

HOUSE BILL No. 2381

By Committee on Judiciary

2-14

AN ACT concerning juries; relating to requirements of participation; rights; provisions for lengthy trials; amending K.S.A. 48-211, 48-512 and 69-101 and repealing the existing sections; also repealing K.S.A. 43-155, 43-158, 43-159 and 43-173.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. It is the public policy of this state that all qualified citizens have an obligation to serve on juries when summoned by the courts of this state, unless excused.

New Sec. 2. (a) Individuals scheduled to appear for jury service have the right to postpone the date of their initial appearance for jury service one time only. When requested, postponements shall be granted, provided that:

(1) The juror has not previously been granted a postponement;

(2) the prospective juror appears in person or contacts the jury coordinator or other appropriate court official by telephone, electronic mail or in writing to request a postponement; and

(3) prior to the grant of a postponement with the concurrence of the jury coordinator or other appropriate court official, the prospective juror fixes a date certain on which such juror shall appear for jury service that is not more than six months after the date on which the prospective juror originally was called to serve and on which date the court will be in session.

(b) A subsequent request to postpone jury service may be approved by a judicial officer only in the event of an extreme emergency, such as a death in the family, sudden grave illness, a natural disaster or a national emergency in which the prospective juror is personally involved, that could not have been anticipated at the time the initial postponement was granted. Prior to the grant of a second postponement, the prospective juror must fix a date certain on which the individual will appear for jury service within six months of the postponement on a date when the court will be in session.

(c) An individual who fails to appear in person on the date scheduled for jury service and who has failed to obtain a postponement in compliance with the provisions of this section, or who fails to appear on the date

1 set pursuant to subsection (a) (3) or (b), shall be guilty of a Class A
2 nonperson misdemeanor.

3 New Sec. 3. An individual may apply to be excused from jury service
4 for a period of up to 24 months, instead of seeking a postponement when
5 either:

6 (a) The prospective juror has a mental or physical condition that
7 causes the juror to be incapable of performing jury service. The juror, or
8 the juror's personal representative, must provide the court with docu-
9 mentation from a physician licensed to practice medicine and surgery
10 verifying that a mental or physical condition renders the person unfit for
11 jury service for a period of not less than the 24-month period for which
12 the excuse is sought; or

13 (b) (1) jury service would cause undue or extreme physical or finan-
14 cial hardship to the prospective juror or a person under the juror's care
15 or supervision.

16 (2) A judge of the court for which the individual was called to jury
17 service shall make undue or extreme physical or financial hardship de-
18 terminations. The authority to make these determinations is delegable
19 only to court officials or personnel who are authorized by the laws of this
20 state to function as members of the judiciary.

21 (3) A person asking to be excused based on a finding of undue or
22 extreme physical or financial hardship shall take all actions necessary to
23 have obtained a ruling on that request by no later than the date on which
24 the individual is scheduled to appear for jury duty.

25 (4) For purposes of this section, "undue or extreme physical or fi-
26 nancial hardship" is limited to circumstances in which an individual
27 would:

28 (A) Be required to abandon a person under the person's personal
29 care or supervision due to the impossibility of obtaining an appropriate
30 substitute caregiver during the period of participation in the jury pool or
31 on the jury;

32 (B) incur costs that would have a substantial adverse impact on the
33 payment of the individual's necessary daily living expenses or on those
34 for whom the individual provides the principle means of support; or

35 (C) suffer physical hardship that would result in illness or disease.

36 (5) Undue or extreme physical or financial hardship does not exist
37 solely based on the fact that a prospective juror will be required to be
38 absent from such juror's place of employment.

39 (6) A person asking a judge to grant an excuse based on undue or
40 extreme physical or financial hardship shall be required to provide the
41 judge with documentation, such as, but not limited to, federal and state
42 income tax returns, medical statements from physicians licensed to prac-
43 tice medicine and surgery, proof of dependency or guardianship and sim-

1 ilar documents, which the judge finds to clearly support the request to
2 be excused. Failure to provide satisfactory documentation shall result in
3 a denial of the request to be excused.

4 (7) After 24 months, a person excused from jury service shall become
5 eligible once again for qualification as a juror unless the person was ex-
6 cused from service permanently. A person is excused from jury service
7 permanently only when the deciding judge determines that the under-
8 lying grounds for being excused are of a permanent nature.

