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SENATE BILL 6018

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State of Washington

58th Legislature

2003 Regular Session

By Senator Stevens

Read first time 03/04/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to reducing the burdens of jury service to increase  
2 participation in the jury system; amending RCW 2.36.080, 2.36.093,  
3 2.36.100, 2.36.165, and 2.36.170; adding new sections to chapter 2.36  
4 RCW; prescribing penalties; providing an effective date; and declaring  
5 an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 2.36.080 and 1992 c 93 s 2 are each amended to read as  
8 follows:

9 (1) It is the policy of this state that all persons selected for  
10 jury service be selected at random from a fair cross section of the  
11 population of the area served by the court, and that all qualified  
12 citizens have the opportunity in accordance with chapter 135, Laws of  
13 1979 ex. sess. to be considered for jury service in this state and have  
14 an obligation to serve as jurors when summoned for that purpose, unless  
15 excused.

16 (2) It is the policy of this state to maximize the availability of  
17 residents of the state for jury service. It also is the policy of this  
18 state to minimize the burden on the prospective jurors, their families,  
19 and employers resulting from jury service. The jury term and jury

1 service should be set at as brief an interval as is practical given the  
2 size of the jury source list for the judicial district. (~~The optimal~~  
3 ~~jury term is two weeks or less. Optimal juror service is one day or~~  
4 ~~one trial, whichever is longer.~~)

5 (3) A citizen shall not be excluded from jury service in this state  
6 on account of race, color, religion, sex, national origin, or economic  
7 status.

8 (4) This section does not affect the right to peremptory challenges  
9 under RCW 4.44.130.

10 **Sec. 2.** RCW 2.36.093 and 1992 c 93 s 3 are each amended to read as  
11 follows:

12 (1) At such time as the judge or judges of any court of any county  
13 shall deem that the public business requires a jury term to be held,  
14 the judge or judges shall direct that a jury panel be selected and  
15 summoned to serve for the ensuing jury term or terms.

16 (2) (~~The court shall establish the length and number of jury terms~~  
17 ~~in a consecutive twelve month period, and shall establish the time of~~  
18 ~~juror service consistent with the provisions of RCW 2.36.010~~) Service  
19 of prospective jurors shall be for no more than one court day in actual  
20 attendance, unless a prospective juror is selected to serve in trial or  
21 is under consideration to serve on a trial and such consideration  
22 covers a period of two or more days. Once selected, a juror shall  
23 serve on the jury for the duration of the trial unless excused by the  
24 presiding judge.

25 (3) A juror who has served on a petit jury in this state shall not  
26 be summoned to serve again as a petit juror in any court of this state  
27 for two years following the last day of such service.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 2.36 RCW  
29 to read as follows:

30 (1) Individuals scheduled to appear for jury service may postpone  
31 the date of their initial appearance for jury service one time only.  
32 When requested, postponements shall be granted if:

33 (a) The prospective juror has not previously been granted a  
34 postponement;

35 (b) The prospective juror appears in person or contacts the clerk

1 of the court by telephone, electronic mail, or in writing to request a  
2 postponement; and

3 (c) Before granting a postponement with the concurrence of the  
4 clerk of the court, the prospective juror fixes a date certain on which  
5 he or she will appear for jury service that is not more than six months  
6 after the date on which the prospective juror originally was called to  
7 serve and on which date the court will be in session.

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

17 **Sec. 4.** RCW 2.36.100 and 1992 c 93 s 5 are each amended to read as  
18 follows:

19 (1) Except for a person who is not qualified for jury service under  
20 RCW 2.36.070, no person may be excused from jury service by the court  
21 except upon a showing of a mental or physical condition that causes the  
22 person to be incapable of performing jury service, undue or extreme  
23 physical or financial hardship (~~(, extreme inconvenience)~~) to the  
24 prospective juror or a person under his or her care or supervision, or  
25 public necessity (~~(, or any reason deemed sufficient by the court)~~) for  
26 a period of time (~~(the court deems necessary)~~) up to twenty-four  
27 months.

28 (~~(At the discretion of the court's designee, after a request by~~  
29 ~~a prospective juror to be excused, a prospective juror excused from~~  
30 ~~juror service for a particular time may be assigned to another jury~~  
31 ~~term within the twelve month period. If the assignment to another jury~~  
32 ~~term is made at the time a juror is excused from the jury term for~~  
33 ~~which he or she was summoned, a second summons under RCW 2.36.095 need~~  
34 ~~not be issued)~~) If the prospective juror has a mental or physical  
35 condition that causes him or her to be incapable of performing jury  
36 service, the juror, or the juror's personal representative, must  
37 provide the court with documentation from a physician licensed to

1 practice medicine verifying that a mental or physical condition renders  
2 the person unfit for jury service for a period of up to twenty-four  
3 months.

