

JURY SYSTEM AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Greg J. Curtis

This act modifies the Utah Judicial Code by allowing for exemptions from jury service under specific circumstances for up to 24 months, allowing for a postponement for a shorter period of time, and providing penalties for failing to appear. This act takes effect on July 1, 2003.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-46-2, as last amended by Chapter 159, Laws of Utah 1993

78-46-4, as last amended by Chapter 159, Laws of Utah 1993

78-46-20, as enacted by Chapter 130, Laws of Utah 1979

78-46-21, as last amended by Chapter 318, Laws of Utah 1990

ENACTS:

78-46-42, Utah Code Annotated 1953

REPEALS AND REENACTS:

78-46-15, as last amended by Chapter 308, Laws of Utah 2001

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-46-2** is amended to read:

78-46-2. Jurors selected from random cross section -- Opportunity and obligation to serve.

It is the policy of this state that persons selected for jury service be selected at random from a fair cross section of the population of the county, and that all qualified citizens have the opportunity in accordance with this chapter to be considered for service and have the obligation to serve when summoned for that purpose, unless excused.

Section 2. Section **78-46-4** is amended to read:



28 **78-46-4. Definitions.**

29 (1) "Clerk" or "clerk of the court" means the person so designated by title and includes
30 any deputy clerk.

31 (2) "Court" means trial courts.

32 (3) "Jury" means a body of persons temporarily selected from the citizens of a
33 particular county invested with power to present and indict a person for a public offense or to
34 try a question of fact.

35 (4) "Master jury list" means the source lists as prescribed by the Judicial Council
36 under Section 78-46-10.

37 (5) "Qualified jury list" means the list of prospective jurors whose names are drawn at
38 random from the master jury list and are determined to be qualified to serve as jurors.

39 (6) "Trial jury" means a body of persons selected from the citizens of a particular
40 county before a court or officer of competent jurisdiction and sworn to try and determine by
41 verdict a question of fact.

42 (7) (a) "Undue or extreme physical or financial hardship" means circumstances in
43 which an individual would:

44 (i) be required to abandon a person under his or her personal care or supervision due to
45 the impossibility of obtaining an appropriate substitute caregiver during the period of
46 participation in the jury pool or on the jury;

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

50 (iii) suffer physical hardship that would result in illness or disease.

51 (b) "Undue or extreme physical or financial hardship" may not exist solely based on the
52 fact that a prospective juror will be required to be absent from his or her place of employment.

53 Section 3. Section **78-46-15** is repealed and reenacted to read:

54 **78-46-15. Exemption from jury service.**

55 (1) An individual may apply to be excused from jury service for a period of up to 24
56 months if:

57 (a) The prospective juror has a mental or physical condition that causes him or her to
58 be incapable of performing jury service. The juror, or the juror's personal representative, must

59 provide the court with documentation from a physician licensed to practice medicine verifying
60 that a mental or physical condition renders the person unfit for jury service for a period of up to
61 the 24-month period for which the excuse is sought.

62 (b) Jury service would cause undue or extreme physical or financial hardship to the
63 prospective juror or a person under his or her care or supervision.

64 (i) A judge of the court for which the individual was called to jury service shall make
65 the determination of undue or extreme physical or financial hardship. The authority to make
66 these determinations may not be delegated to court officials or personnel who are not
67 authorized by the laws of this state to function as members of the judiciary.

68 (ii) A person requesting to be excused based on undue or extreme physical or financial
69 hardship must take all actions necessary to have obtained a ruling on that request by no later
70 than the date on which the individual is scheduled to appear for jury duty.

71 (c) A person requesting a court to grant an excuse based upon undue or extreme
72 physical or financial hardship shall be required to provide the court with documentation which
73 may include federal and state income tax returns, medical statements from licensed physicians,
74 proof of dependency or guardianship, and any other documentation required by the court to
75 support the request to be excused. Failure to provide satisfactory documentation may result in
76 a denial of the request to be excused.