9 New Sec. 4. (a) Any person who is summoned to serve as a juror and
10 who notifies the person's employer of such summons within a reasonable
11 period of time after receipt of a summons and prior to the person's ap-
12 pearance for jury duty may not be removed or otherwise be subject to
13 any adverse employment action as a result of such service.

14 (b) An employee may not be required or requested to use annual,
15 vacation or sick leave for time spent responding to a summons for jury
16 duty, time spent participating in the jury selection process or for time
17 spent actually serving on a jury. Nothing in this provision shall be con-
18 strued to require an employer to provide annual, vacation or sick leave
19 to employees under the provisions of this statute who otherwise are not
20 entitled to such benefits under company policies.

21 (c) An employer, other than an employer as defined in subsection (f),
22 shall continue to pay an employee called to serve on jury duty at the same
23 rate paid when the employee is regularly working for the employer for
24 the first 10 regularly scheduled working days that the employee serves
25 on jury duty. An employer may deduct the daily fee a court actually pays
26 as compensation to an employee serving as a juror or prospective juror
27 from the employee's daily regular pay, but may not make any deduction
28 for court paid jury service fees that are in excess of the employee's regular
29 wage.

30 (d) Service of prospective jurors shall be for no more than one court
31 day in actual attendance, unless a prospective juror is selected to serve in
32 a trial or is under consideration to serve on a trial and such consideration
33 covers a period of two or more days. Once selected, a juror shall serve
34 on the jury for the duration of the trial unless excused by the presiding
35 judge.

36 (e) A juror who has served on a jury in this state shall not be sum-
37 moned to serve again as a juror in any court of this state for 10 years
38 following the last day of such service.

39 (f) An employer with five or fewer full-time employees, or their
40 equivalent, is exempt from the obligation to pay employee wages to em-
41 ployees serving on jury duty set forth in subsection (c). Notwithstanding
42 the provisions of this subsection, such employers are encouraged volun-
43 tarily to comply with the requirements of subsection (c). A court shall

1 automatically postpone and reschedule the service of a summoned juror
2 of an employer with five or fewer full-time employees, or their equivalent,
3 if another employee of that employer is summoned to appear during the
4 same period. Such postponement will not effect an individual's right to
5 one automatic postponement under subsection (a) of section 2, and
6 amendments thereto.

7 New Sec. 5. (a) The supreme court shall promulgate rules to estab-
8 lish a lengthy trial fund that shall be used to provide full wage replacement
9 or wage supplementation to jurors who serve on juries in civil litigation
10 for which a jury trial has been requested after the 10th day of jury service.

11 (b) The court rules shall provide for the following:

12 (1) The selection and appointment of an administrator for fund;

13 (2) procedures for its administration that provide that moneys in the
14 fund shall be used to make wage replacement or wage supplementation
15 as provided in this section to jurors participating on juries in trials where
16 jury service extends 11 days or longer and to recover all the costs of
17 administering the fund, including payments of salaries of the administra-
18 tor and other necessary personnel;

19 (3) the court rules shall provide for the accounting, auditing and in-
20 vestment of money in the lengthy trial fund in accordance with state law
21 pertaining to similar funds; and

22 (4) the supreme court shall report on the administration of the
23 lengthy trial fund in its annual report on the judicial branch, setting forth
24 the money collected for and disbursed from the fund.

25 (c) Each trial court in this state shall collect from each attorney who
26 files a civil case, unless otherwise exempted under the provisions of this
27 section, a fee of \$100 per case to be paid into the lengthy trial fund. An
28 attorney will be deemed to have filed a case at the time the first pleading
29 or other filing on which an individual attorney's name appears and is
30 submitted to the court for filing and opens a new case. All such fees shall
31 be forwarded to the administrator of the lengthy trial fund for deposit.

32 (d) The administrator shall use the fees deposited in the lengthy trial
33 fund to pay supplemental or full wage replacement to jurors whose em-
34 ployer pays less than full regular wages when the period of jury service
35 reaches the 11th day and thereafter.

36 (e) The court may pay replacement or supplemental wages of up to
37 \$500 per day per juror.

38 (f) (1) Any juror who is serving or has served on a jury that qualifies
39 for payment from the lengthy trial fund, provided the service commenced
40 on or after the effective date of this act, may submit a request for payment
41 from the lengthy trial fund on a form provided by the administrator.
42 Payment shall be limited to the difference between the state paid jury
43 fee and the actual amount of wages a juror earns, up to the maximum

1 level payable, minus any amount the juror actually receives from the em-
2 ployer during the same time period.

