

HOUSE BILL REPORT

ESHB 1084

As Passed House
March 10, 1993

Title: An act relating to jury source lists.

Brief Description: Changing provisions relating to jury source lists.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Wineberry, Padden, Appelwick, Vance, Wang, Pruitt, Campbell, Johanson, Orr and Anderson.)

Brief History:

Reported by House Committee on:
Judiciary, January 29, 1993, DPS;
Appropriations, March 2, 1993, DPS(JUD-A APP);
Passed House, March 10, 1993, 97-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass. Signed by 27 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Jacobsen; Lemmon; Leonard; Linville; Morton; Peery; Rust; Sehlin; Sheahan; Sommers; Stevens; Talcott; Wang; Wineberry; and Wolfe.

Staff: Beth Redfield (786-7130).

Background: The statute establishing the qualifications for jury duty sets relatively few restrictions on who may be a juror. On the other hand, the statute that actually establishes the official pool from which jurors are chosen substantially restricts the number of persons who may be called for jury duty.

The juror qualifications that are set by state law exclude only the following persons from being considered for jury duty:

- o those under the age of 18;
- o those who are not citizens of the United States;
- o those who are not residents of the county in which they are to serve;
- o those who cannot communicate in the English language; and
- o convicted felons who have not had their civil rights restored.

However, under another statute, lists of registered voters are the exclusive component of the jury source list from which jurors are chosen. Thus, even though being a registered voter is not a necessary qualification to be a juror, only those who are on the list of registered voters will ever be called for jury duty. This use of voter registration lists as the sole source of jurors has received criticism on at least two grounds. First, limiting jurors to registered voters may reduce the likelihood that a jury in a given trial will represent a fair cross section of the community in which the trial is held. Having a jury that reflects community standards is one of the goals of the American jury system. Second, it appears that some people choose not to register to vote simply to avoid jury duty. This failure to register frustrates one of the goals of a participatory democracy as well as the goal of representative juries.

Various groups, including the Washington Judicial Council, the Superior Court Judges Association, and the Commission on Washington Courts, have called for an expansion of the jury source list. One recommended expansion has been the inclusion of licensed drivers (including nondrivers with identicards) as part of the jury pool. At least nine other states have already merged lists of drivers and voters in order to create a larger pool of potential jurors.

In 1991, legislation was enacted that called for the development of a plan to provide an expanded jury source list. A group of public and semipublic agencies was directed to prepare a plan for merging lists of registered voters and licensed drivers. The group consisted of:

- o the Office of the Administrator for the Courts;
- o the Superior Court Judges Association;
- o the District and Municipal Court Judges Association;
- o the Association of County Clerks;
- o the Office of Financial Management;
- o the Secretary of State;
- o the Association of County Auditors;
- o the Department of Licensing
- o the State Bar Association;
- o the Association of Superior Court Administrators;
- and
- o the Association for State Court Administration.

The plan to be developed by this task force was to have included implementation by January 1, 1993. However, the task force's proposed plan called for implementation by July 1, 1994. The task force report identified substantial implementation problems that would prevent adopting the expanded jury list by January 1, 1993. These problems generally revolve around the mechanical process of merging the lists of registered voters and licensed drivers. One obvious concern is that when the lists are merged, persons who are on both lists should not be included twice. The best single identifier for eliminating duplications is probably a person's social security number. However, federal law currently prohibits the use of social security numbers for use in sorting out licensed drivers and registered voters. Another problem is that some county voting lists do not contain necessary identifying information.

Under a state victims' protection program administered by the Secretary of State, the addresses of some domestic violence victims are confidential. Those persons' names do not appear on the lists of registered voters. They may be on the Department of Licensing's list of licensed drivers, but with a fictitious address.

