

CS for EHB 1583

1 THE STATE SENATE
2 Thursday, April 3, 2003

3 Committee Substitute for
4 ENGROSSED
5 House Bill No. 1583

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1583 - By: NATIONS
7 of the House and CRUTCHFIELD of the Senate.

8 An Act relating to municipal courts; amending 11 O.S. 2001,
9 Section 27-120, which relates to the selection of jurors in
10 municipal courts; adding an alternative method to select
11 jurors; amending 38 O.S. 2001, Section 18.1, which relates
12 to selection of jurors with the aid of mechanical or
13 electronic means; allowing certain municipal courts to
14 select jurors by mechanical or electronic means; creating
15 the Jury Patriotism Act; providing short title; amending 38
16 O.S. 2001, Sections 28 and 34, as amended by Section 1,
17 Chapter 134, O.S.L. 2002 (38 O.S. Supp. 2002, Section 34),
18 which relate to qualifications and exemptions and discharge
19 of employee for jury service; authorizing postponements of
20 jury service under certain circumstances; providing
21 procedures for requesting postponement; defining term;
22 authorizing excuse from jury service under certain
23 circumstances; providing procedures for requesting excuse;
24 limiting duration of jury service under certain
25 circumstances; creating certain account; stating purpose;
26 requiring Administrator of Courts to promulgate certain
27 rules; providing guidelines for rules; stating source of
28 money to be deposited into account; stating use of funds;
29 limiting amount to be paid per person from account;
30 requiring certain party to reimburse paid funds; authorizing
31 certain persons to request funds; requiring Administrator to
32 prescribe certain form; providing contents of form; stating
33 exceptions; allowing certain deduction; authorizing certain
34 employers to apply for supplement under certain
35 circumstances; requiring automatic postponement under
36 certain circumstances; providing for codification; and
37 providing an effective date.

38 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 27-120, is
2 amended to read as follows:

3 Section 27-120. Jurors in the municipal court shall be selected
4 pursuant to this section under the same terms and conditions as are
5 provided for by law for the district courts, or in the alternative,
6 pursuant to Section 18.1 of Title 38 of the Oklahoma Statutes. Upon
7 written request of the judge of the municipal court for a stated
8 number of jurors to the chief judge of the appropriate district
9 court, it shall be the duty of the clerk of the district court to
10 ~~draw request~~ request from the ~~jury wheel~~ Administrative Director of the
11 Courts a requested number of jurors in the same manner as is
12 provided by law for the district court ~~until the number requested,~~
13 who from their addresses appear to reside within the corporate
14 limits of the municipality, is drawn, and to prepare a list of names
15 ~~drawn~~ provided by the Administrative Director of the Courts and
16 certify such list to the judge of the municipal court. ~~On~~
17 ~~completion of the draw, the clerk shall immediately return to the~~
18 ~~jury wheel all names drawn which are not placed on the certified~~
19 ~~list.~~ The judge of the municipal court shall make written request
20 to the chief judge of the district court for a stated number of
21 additional jurors if, after allowance of claimed statutory
22 exemptions, the listed number is found to be insufficient. Summons
23 of the prospective jurors shall be issued as set out by ordinance,

1 and may be served in person by the chief of police or any member of
2 the police force of the municipality, or may be served by the clerk
3 of the municipal court by mail.

4 SECTION 2. AMENDATORY 38 O.S. 2001, Section 18.1, is
5 amended to read as follows:

6 Section 18.1 A. In lieu of any other procedure now provided by
7 law, the judge in charge of court administration in the county may,
8 by order, adopt a plan for the selection of qualified jurors for
9 jury service with the aid of mechanical or electronic means and
10 implement such plan upon its approval by the Supreme Court.

11 B. Any such plan so adopted shall conform to the following
12 requirements:

13 1. A complete plan shall be proposed in writing and submitted
14 for approval by the Supreme Court.

15 2. It shall provide a fair, impartial and objective method of
16 selecting persons for jury service with the aid of mechanical or
17 electronic equipment.

18 3. It shall designate the court clerk as the official to be in
19 charge of the selection process and shall define ~~his~~ the duties of
20 the court clerk.