3 (2) The form shall disclose the juror's regular wages, the amount the
4 employer will pay during the term of jury service starting on the 20th day
5 and thereafter, the amount of replacement or supplemental wages re-
6 quested and any other information the administrator deems necessary for
7 proper payment.

8 (3) The juror also shall be required to submit verification from the
9 employer as to the wage information provided to the administrator, such
10 as, the employee's most recent earnings statement or similar document,
11 prior to initiation of payment from the fund.

12 (4) If an individual is self-employed or receives compensation other
13 than wages, the individual may provide a sworn affidavit attesting to the
14 individual's approximate gross weekly income, together with such other
15 information as the administrator may require, in order to verify weekly
16 income.

17 (g) The following attorneys and causes of action are exempt from
18 payment of the lengthy trial fund fee:

19 (1) Government attorneys entering appearances in the course of such
20 attorneys' official duties;

21 (2) *pro se* litigants;

22 (3) cases in small claims court; or

23 (4) claims seeking social security disability determinations; individual
24 veterans' compensation or disability determinations; recoupment actions
25 for government backed educational loans or mortgages; child custody and
26 support cases; actions brought in forma pauperis; and any other filings
27 designated by rule that involve minimal use of court resources and that
28 customarily are not afforded the opportunity for a trial by jury.

29 New Sec. 6. If any provision of this act or the application thereof to
30 any person or circumstance is held invalid, the invalidity shall not affect
31 other provisions or applications of the act can be given without the invalid
32 provision or application and to this end the provisions of this act are
33 severable.

34 Sec. 7. K.S.A. 48-211 is hereby amended to read as follows: 48-211.
35 Enlisted personnel of the Kansas army and air national guard who are
36 unable, on account of permanent physical disability, to perform the duties
37 required of them shall be discharged from the military service of the state
38 under such regulations as shall be promulgated by the military board. All
39 commissioned officers, warrant officers, and noncommissioned officers
40 who have reached the age of 64 years and those who are found to be
41 permanently disabled through no fault of their own shall be retired from
42 active service and placed on the retired list; and those who have served
43 10 years, honorably, in the military service of the United States or in any

1 state or territory thereof and shall make application for the same may be
2 placed upon the retired list.

3 ~~All members of the Kansas army and air national guard shall be exempt
4 from jury duty during the annual muster and camp instruction, during
5 the time the member is ordered by the governor to perform active state
6 service under K.S.A. 48-238 or 48-241 or during the time the member is
7 ordered to perform active state service under K.S.A. 48-242.~~

8 Sec. 8. K.S.A. 48-512 is hereby amended to read as follows: 48-512.

9 (a) Whenever such forces or any part thereof shall be ordered out for
10 active service, the articles of war of the United States applicable to mem-
11 bers of the national guard of this state in relation to courts-martial, their
12 jurisdiction and the limits of punishment and the rules and regulations
13 prescribed thereunder shall be in full force and effect with respect to the
14 Kansas state guard.

15 (b) Whenever such forces or any part thereof shall be ordered out
16 for service of any kind, they shall have all powers, duties and immunities
17 of peace officers of the state of Kansas in addition to all powers, duties
18 and immunities now otherwise provided by law.

19 (c) No officer or enlisted person of such forces shall be arrested on
20 any warrant, except for treason or felony, while going to, remaining at, or
21 returning from a place where ~~he or she~~ *such officer or enlisted person* is
22 ordered to attend for military duty.

23 Every officer and enlisted person of such forces shall, during service
24 therein, be exempt from service upon any posse comitatus ~~and from jury~~
25 ~~duty.~~

26 Sec. 9. K.S.A. 69-101 is hereby amended to read as follows: 69-101.
27 No person whose religious faith and practice is to keep the seventh day
28 of the week, commonly called Saturday, as a day set apart by divine com-
29 mand as the Sabbath of rest from labor and dedicated to the worship of
30 God, shall be subject to perform military duty ~~or to serve as a jurymen in~~
31 ~~a justice's court~~ on that day, except that such person shall be subject to
32 perform military duty at any time in case of insurrection, invasion, or time
33 of war.

34 Sec. 10. K.S.A. 43-155, 43-158, 43-159, 43-173, 48-211, 48-512 and
35 69-101 are hereby repealed.

36 Sec. 11. This act shall take effect and be in force from and after its
37 publication in the statute book.

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