In 1992, legislation was introduced that would have delayed the implementation of the expanded list until July 1, 1994 (SHB 2945). The bill died in the Senate. The 1992 budget bill, however, contained a \$10,000 appropriation to the Administrator for the Courts to continue the work of the jury source list task force. (ESHB 2470, section 113) The appropriation contained a proviso adding the Department of Information Services to the task force.

The 1992 task force issued its report, Recommended Methodology & Standards for Expanding the Jury Source List, in November 1992. The report contains a timetable for implementing the expanded system. It also includes

recommended statutory, administrative, and court rule changes to accomplish implementation.

Summary of Bill: The recommendations of the 1992 task force on jury source list expansion are adopted.

The State Supreme Court is requested to adopt rules by September 1, 1994, establishing the methodology and standards for merging the lists of registered voters and licensed drivers (including identicard holders). An interim statutory system for merging the two lists before the court rules take effect is established to begin by March 1, 1994.

Under the interim system, before March 1, 1994, each superior court is to notify the Department of Information Services of how it wishes to proceed in merging the lists of voters and drivers. A court may choose to get separate lists of the voters and drivers within its venue and then have the county merge the lists, or it may choose to have the department merge the lists. In either case, the department is to send the list or lists to the county, without charge, in the electronic format requested by the court.

When lists of voters and drivers are prepared for merging, they are to contain identification of persons by complete name, date of birth, gender, and county of residence. However, counties are required to provide complete names and date of birth information in voter lists only if the state budget contains an appropriation to pay for it. To the extent reasonably possible, persons are to be listed only once on any merged list. Conflicts in addresses are to be resolved by reference to the latest information from the available identifying information. If the Department of Information Services cannot resolve questions of possible duplicates on lists it is requested to merge, the department is to identify those potential duplicates to the county. If, upon receipt of the merged list, the county is unable to resolve the question, the potential duplicate names are to be stricken from the jury source list. This interim procedure is to continue until superseded by court rules.

The Department of Licensing and the Secretary of State, respectively, are directed to supply the Department of Information Services, annually and at no cost, lists of licensed drivers and registered voters. The Secretary of State is to identify persons whose addresses have been made secret under the state's domestic violence protection program. Those names will be removed from the list of licensed drivers.

Superior courts are directed to establish a method for obtaining written declarations from summoned persons as to their qualifications to be jurors. The declaration is to be signed under penalty of perjury and is to indicate whether the person summoned meets all of the statutory qualifications of a juror. Persons who indicate they do not meet the qualifications are to be excused from responding to the summons. An unqualified person who responds to the summons and appears for jury duty without having returned a written declaration will be denied juror compensation.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and several effective dates. Please refer to the bill.

Testimony For: (Judiciary) The bill will greatly expand the pool of potential jurors and help insure more representative jurors. It will also reduce the chances of a person being burdened by frequent calls to jury service. It may also remove an apparent impediment to voter registration.

(Appropriations) The bill is supported at all levels of the judiciary. Currently, minorities are underrepresented on juries. An expanded jury source list will help to correct that. The bill will allow Washington State to keep up with national efforts to make jury source lists more inclusive. The bill represents a consensus of the best way to implement an expanded jury source list. It will increase the number of potential jurors from 2.8 million to 3.8 million statewide and ensure the list represents a fair cross section of society. The bill also contains safeguards to ensure that only qualified jurors appear at the courthouse.

Testimony Against: (Judiciary) None.

(Appropriations) None.

Witnesses: (Judiciary) Judge Daniel Berschauer, Thurston County Superior Court (pro); Keith Wilson, Snohomish County Superior Court (pro); Doug Tuffley, Washington State Bar Association (pro); Ted Willhite, Washington State Trial Lawyers Association (pro); Pam Davenport, Secretary of State's Office (in favor of the substitute); and Clark Holloway, Department of Licensing.

(Appropriations) Mary Alice Theiler, Minority and Justice Commission (in support); Judge Dan Berschauer, Thurston County Superior Court (in support); and Doug Tuffley, Washington State Bar Association (in support).