litigants or their attorneys
 30 who desire to verify that names drawn from the wheel or box were placed there
 31 in the manner provided in this act by the commissioners.

32 (3) In counties where jury selection is conducted by a
 33 computerized random process, the source list of potential jurors' names and
 34 addresses shall not be available for public inspection, publication, or
 35 copying, but it may be examined in the presence of the circuit judge by
 36 litigants or their attorneys who desire to verify that names randomly

1 selected by computer were selected from the source list.

2 SECTION 3. Arkansas Code § 16-32-104, pertaining to jury wheels or
3 boxes, is amended to add an additional subsection to read as follows:

4 (e) The courts are authorized to use a computer program that is
5 capable of random selection of names from the list of registered voters or
6 the enhanced list of prospective jurors authorized under § 16-32-302 instead
7 of maintaining the jury wheel or box required under subsections (a) - (d) of
8 this section.

9
10 SECTION 4. Arkansas Code § 16-32-105, pertaining to drawing for the
11 names of petit jurors, is amended to add an additional subsection to read as
12 follows:

13 (f) The drawing and recording of jurors under subsections (a) - (e) of
14 this section may be accomplished by a computerized random jury selection
15 process.

16
17 SECTION 5. Arkansas Code § 16-32-106 is amended to read as follows:

18 16-32-106. Summons of petit jurors.

19 (a) The persons whose names have been ~~drawn and recorded in the petit~~
20 ~~jury book~~ selected under § 16-32-105 shall be summoned to appear on a date
21 set by the court to answer questions concerning their qualifications and,
22 unless excused or disqualified, to serve the required number of days or for
23 the maximum period during the calendar year for which selected unless sooner
24 discharged.

25 (b) Jurors shall be summoned by the court, or by the sheriff, as the
26 court directs, by:

27 (1) A notice dispatched by first-class mail; or

28 (2) Notice given personally on the telephone; or

29 (3) Service of summons personally or by such other method as is
30 permitted or prescribed by law.

31 (c)(1)(A) If a notice is dispatched by first-class mail, the
32 prospective jurors shall be given a date certain to ~~call~~ contact the sheriff
33 or the court to confirm receipt of the notice.

34 (B) Not later than five (5) days before the prospective
35 juror is to appear, the sheriff or the court shall ~~call~~ contact the
36 prospective juror if the prospective juror has failed to acknowledge receipt

1 of the notice.

2 (C) The court shall have discretion to determine whether
3 the sheriff or the court will be the prospective juror's primary contact.

4 (2) A notice dispatched by first-class mail shall be sent on a
5 form approved by the Administrative Office of the Courts or it shall include
6 the following language:

7
8 "You are hereby notified that you have been chosen as a prospective juror.
9 You must ~~call~~ notify the sheriff [or the court] on or before
10 (date) to confirm that you have received this notice. If you do
11 not ~~call~~ notify the sheriff [or the court] to confirm this notice, the
12 sheriff [or the court] will contact you and there will be added cost. Please
13 call the sheriff [or the court] at (phone number)
14 . . ."

15 (d) Unless excused by the circuit judge, a juror who has been legally
16 summoned and who shall fail to attend on any date when directed to do so may
17 be fined in any sum not less than five dollars (\$5.00) nor more than five
18 hundred dollars (\$500). However, nothing in this subsection shall be
19 construed to limit the inherent power of the court to punish for contempt.
20 All excuses granted by the circuit judge shall be noted in the jury book or
21 the computer program described in § 16-32-103.

22
23 SECTION 6. Arkansas Code § 16-32-108 is amended to read as follows:
24 16-32-108. Additional jurors.

25 (a) If at any time it appears that a sufficient number of qualified
26 jurors are not available to try scheduled cases, additional names may be
27 drawn and recorded in the jury book in open court or randomly selected by
28 computer program described in § 16-32-103. These jurors shall be summoned as
29 provided in § 16-32-106(a) and (b).

30 (b) The circuit judge may, at any time, in the exercise of his
31 discretion, direct the jury commissioners who selected the original names
32 placed in the wheel or jury box, or new commissioners designated by him, to
33 meet and submit the names and last known addresses of additional registered
34 voters whom the commissioners shall select in the manner provided by § 16-32-
35 103(a)-(d). These names and addresses shall be placed by the commissioners
36 within the wheel or box when it is next unlocked in open court and prior to

1 any additional drawing of jurors, and a master list shall be presented to the
2 court as provided in § 16-32-103(a)-(d).

3 (c) The drawing and recording of additional jurors pursuant to
4 subsections (a) and (b) of this section may be accomplished by a computerized
5 random jury selection process.