77 (2) After the expiration of the 24-month period, a person excused from jury service
78 shall become eligible once again for qualification as a juror unless the person was excused
79 from service permanently.

80 (3) A person may be excused from jury service permanently if the court determines that
81 the underlying grounds for being excused are of a permanent nature.

82 Section 4. Section **78-46-20** is amended to read:

83 **78-46-20. Penalties for failure to appear or complete jury service.**

84 A person summoned for jury service who fails to appear or to complete jury service as
85 directed [~~shall be ordered by the court to immediately appear and show cause for failure to~~
86 ~~comply with the summons. Any person who fails to show good cause for noncompliance with~~
87 ~~the summons is guilty of criminal contempt and may be fined not more than \$100 or~~
88 ~~imprisoned not more than three days, or both] without complying with the provisions for
89 obtaining a postponement or exemption under this chapter is guilty of a class C misdemeanor.~~

90 Section 5. Section **78-46-21** is amended to read:

91 **78-46-21. Employer not to discharge or threaten employee for jury service --**
92 **Criminal penalty -- Civil action by employee.**

93 (1) An employer may not deprive an employee of employment [~~or~~], threaten or take
94 any adverse employment action, or otherwise coerce the employee regarding his employment
95 because the employee receives a summons, responds to it, serves as a juror, or a grand juror, or
96 attends court for prospective jury or grand jury service.

97 (2) An employee may not be required or requested to use annual, vacation, or sick
98 leave for time spent responding to a summons for jury duty, time spent participating in the jury
99 selection process, or for time spent actually serving on a jury. Nothing in this provision shall
100 be construed to require an employer to provide annual, vacation, or sick leave to employees
101 under the provisions of this statute who otherwise are not entitled to those benefits under
102 company policies.

103 [~~(2)~~] (3) Any employer who violates this section is guilty of criminal contempt and
104 upon conviction may be fined not more than \$500 or imprisoned not more than six months, or
105 both.

106 [~~(3)~~] (4) If any employer discharges an employee in violation of this section, the
107 employee within 30 days may bring a civil action for recovery of wages lost as a result of the
108 violation and for an order requiring the reinstatement of the employee. Damages recoverable
109 may not exceed lost wages for six weeks. If the employee prevails, the employee shall be
110 allowed a reasonable attorney's fee fixed by the court.

111 Section 6. Section **78-46-42** is enacted to read:

112 **78-46-42. Postponements of petit jury participation.**

113 (1) An individual scheduled to appear for jury service may have the date of their initial
114 appearance for jury service postponed. If requested, a postponement shall be granted if:

115 (a) the prospective juror has not previously been granted a postponement;

116 (b) the prospective juror appears in person or contacts the clerk of the court by
117 telephone, electronic mail, or in writing to request a postponement; and

118 (c) prior to the grant of a postponement, with the concurrence of the clerk of the court,
119 the prospective juror fixes a date certain on which he or she will appear for jury service that is
120 not more than six months after the date on which the prospective juror originally was called to

121 serve, and on which date the court will be in session.

122 (2) A subsequent request to postpone jury service may be approved by a judicial officer
123 only in the event of an extreme emergency, such as a death in the family, sudden grave illness,
124 a natural disaster, or a national emergency in which the prospective juror is personally
125 involved, that could not have been anticipated at the time the initial postponement was granted.
126 Prior to the grant of a second postponement, the prospective juror shall fix a date certain on
127 which the individual will appear for jury service within six months of the postponement on a
128 date when the court will be in session.

129 (3) An individual who fails to appear in person on the date scheduled for jury service,
130 and who has failed to obtain a postponement in compliance with the provisions for requesting a
131 postponement, or who fails to appear on the date set pursuant to Subsection (1)(c) or (2), is
132 guilty of a class C misdemeanor.

133 **Section 7. Effective date.**

134 This act takes effect on July 1, 2003.

Legislative Review Note

as of 2-12-03 2:16 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

It is estimated that provisions of this bill can be implemented with existing budgets. A review of workload assigned to judges may be necessary in the future to determine if funding for additional judges is necessary to meet increased demand.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst