

FINAL BILL REPORT

ESHB 1084

Synopsis as Enacted

C 408 L 93

Brief Description: Changing provisions relating to jury source lists.

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

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background: The Washington 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:

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

However, under another statute, jurors are to be chosen exclusively from lists of registered voters. 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 is 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 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:

- (1) the Office of the Administrator for the Courts;
- (2) the Superior Court Judges Association;
- (3) the District and Municipal Court Judges Association;
- (4) the Association of County Clerks;
- (5) the Office of Financial Management;
- (6) the Secretary of State;
- (7) the Association of County Auditors;
- (8) the Department of Licensing
- (9) the State Bar Association;
- (10) the Association of Superior Court Administrators;
and
- (11) 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. In 1992, the Legislature appropriated money to continue the work of the task force.

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.

Summary: 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 its choice of method for receiving merged 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 court, without charge, in an electronic format agreed to by the department and 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 by June 30, 1994 the state budget contains an appropriation to pay counties for including this information. 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 the 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.

Votes on Final Passage:

House	97	0	
Senate	44	0	(Senate amended)
House	96	0	(House concurred)

Effective: September 1, 1994
July 1, 1993 (Sections 1, 2, 3, 6, 8 and 13)
March 1, 1993 (Sections 10 and 12)