6
7 SECTION 7. Arkansas Code § 16-32-201 is amended to read as follows:
8 16-32-201. Selection of grand jury.

9 (a) The selecting, summoning, and impaneling of a grand jury shall be
10 as prescribed by law.

11 (b) Circuit courts to which criminal cases are assigned may call grand
12 jurors from the wheel or box from which petit jurors are drawn, or the
13 circuit judge may direct the jury commissioners to provide the minimum number
14 of names for a separate grand jury wheel or box in the minimum number set
15 forth in § 16-32-103(a)-(d). In the event the circuit judge directs the jury
16 commissioners to provide the minimum number of names for a separate grand
17 jury wheel or box, the jury commissioners shall select the names of persons
18 whom they believe to be qualified from the current voter registration list or
19 the enhanced prospective juror list authorized by § 16-32-302.

20 (c) In either event, when a grand jury is selected, the names of a
21 sufficient number of persons shall be drawn from the appropriate box or wheel
22 to provide a panel of sixteen (16) qualified grand jurors, plus a reasonable
23 number of alternates, after excuses from attendance have been granted to
24 those who are entitled to be excused.

25 (d) As the names are drawn, they shall be recorded in the grand jury
26 book, and the grand jurors shall be summoned and directed to appear in the
27 same manner as provided for petit jurors.

28 (e) The grand jury shall be made up of the first sixteen (16) persons
29 summoned whose names appear as grand jurors in the jury book after the
30 elimination of the disqualified or excused persons.

31 (f) The remaining grand jurors whose names appear in the jury book
32 after the elimination of disqualified or excused persons shall be considered
33 as alternates and shall be designated in the order as they appear in the jury
34 book to replace regular grand jurors who become incapacitated or who are
35 unavailable. Alternate grand jurors shall not be disqualified from further
36 jury duty as provided in § 16-31-104 until they have been required to report

1 for grand jury service during the year.

2 (g) Grand jurors shall serve during the calendar year in which
3 selected unless sooner discharged by the court.

4 (h) The drawing and recording of grand jurors under subsections (a) -
5 (g) of this section may be accomplished by a computerized random jury
6 selection process.

7
8 SECTION 8. Arkansas Code § 16-32-301 is amended to read as follows:
9 16-32-301. Enhanced prospective juror pool.

10 (a) ~~Beginning January 1, 2005, the~~ The pool of names from which
11 prospective jurors are chosen may be expanded from the list of registered
12 voters ~~under § 16-32-103 to include, in addition,~~ the list of licensed
13 drivers and persons issued an identification card under § 27-16-805.

14 ~~(b) Each prospective juror shall:~~

15 ~~(1) Be a citizen of the United States;~~

16 ~~(2) Be eighteen (18) years of age or older;~~

17 ~~(3) Be a resident of the applicable county; and~~

18 ~~(4) Not have pleaded guilty or nolo contendere to or been found~~
19 ~~guilty of any felony offense.~~

20 (b) The qualifications for serving on a jury under § 16-31-101 and the
21 disqualifications under § 16-31-102 shall apply to the enhanced prospective
22 juror pool permitted under subsection (a) of this section.

23
24 SECTION 9. Arkansas Code § 16-32-302 is amended to read as follows:
25 16-32-302. Enhanced list of prospective jurors.

26 (a)(1) In order to allow for the use of the enhanced prospective juror
27 pool, the Secretary of State shall compile and make available no later than
28 November 1 of each year, and at other times determined by the Secretary of
29 State, an enhanced list of prospective jurors in automated or nonautomated
30 form, as provided for in subsection (b) of this section, for:

31 (A) any Any circuit clerk requesting an enhanced list of
32 prospective jurors for his or her county; and

33 (B) The Administrative Office of the Courts for use in its
34 automated jury management system.

35 (2) Neither the enhanced list of prospective jurors nor its
36 component parts may be released by the Secretary of State, Administrative

1 Office of the Courts, or any county or agency receiving the list or its
2 component parts unless otherwise permitted by law.

3 (3) Unlawful release of the enhanced list of prospective jurors
4 shall be a Class B misdemeanor.

5 (b)(1) The Secretary of State shall receive from the Department of
6 Finance and Administration ~~no later than October 1 of~~ at mutually agreeable
7 times each year a list of all licensed drivers and persons issued
8 identification cards under § 27-16-805 who are citizens of the United States
9 and ~~eighteen (18)~~ sixteen (16) years of age or older.