21 4. It shall specify that a true and complete written list
22 showing the names and addresses of the persons summoned to begin
23 jury service on a particular date shall be filed of record with the

1 court clerk at least ten (10) days prior to the date such persons
2 are to begin jury service.

3 C. In any county where such a plan is adopted, as provided in
4 this section, the laws relating to the selection of petit jurors by
5 ~~use of a jury wheel~~ the Administrative Director of the Courts shall
6 not apply. In such counties, a municipal court, at the option of
7 the municipal judge, may select jurors in the same manner as
8 provided for by the plan. The municipal court clerk shall be
9 designated to fulfill the duties provided in the plan for the
10 district court clerk.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 27.9 of Title 38, unless there
13 is created duplication in numbering, reads as follows:

14 38 O.S. 2001, Sections 28 and 34, as amended by Section 1,
15 Chapter 134, O.S.L. 2002 (38 O.S. Supp. 2002, Section 34) and
16 Sections 3, 5, 6, 7 and 9 of this act shall be known and may be
17 cited as the "Jury Patriotism Act".

18 SECTION 4. AMENDATORY 38 O.S. 2001, Section 28, is
19 amended to read as follows:

20 Section 28. A. All citizens of the United States, residing in
21 this state, having the qualifications of electors of this state, who
22 are of sound mind and discretion and of good moral character are
23 competent jurors to serve on all grand and petit juries within their

1 counties; provided, that persons over seventy (70) years of age and
2 persons who have served as a grand or petit juror during the last
3 two (2) immediately preceding calendar years shall not be compelled
4 to serve as jurors in this state ~~and the court may excuse or~~
5 ~~discharge any juror drawn and summoned as a grand or petit juror if~~
6 ~~jury service would result in substantial hardship to the prospective~~
7 ~~juror.~~

8 B. Persons who are not qualified to serve as jurors are:

- 9 1. Justices of the Supreme Court or the Court of Civil Appeals;
- 10 2. Judges of the Court of Criminal Appeals or the district
11 court;
- 12 3. Sheriffs or deputy sheriffs;
- 13 4. Jailers or law enforcement officers, state or federal,
14 having custody of prisoners;
- 15 5. Licensed attorneys engaged in the practice of law;
- 16 6. Persons who have been convicted of any felony or who have
17 served a term of imprisonment in any penitentiary, state or federal,
18 for the commission of a felony; provided, any such citizen
19 convicted, who has been fully restored to his or her civil rights,
20 shall be eligible to serve as a juror; and
- 21 7. Legislators during session of the Legislature or involved in
22 state business.

1 C. Persons scheduled to appear for jury service may postpone
2 the date of their initial appearance for jury service one time only.

3 Postponements shall be granted when requested, provided that:

4 1. The prospective juror has not previously been granted a
5 postponement;

6 2. The prospective juror appears in person or contacts the
7 court clerk by telephone, electronic mail, or in writing to request
8 a postponement; and

9 3. Prior to the granting of a postponement, the prospective
10 juror fixes a date certain on which he or she will appear for jury
11 service that is not more than six (6) months after the date on which
12 the prospective juror originally was called to serve and on a date
13 when the court will be in session.

14 D. A subsequent request to postpone jury service may be
15 approved by a judge for cause, limited to a death in the family,
16 sudden grave illness, a natural disaster or national, state, or
17 local emergency in which the prospective juror is personally
18 involved, that could not have been anticipated at the time the
19 initial postponement was granted. Prior to the granting of the
20 second postponement, the prospective juror shall fix a date certain
21 on which he or she will appear for jury service within six (6)
22 months of the postponement and on a date when the court will be in
23 session.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28.1 of Title 38, unless there
3 is created duplication in numbering, reads as follows:

4 A. In this section, "undue or extreme physical or financial
5 hardship" is limited to circumstances in which an individual would:

- 6 1. Be required to abandon a person under his or her personal
7 care or supervision due to the impossibility of obtaining an
8 appropriate substitute caregiver during the period of participation
9 in the jury pool or on a jury; or
- 10 2. Incur costs that would have a substantial adverse impact on
11 the payment of the individual's necessary daily living expenses or
12 on those for whom he or she provides the principal means of support;
13 or
- 14 3. Suffer physical hardship that would result in illness or
15 disease.

16 B. An individual may apply to be excused from jury service for
17 a period of up to twenty-four (24) months instead of seeking a
18 postponement, when either:

- 19 1. The prospective juror has a mental or physical condition
20 that causes him or her to be incapable of performing jury service.
21 The individual, or his or her personal representative, shall provide
22 the court with documentation from a licensed physician verifying
23 that a mental or physical condition renders the person unfit for

1 jury service for a period of not less than the period for which the
2 excuse is sought; or

3 2. Jury service would cause undue or extreme physical or
4 financial hardship to the prospective juror or to a person under his
5 or her care or supervision.

6 C. A judge of the court for which the individual was called to
7 jury service shall make hardship determinations. An individual
8 requesting an excuse based on undue or extreme physical or financial
9 hardship shall provide the judge with documentation including, but
10 not limited to, federal and state income tax returns, medical
11 statements from licensed physicians, and proof of dependency or
12 guardianship. Undue or extreme physical or financial hardship shall
13 not exist solely based on the fact that a prospective juror will be
14 required to be absent from his or her place of employment. Failure
15 to provide satisfactory documentation shall result in denial of the
16 request to be excused.

17 D. After twenty-four (24) months, an individual excused from
18 jury service shall become eligible for qualification as a juror
19 unless he or she was permanently excused from service. An
20 individual may permanently be excused from jury service when the
21 judge determines that the underlying grounds for being excused are
22 of a permanent nature.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28.2 of Title 38, unless there
3 is created a duplication in numbering, reads as follows:

4 Service of prospective jurors shall be for no more than one
5 court day in actual attendance, unless a prospective juror is
6 selected to serve in a trial or is under consideration to serve on a
7 trial and such consideration covers a period of two or more days.
8 Once selected, a juror shall serve on the jury for the duration of
9 the trial unless excused by the presiding judge.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 28.3 of Title 38, unless there
12 is created a duplication in numbering, reads as follows:

13 A. There is hereby created within the court fund of each county
14 within this state an account to be designated the "Lengthy Trial
15 Account". All monies accruing to the credit of the account are
16 hereby appropriated and shall be expended by the court clerk
17 pursuant to this section.

18 B. The purpose of the Account shall be to provide wage
19 replacement or wage supplement to jurors who serve on petit juries
20 in civil cases for which a jury trial has been requested, except as
21 provided in paragraph 3 of subsection J of this section, and which
22 lasts six (6) days or longer.

1 C. The Administrator of the Courts shall promulgate rules to
2 establish the Lengthy Trial Account. The rules shall include, but
3 not be limited to, the following:

4 1. The selection and appointment of an administrator for the
5 Account;

6 2. Procedures for administration of the Account;

7 3. Procedures for the accounting, auditing and investment of
8 money in the Account; and

9 4. A requirement for the Supreme Court of Oklahoma to report on
10 the administration of the Account in its annual report on the
11 judicial branch, setting forth the money collected for and disbursed
12 from the Account.

13 D. In addition to the amounts collected pursuant to subsection
14 A of Section 152 and subsection A of Section 153 of Title 28 of the
15 Oklahoma Statutes, each trial court in this state shall collect from
16 each attorney unless exempted pursuant to subsection J of this
17 section, a fee of Fifteen Dollars (\$15.00) to be paid into the
18 Account. An attorney will be deemed to have entered an appearance
19 at the time the first pleading or other filing on which an
20 individual attorney's name appears is submitted to the court for
21 filing. All such fees shall be forwarded to the court clerk for
22 deposit.

1 E. The court clerk shall use the fees deposited into the
2 account to pay supplemental or full wage replacement to jurors whose
3 employers pay less than full regular wages when the period of jury
4 service reaches the sixth day and thereafter.

5 F. At the discretion of the court, the account may be used to
6 pay replacement or supplemental wages of up to One Hundred Dollars
7 (\$100.00) per day per juror.

8 G. At the conclusion of a trial, the court may order the losing
9 party to reimburse as part of the chargeable costs the fees the
10 prevailing party paid into the account.

11 H. Any juror who is serving or has served on a jury that
12 qualifies for payment from the account, provided the juror's service
13 commenced on or after the effective date of this act, may submit a
14 request for payment from the account on a form provided by the
15 Administrator of the Courts pursuant to subsection I of this
16 section. Payment shall be limited to the difference between the
17 fees paid pursuant to Section 86 of Title 28 of the Oklahoma
18 Statutes and the actual amount of wages a juror earns, up to the
19 maximum level payable, minus any amount the juror actually receives
20 from the employer during the same time period.

21 I. The Administrator of the Courts shall prescribe a form to
22 comply with the following:

1 1. The form shall disclose the juror's regular wages, the
2 amount the employer will pay during the term of jury service
3 beginning on the sixth day and thereafter, the amount of replacement
4 or supplemental wages requested, and any other information the court
5 clerk deems necessary for proper payment;

6 2. The form shall require the juror to submit, prior to payment
7 from the account, verification from the employer as to the wage
8 information provided to the court clerk, including, but not limited
9 to, the employee's most recent earnings statement or similar
10 document; and

11 3. If an individual is self-employed or receives compensation
12 other than wages, the individual may provide a sworn affidavit
13 attesting to the individual's gross weekly income, together with
14 such other information as the court clerk may require for
15 verification of such weekly income.

16 J. The following persons and claims are exempt from this act:

17 1. Government attorneys entering appearances in the course of
18 their official duties;

19 2. Claims filed in small claims court; and

20 3. Claims seeking social security disability determinations;
21 veterans' compensation or disability determinations; recoupment
22 actions for government educational loans or mortgages; child custody
23 and support cases; actions brought in forma pauperism; and any other

1 filings that involve minimal use of court resources and that
2 customarily are not afforded the opportunity for a trial by jury as
3 determined by the Administrator of the Courts.

4 SECTION 8. AMENDATORY 38 O.S. 2001, Section 34, as
5 amended by Section 1, Chapter 134, O.S.L. 2002 (38 O.S. Supp. 2002,
6 Section 34), is amended to read as follows:

7 Section 34. Every person, firm or corporation who discharges an
8 employee, causes an employee to be discharged, or requires an
9 employee to use sick leave or vacation leave because of said
10 employee's absence from employment by reason of said employee's
11 having been required to serve as a grand, multicounty grand, or
12 petit juror on a grand, multicounty grand, or petit jury shall be
13 guilty of a misdemeanor and, upon conviction, shall be punishable by
14 a fine not to exceed Five Thousand Dollars (\$5,000.00). The
15 provisions of this section shall not require an employer to pay an
16 employee wages for the time the employee is absent from employment
17 for jury duty unless the employee uses paid leave for that purpose.
18 It shall be the decision of the employee whether to use paid leave
19 or take leave without pay for absence from employment for jury duty.
20 If an employer voluntarily continues to pay an employee called to
21 serve on jury duty at the same rate paid when the employee is
22 regularly working for the employer for the first five (5) regularly
23 scheduled working days that the employee serves on jury duty, an

1 employer may deduct the daily fee a court actually pays as
2 compensation to an employee serving as a juror or prospective juror
3 from the employee's daily regular pay, but may not make any
4 deduction for court-paid jury service fees that are in excess of the
5 employee's regular wage. For employers of one hundred (100) or less
6 employees who voluntarily continue to pay an employee called to
7 serve on jury duty at the same rate paid when the employee is
8 regularly working for the employer for the first five (5) regularly
9 scheduled working days that the employee serves on jury duty, the
10 employer may apply for a supplement from the account established in
11 Section 5 of this act for up to fifty percent (50%) of the
12 employee's wages not to exceed Fifty Dollars (\$50.00) per day.

13 SECTION 9. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 28.4 of Title 38, unless there
15 is created a duplication in numbering, reads as follows:

16 A court shall automatically postpone and reschedule the service
17 of a summoned juror of an employer with five or fewer full-time
18 employees, or their equivalent, if another employee of that employer
19 is summoned to appear during the same period. Such postponement
20 will not affect an individual's right to one automatic postponement
21 under Section 28 of Title 38 of the Oklahoma Statutes.

22 SECTION 10. This act shall become effective November 1, 2003.

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 4-1-03 - DO PASS,
24 As Amended.