

SENATE BILL REPORT

ESHB 1084

AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 5, 1993

Brief Description: Changing provisions relating to jury source lists.

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

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Rinehart, and Spanel.

Staff: Jon Carlson (786-7459)

Hearing Dates: March 22, 1993; March 23, 1993

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Anderson, Bauer, Bluechel, Cantu, Gaspard, Hargrove, Hochstatter, Jesernig, McDonald, Moyer, Niemi, Owen, Quigley, Roach, L. Smith, Snyder, Sutherland, Talmadge, West, Williams, and Wojahn.

Staff: Steve Jones (786-7440)

Hearing Dates: April 2, 1993; April 5, 1993

BACKGROUND:

The jury source list from which jurors are selected consists exclusively of registered voters. This use of voter registration lists as the sole source of jurors has received criticism on at least two grounds. First, it reduces the likelihood that a jury will represent a fair cross section of the community. Second, a significant number of citizens may choose not to register to vote simply to avoid jury duty.

Various groups, including the Washington Judicial Council and the Commission on Washington Courts, have recommended expansion of the jury source list. One recommended addition is to include persons with Department of Licensing (DOL) issued drivers' licenses or identicards. The merging of lists of licensed drivers and identicard holders with lists of

registered voters requires care to avoid double counting and other problems. At least nine other states have merged these lists to compile their jury source lists.

In 1991, legislation was enacted to require development of a merged jury source list. A group of public and semi-public agencies was directed to prepare a plan for the merging of the lists of registered voters and licensed drivers and identicard holders in order to compile a jury source list. The group consists of the: Office of the Administrator for the Courts; Superior Court Judges Association; District and Municipal Court Judges Association; Association of County Clerks; Office of Financial Management; Secretary of State's Office; Association of County Auditors; Department of Licensing; State Bar Association; Association of Superior Court Administrators; and Association for Court Administration.

The plan and proposed legislation were to be submitted to the Legislature by January 1992. The plan was to be designed for implementation by January 1, 1993. However, 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:

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 identifies 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 stricken from the jury source list. This interim procedure continues 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 identifies persons whose addresses have been made secret under the state's domestic violence protection program. Those names are 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 signed under penalty of perjury and indicates whether the person summoned meets all of the statutory qualifications of a juror. Persons who indicate they do not meet the qualifications are 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.

SUMMARY OF PROPOSED LAW & JUSTICE AMENDMENTS:

The rules adopted by the Supreme Court should provide for a standard electronic format or formats in which lists will be provided to requesting superior courts by the Department of Information Services. Lists provided to the superior courts of each county by the Department of Information Services (driver's license and identicard holders, registered voters, or the merged jury source list itself) must be in an electronic format mutually agreed upon by the requesting superior court and the Department of Information Services.

SUMMARY OF PROPOSED WAYS & MEANS AMENDMENT:

Counties are required to add the date of birth to voter registration records by September 1, 1994. This requirement is contingent on funding being provided in the state budget by June 30, 1994.

Appropriation: unspecified

Revenue: none

Fiscal Note: available

Effective Date: The bill contains an emergency clause and Sections 1, 2, 3, 6, 8 and 13 take effect July 1, 1993; Sections 10 and 12 take effect March 1, 1994; the remainder of the bill takes effect September 1, 1994.

TESTIMONY FOR (Law & Justice):

The merging of drivers' licenses and identicard holders with the list of registered voters would increase the number of additional potential jurors and reduce the chances of a person being burdened by frequent calls to jury service.

TESTIMONY AGAINST (Law & Justice): None

TESTIFIED (Law & Justice): Judge Dan Berschauer (pro)

TESTIMONY FOR (Ways & Means):

This bill will provide for more representative juries and is supported by the judiciary.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): Representative Jesse Wineberry (pro); Gil Austin, Office of the Administrator for the Courts (pro)