10 (2) ~~The Secretary of State shall merge this list with the~~
11 ~~current list of all registered voters for each county and shall delete any~~
12 ~~duplicate entries.~~ The Department of Finance and Administration, the Arkansas
13 Crime Information Center, the Department of Health, and the Administrative
14 Office of the Courts shall assist the Secretary of State in developing a
15 process whereby the Secretary of State will create a merged list from the
16 voter registration list, the list of licensed drivers, and persons issued
17 identification cards under § 27-16-805, who are citizens of the United States
18 and who will be eighteen (18) years of age or older at the time the list is
19 provided to the counties or the Administrative Office of the Courts.

20 (3)(A) ~~The merged list shall be provided to the Arkansas Crime~~
21 ~~Information Center, which shall delete the names of persons on the merged~~
22 ~~list who have pleaded guilty or nolo contendere to or been found guilty of~~
23 ~~any felony offense.~~ In order to improve the quality of the enhanced list of
24 prospective jurors and to decrease the cost of summoning potential jurors,
25 the Arkansas Crime Information Center and the Administrative Office of the
26 Courts are authorized to provide information to the Secretary of State and
27 the Department of Finance and Administration to identify which voters,
28 licensed drivers, and persons issued identification cards under § 27-16-805
29 have been convicted of a felony and have not been pardoned.

30 (B) The Department of Health is authorized to provide
31 information to the Secretary of State and the Department of Finance and
32 Administration in order to identify which voters, licensed drivers, and
33 persons issued identification cards under § 27-16-805 are deceased, have
34 changed names, or have been married or divorced.

35 (4) The Arkansas Crime Information Center, the Administrative
36 Office of the Courts, and the Department of Health are authorized to provide

1 as much information as they agree is necessary and possible to enable the
 2 Secretary of State to compile the most accurate, timely, and complete merged
 3 list of voters, licensed drivers, and persons issued identification cards
 4 under § 27-16-805, who are citizens of the United States, eighteen (18) years
 5 of age or older, are still living, and who have not been convicted of a
 6 felony and have not been pardoned.

7
 8 SECTION 10. Arkansas Code § 16-32-303 is amended to read as follows:
 9 16-32-303. Judicial determination of need for expanded list.

10 (a) The administrative circuit judge for each county shall determine
 11 ~~whether~~ that either the list of registered voters or the enhanced list, but
 12 not both, shall be utilized in the selection of all prospective jurors for
 13 all of the circuit court divisions within the county, based upon a
 14 consideration of whether the use of registered voters creates a sufficient
 15 pool for the selection of jurors to offer an adequate cross section of the
 16 community.

17 ~~(b) If the judge determines that the list of registered voters shall~~
 18 ~~be used, no action other than that under § 16-32-103 shall be required.~~

19 ~~(c)~~(b) If the judge determines that the enhanced ~~voter~~ prospective
 20 juror list, as described in § 16-32-302(b), should be used by the county,
 21 then on or before October 1, the judge shall inform the circuit clerk who
 22 shall notify the Secretary of State and the Administrative Office of the
 23 Courts that the enhanced list will be requested for the county ~~and shall be~~
 24 ~~used as the master list from which prospective jurors shall be chosen for the~~
 25 ~~selection process under § 16-32-103.~~

26
 27 SECTION 11. Arkansas Code § 16-33-101 is amended to read as follows:
 28 16-33-101. Examination of prospective jurors.

29 (a) In all cases, both civil and criminal, the court shall examine all
 30 prospective jurors under oath upon all matters set forth in the statutes as
 31 disqualifications.

32 (b) Further questions may be asked by the court or by the attorneys in
 33 the case, in the discretion of the court.

34 (c)(1)(A)(i) If a court utilizes prospective juror questionnaires, the
 35 questionnaires ~~shall not~~ may request a prospective juror's mailing or
 36 residential address or phone number.

1 (ii) However, the address and phone number shall be
2 redacted from the questionnaires before providing completed questionnaires to
3 the attorneys for the parties.

4 (B) The attorneys for the parties shall be precluded from
5 asking for that information during voir dire.

6 (C) However, the attorneys or the court may ask a
7 prospective juror his or her city or town of residence.

8 (2) Nothing in this section shall preclude the clerk of the
9 court from keeping and maintaining records of potential jurors that contain
10 mailing or residential addresses or phone numbers.

11
12 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that the present method of
14 selecting grand jurors and petit jurors is inadequate to permit computerized
15 random selection; that this act will provide for the computerized random
16 selection of jurors; and that until this act becomes effective, the validity
17 of findings and judgments issued by juries selected randomly by computer is
18 subject to question. Therefore, an emergency is declared to exist and this
19 act being immediately necessary for the preservation of the public peace,
20 health, and safety shall become effective on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,
23 the expiration of the period of time during which the Governor may veto the
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is
26 overridden, the date the last house overrides the veto.