

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 86th General Assembly
3 Regular Session, 2007
4

A Bill

SENATE BILL 241

5 By: Senators Luker, R. Thompson
6 By: Representatives D. Johnson, Bond, E. Brown, Harrelson, Pate, Thyer, Wills, Wood
7

For An Act To Be Entitled

10 AN ACT TO REQUIRE THAT THE ENHANCED PROSPECTIVE
11 JUROR LIST BE USED IN THE SELECTION OF ALL
12 PROSPECTIVE JURORS IN ALL CIRCUIT COURT
13 DIVISIONS; AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO REQUIRE THAT THE ENHANCED
16 PROSPECTIVE JUROR LIST BE USED IN THE
17 SELECTION OF ALL PROSPECTIVE JURORS IN
18 ALL CIRCUIT COURT DIVISIONS.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Effective January 1, 2008, Arkansas Code § 16-31-101 is
25 amended to read as follows:

26 16-31-101. Qualifications.

27 Every ~~registered voter or, in counties where an enhanced prospective~~
28 ~~jury list is utilized, every~~ registered voter, licensed driver, or person
29 issued an identification card under § 27-16-805 who is a citizen of the
30 United States and a resident of the State of Arkansas and of the county in
31 which he or she may be summoned for jury service is legally qualified to act
32 as a grand or petit juror if not otherwise disqualified under the express
33 provisions of this act.
34

35 SECTION 2. Effective January 1, 2008, Arkansas Code § 16-32-103 is
36 amended to read as follows:



1 16-32-103. Master list.

2 (a) During the month of November or December of each year, the
3 prospective jurors for the following calendar year shall be selected from
4 among the current ~~list of registered voters~~ enhanced list of prospective
5 jurors authorized by § 16-32-302 of the applicable district or county in the
6 following manner:

7 (1) The circuit judge, in the presence of the circuit clerk,
8 shall select at random a number between one (1) and one hundred (100),
9 inclusive, which shall be the starting number, and the circuit court shall
10 then select the person whose name appears on the current ~~voter registration~~
11 ~~list~~ enhanced list of prospective jurors in that numerical position, counting
12 sequentially from the first name on the list;

13 (2) The circuit clerk shall then select the one hundredth ~~voter~~
14 ~~registrant~~ prospective juror appearing on the enhanced list after the
15 starting number. As an example, if the starting number is sixty-seven (67),
16 which is the first selection, the second selection would be the one hundred
17 sixty-seventh ~~registered voter~~ prospective juror, the third selection would
18 be the two hundred sixty-seventh ~~registered voter~~ prospective juror, and so
19 forth until the current ~~registered voter list~~ enhanced list of prospective
20 jurors is exhausted; and

21 (3) The circuit judge and the circuit clerk shall then repeat
22 the random selection process until the number of jurors set out in this
23 subsection have been selected.

24 (b) The number of persons to be selected shall be based upon the
25 number of qualified registered voters in the appropriate district or county
26 as reflected by the current list of registered voters provided by the county
27 clerk under legal requirements and, unless a larger number is designated by
28 the circuit judge, the minimum number selected shall be as follows:

29
30
31

	Mininum Number	Minimum Number
32 -----		
33	of Prospective	of Prospective
34 Number of	Petit Jurors	Grand Jurors
35 Registered Voters		
36 -----		

1	90,000 or more	1,200	120
2	16,000 to 89,999	1,000	100
3	10,000 to 15,999	800	90
4	6,000 to 9,999	600	75
5	2,000 to 5,999	500	75
6	0 to 1,999	250 or 50% of	
7		the registered voters,	
8		whichever is smaller	

9
 10 (c)(1) After the list of prospective jurors has been submitted by the
 11 circuit clerk, the circuit judge may, in the exercise of his or her
 12 discretion, authorize clerical assistance in preparing the alphabetized
 13 master list and separate cards, chips, disks, or other appropriate means of
 14 including the names and addresses of the prospective jurors in the wheel or
 15 box.

16 (2) The expense of this clerical help shall be paid by the
 17 county as an expense of the administration of justice.

18 (3) Clerical employees shall take the following oath:
 19

20 "I will not make known to anyone the names of the prospective jurors
 21 who have been selected and I will not, directly or indirectly, converse with
 22 anyone selected as a juror concerning the merits of any proceeding pending or
 23 likely to come before the grand jury or court until after the case is tried
 24 or otherwise finally disposed of."

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

28 (e)(1)(A) All circuit clerks who maintain on computers ~~voter~~
 29 ~~registration lists or~~ the enhanced list of prospective jurors authorized by §
 30 16-32-302, whether in-house or contracted, may utilize the computers and
 31 associated equipment for the purpose of selecting jury panels from the ~~voter~~
 32 ~~registration lists or the~~ enhanced list of prospective jurors instead of
 33 compiling a master list under subsections (a)-(c) of this section if the
 34 computer program is capable of randomly selecting names for the jury panels
 35 from the ~~voter registration lists or~~ enhanced list of prospective jurors.

36 (B) If the computer program is not capable of randomly

1 selecting names for the jury panels from the ~~voter registration lists or~~
2 enhanced list of prospective jurors, the clerks may use the computers and
3 associated equipment for the purpose of creating the master list under
4 subsections (a)-(c) of this section.

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

10 (3)(A) In counties where jury selection is conducted by a
11 computerized random process, the source list of potential jurors' names and
12 addresses shall not be available for public inspection, publication, or
13 copying.

14 (B) The source list may be examined in the presence of the
15 circuit judge by litigants or their attorneys who desire to verify that names
16 randomly selected by computer were selected from the list.

