

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

*As Engrossed: H3/22/07*

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

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	Mininum Number	Minimum Number
Number of	of Prospective	of Prospective
Registered Voters	Petit Jurors	Grand Jurors

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	

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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:

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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.

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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.

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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.

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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.

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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.

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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.

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15 SECTION 8. Effective January 1, 2008, Arkansas Code § 16-32-303 is  
16 amended to read as follows:

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

18 ~~(a)~~ With respect to the enhanced list of prospective jurors, § 16-31-  
19 101 et seq., § 16-32-101 et seq., § 16-32-201 et seq., and §§ 16-32-301 and  
20 16-32-302 shall not apply to counties with two (2) county seats except as  
21 follows:

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

28 ~~(b)~~ (2) If the administrative circuit judge determines that the  
29 enhanced prospective juror list, as described in § 16-32-302, should be used  
30 by the county, then the administrative circuit judge on or before October 1  
31 shall inform the circuit clerk who shall notify the Secretary of State and  
32 the Administrative Office of the Courts that the enhanced list will be  
33 requested for the county; and

34 (3) If the administrative circuit judge determines that the list  
35 of registered voters shall be used by a county, then with respect to that  
36 county the references in § 16-31-101 et seq., § 16-32-101 et seq., § 16-32-

1 201 et seq., and §§ 16-32-301 and 16-32-302 to the enhanced list of  
2 prospective jurors are deemed to refer to the list of registered voters.

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/s/ Luker