4 (3)(a) For claims that jury service would cause undue or extreme  
5 physical or financial hardship to the prospective juror or a person  
6 under his or her care or supervision, a judge of the court for which  
7 the individual was called to jury service shall make undue or extreme  
8 physical or financial hardship determinations. The authority to make  
9 these determinations is delegable only to court officials or personnel  
10 who are authorized by the laws of this state to function as members of  
11 the judiciary.

12 (b) A person asking to be excused based on a finding of undue or  
13 extreme physical or financial hardship must take all actions necessary  
14 to have obtained a ruling on that request by no later than the date on  
15 which the individual is scheduled to appear for jury duty.

16 (c) For purposes of this chapter, "undue or extreme physical or  
17 financial hardship" is limited to circumstances in which an individual  
18 would:

19 (i) Be required to abandon a person under his or her personal care  
20 or supervision due to the impossibility of obtaining an appropriate  
21 substitute caregiver during the period of participation in the jury  
22 pool or on the jury; or

23 (ii) Incur costs that would have a substantial adverse impact on  
24 the payment of the individual's necessary daily living expenses or on  
25 those for whom he or she provides the principle means of support; or

26 (iii) Suffer physical hardship that would result in illness or  
27 disease.

28 (d) Undue or extreme physical or financial hardship does not exist  
29 solely based on the fact that a prospective juror will be required to  
30 be absent from his or her place of employment.

31 (e) A person asking a judge to grant an excuse based on undue or  
32 extreme physical or financial hardship must provide the judge with  
33 documentation, such as, but not limited to, federal and state income  
34 tax returns, medical statements from licensed physicians, proof of  
35 dependency or guardianship, and similar documents, which the judge  
36 finds to clearly support the request to be excused. Failure to provide  
37 satisfactory documentation shall result in a denial of the request to  
38 be excused.

1       (4) After twenty-four months, a person excused from jury service  
2 shall become eligible once again for qualification as a juror unless  
3 the person was excused from service permanently. A person is excused  
4 from jury service permanently only when the deciding judge determines  
5 that the underlying grounds for being excused are of a permanent  
6 nature.

7       ~~((3))~~ (5) When the jury source list has been fully summoned  
8 within a consecutive ~~((twelve-month))~~ twenty-four-month period and  
9 additional jurors are needed, jurors who have already served during the  
10 consecutive ~~((twelve-month))~~ twenty-four-month period may be summoned  
11 again for service. A juror who has previously served may only be  
12 excused if he or she served at least two weeks of juror service within  
13 the preceding ~~((twelve))~~ twenty-four months. An excuse for prior  
14 service shall be granted only upon the written request of the  
15 prospective juror, which request shall certify the terms of prior  
16 service. Prior jury service may include service in superior court, in  
17 a court of limited jurisdiction, in the United States District Court,  
18 or on a jury of inquest.

19       NEW SECTION. Sec. 5. A new section is added to chapter 2.36 RCW  
20 to read as follows:

21       (1) The supreme court shall adopt rules to establish a lengthy  
22 trial fund to be used to provide full or partial wage replacement or  
23 wage supplementation to jurors who serve as petit juries for more than  
24 ten days.

25       (2) The court rules shall provide for the following:

26       (a) The selection and appointment of an administrator for the fund;

27       (b) Procedures for the administration of the fund, including  
28 payments of salaries of the administrator and other necessary  
29 personnel;

30       (c) Procedures for the accounting, auditing, and investment of  
31 money in the lengthy trial fund in accordance with state law pertaining  
32 to similar funds; and

33       (d) A report by the supreme court on the administration of the  
34 lengthy trial fund in its annual report on the judicial branch, setting  
35 forth the money collected for and disbursed from the fund.

36       (3) Notwithstanding any other fees paid under state law, each trial  
37 court in the state shall collect from each attorney who files a civil

1 case, unless otherwise exempted under this section, a fee of twenty  
2 dollars per case to be paid into the lengthy trial fund. A lawyer will  
3 be deemed to have "filed a case" at the time the first pleading or  
4 other filing on which an individual lawyer's name appears is submitted  
5 to the court for filing and opens a new case. All such fees shall be  
6 forwarded to the administrator of the lengthy trial fund for deposit.