17
18 SECTION 3. Effective January 1, 2008, Arkansas Code § 16-32-104(b),
19 pertaining to the use of a computer program to randomly select names of
20 prospective jurors, is amended to read as follows:

21 (b) The courts are authorized to use a computer program that is
22 capable of random selection of names from the ~~list of registered voters or~~
23 ~~the~~ enhanced list of prospective jurors authorized under § 16-32-302 instead
24 of maintaining the jury wheel or box required under subdivisions (a)(1)-(4)
25 of this section.

26
27 SECTION 4. Effective January 1, 2008, Arkansas Code § 16-32-108 is
28 amended to read as follows:

29 16-32-108. Additional jurors.

30 (a)(1) If at any time it appears that a sufficient number of qualified
31 jurors are not available to try scheduled cases, additional names may be
32 drawn and recorded in the jury book in open court or randomly selected by
33 computer program described in § 16-32-103. These jurors shall be summoned as
34 provided in § 16-32-106(a)(1) and (2).

35 (2) The circuit judge may, at any time, in the exercise of his
36 or her discretion, direct the jury commissioners who selected the original

1 names placed in the wheel or jury box, or new jury commissioners designated
2 by him or her, to meet and submit the names and last known addresses of
3 additional ~~registered voters~~ prospective jurors on the enhanced list
4 authorized by § 16-32-302 whom the jury commissioners shall select in the
5 manner provided by § 16-32-103(a)-(d). These names and addresses shall be
6 placed by the jury commissioners within the wheel or box when it is next
7 unlocked in open court and prior to any additional drawing of jurors, and a
8 master list shall be presented to the court as provided in § 16-32-103(a)-
9 (d).

10 (b) The drawing and recording of additional jurors pursuant to
11 subdivisions (a)(1) and (2) of this section may be accomplished by a
12 computerized random jury selection process.

13
14 SECTION 5. Effective January 1, 2008, Arkansas Code § 16-32-109 is
15 amended to read as follows:

16 16-32-109. Selection upon challenge by litigant.

17 (a)(1) A challenge to the use of the names selected by the jury
18 commissioners and placed in the jury wheel or box for the drawing of trial
19 panels therefrom may be made only by a litigant in a particular case.

20 (2) If the trial judge sustains the challenge to the use of
21 names in the jury wheel or box for the drawing of trial jurors, he shall
22 appoint a jury commission of not less than three (3) persons, qualified and
23 sworn as jury commissioners as provided by law, to select such a number of
24 persons as the judge may designate from the current ~~voter registration list~~
25 enhanced list of prospective jurors authorized by § 16-32-302 in the manner
26 provided by § 16-32-103(a)-(d). The list of persons, upon being summoned,
27 shall constitute the panel of jurors for the trial of the cause.

28 (3) If the panel is exhausted prior to the formation of the
29 trial jury for any reason, the jury commissioners shall be reconvened and
30 additional names selected as provided in this section and placed on the list
31 to be summoned as special jurors in such numbers as is deemed necessary to
32 complete the jury for the trial of the cause.

33 (b)(1) A challenge to the jury drawn from the jury wheel or box may be
34 made by a litigant in a particular case and shall be sustained by the court
35 if it shall appear that there was a substantial irregularity in the drawing
36 or summoning of the jury.

1 (2) In such a case, the court shall order, in open court,
2 another panel drawn for the trial of the case and other cases in which a
3 similar challenge is sustained.

4
5 SECTION 6. Effective January 1, 2008, Arkansas Code § 16-32-201(a),
6 pertaining to the selection of a grand jury, is amended to read as follows:

7 (a)(1) The selecting, summoning, and impaneling of a grand jury shall
8 be as prescribed by law.

9 (2)(A) Circuit courts to which criminal cases are assigned may
10 call grand jurors from the wheel or box from which petit jurors are drawn, or
11 the circuit judge may direct the jury commissioners to provide the minimum
12 number of names for a separate grand jury wheel or box in the minimum number
13 set forth in § 16-32-103(a)-(d).

14 (B) In the event the circuit judge directs the jury
15 commissioners to provide the minimum number of names for a separate grand
16 jury wheel or box, the jury commissioners shall select the names of persons
17 whom they believe to be qualified from the current ~~voter registration list or~~
18 ~~the~~ enhanced prospective juror list authorized by § 16-32-302.

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

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

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

30 (6)(A) The remaining grand jurors whose names appear in the jury
31 book after the elimination of disqualified or excused persons shall be
32 considered as alternates and shall be designated in the order as they appear
33 in the jury book to replace regular grand jurors who become incapacitated or
34 who are unavailable.

35 (B) Alternate grand jurors shall not be disqualified from
36 further jury duty as provided in § 16-31-104 until they have been required to

1 report for grand jury service during the year.

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

4
5 SECTION 7. Effective January 1, 2008, Arkansas Code § 16-32-301 is
6 amended to read as follows:

7 16-32-301. Enhanced prospective juror pool.

8 (a) The pool of names from which prospective jurors are chosen ~~may~~
9 shall be expanded from the list of registered voters to include the list of
10 licensed drivers and persons issued an identification card under § 27-16-805.

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

14
15 SECTION 8. Effective January 1, 2008, Arkansas Code § 16-32-303 is
16 repealed.

17 ~~16-32-303. Judicial determination of need for expanded list.~~

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

24 ~~(b) If the judge determines that the enhanced prospective juror list,~~
25 ~~as described in § 16-32-302, should be used by the county, then the judge on~~
26 ~~or before October 1 shall inform the circuit clerk who shall notify the~~
27 ~~Secretary of State and the Administrative Office of the Courts that the~~
28 ~~enhanced list will be requested for the county.~~