7 (4) The court may pay replacement or supplemental wages of up to  
8 three hundred dollars per day per juror beginning on the eleventh day  
9 of jury service. In addition, for any jurors who qualify for payment  
10 by virtue of having served on a jury for more than ten days, the court  
11 may, upon finding that such service posed a significant financial  
12 hardship to a juror, even in light of payments made with respect to  
13 jury service after the tenth day, award replacement or supplemental  
14 wages of up to one hundred dollars per day from the fourth to the tenth  
15 day of jury service.

16 (5)(a) Any juror who is serving or has served on a jury that  
17 qualifies for payment from the lengthy trial fund may submit a request  
18 for payment from the lengthy trial fund on a form that the  
19 administrator provides, if the service commenced on or after the  
20 effective date of this section. Payment is limited to the difference  
21 between the state paid jury fee and the actual amount of wages a juror  
22 earns, up to the maximum level payable, minus any amount the juror  
23 actually receives from the employer during the same time period.

24 (b) The form shall disclose the juror's regular wages, the amount  
25 the employer will pay during the term of jury service starting on the  
26 eleventh day and thereafter, the amount of replacement or supplemental  
27 wages requested, and any other information the administrator deems  
28 necessary for proper payment.

29 (c)(i) The juror also shall be required to submit verification from  
30 the employer as to the wage information provided to the administrator,  
31 for example, the employee's most recent earnings statement or similar  
32 document, before initiation of payment from the fund.

33 (ii) If an individual is self-employed or receives compensation  
34 other than wages, the individual may provide a sworn affidavit  
35 attesting to his or her approximate gross weekly income, together with  
36 such other information as the administrator may require, in order to  
37 verify weekly income.

1 (6) The following attorneys and causes of action are exempt from  
2 payment of the lengthy trial fund fee:

3 (a) Government attorneys entering appearances in the course of  
4 their official duties;

5 (b) Pro se litigants;

6 (c) Cases in small claims court or the state equivalent thereof; or

7 (d) Claims seeking social security disability determinations;  
8 individual veterans' compensation or disability determinations;  
9 recoupment actions for government-backed educational loans or  
10 mortgages; child custody and support cases; actions brought in forma  
11 pauperis; and any other filings designated by rule that involve minimal  
12 use of court resources and that customarily are not afforded the  
13 opportunity for a trial by jury.

14 **Sec. 6.** RCW 2.36.165 and 1988 c 188 s 13 are each amended to read  
15 as follows:

16 (1) An employer shall provide an employee with a sufficient leave  
17 of absence from employment to serve as a juror when that employee is  
18 summoned pursuant to chapter 2.36 RCW. An employee may not be required  
19 or requested to use annual, vacation, or sick leave for time spent  
20 responding to a summons for jury duty, time spent participating in the  
21 jury selection process, or for time spent actually serving on a jury.  
22 This subsection shall not be construed to require an employer to  
23 provide annual, vacation, or sick leave to employees under this  
24 subsection who otherwise are not entitled to such benefits under  
25 company policies.

26 (2) An employer shall not deprive an employee of employment or  
27 threaten, coerce, or harass an employee, or deny an employee  
28 promotional opportunities because the employee receives a summons,  
29 responds to the summons, serves as a juror, or attends court for  
30 prospective jury service.

31 (3) An employer who intentionally violates subsection (1) or (2) of  
32 this section shall be guilty of a misdemeanor.

33 (4) If an employer commits an act in violation of subsection (2) of  
34 this section the employee may bring a civil action for damages as a  
35 result of the violation and for an order requiring the reinstatement of  
36 the employee. If the employee prevails, the employee shall be allowed  
37 a reasonable attorney's fee as determined by the court.

1 (5) For purposes of this section employer means any person,  
2 association, partnership, or private or public corporation who employs  
3 or exercises control over wages, hours, or working conditions of one or  
4 more employees.

5 (6) A court shall automatically postpone and reschedule the service  
6 of a summoned juror of an employer with five or fewer full-time  
7 employees, or their equivalent, if another employee of that employer is  
8 summoned to appear during the same period. Such postponement does not  
9 affect an individual's right to one postponement under section 3 of  
10 this act.

11 **Sec. 7.** RCW 2.36.170 and 1988 c 188 s 14 are each amended to read  
12 as follows:

13 A person summoned for jury service who intentionally fails to  
14 appear as directed or to comply with the provisions for postponements  
15 and exemptions under this chapter shall be guilty of a misdemeanor and  
16 is subject to imprisonment and fines in accordance with the laws of  
17 this state.

18 NEW SECTION. **Sec. 8.** If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 remainder of the act or the application of the provision to other  
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 July 1, 2003.

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