

**Representative Greg J. Curtis** proposes the following substitute bill:

**JURY SYSTEM AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

**This act modifies the Utah Judicial Code by allowing for excusal from or postponement of jury service for specific reasons 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

**78-46-12**, as last amended by Chapter 308, Laws of Utah 2001

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

**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

*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:

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



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

28 (2) "Court" means trial courts.

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

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

34 (5) "Public necessity" means circumstances in which services performed by the  
35 prospective juror to members of the public in either a public or a private capacity cannot  
36 adequately be performed by others.

37 [~~5~~] (6) "Qualified jury list" means the list of prospective jurors whose names are  
38 drawn at random from the master jury list and are determined to be qualified to serve as jurors.

39 [~~6~~] (7) "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 (8) "Undue hardship" means circumstances in which the prospective juror would:

43 (a) be required to abandon a person under his or her personal care or incur the cost of  
44 substitute care that is unreasonable under the circumstances;

45 (b) suffer extreme physical hardship due to an illness, injury, or disability; or

46 (c) incur substantial costs or lost opportunities due to missing an event that was  
47 scheduled prior to the initial notice of potential jury service.

48 Section 3. Section **78-46-12** is amended to read:

49 **78-46-12. Qualified jury list -- Term of availability -- Juror qualification form --**  
50 **Content -- Completion -- Penalties for failure to complete or misrepresentation -- Joint**  
51 **jury list for court authorized.**

52 (1) Prospective jurors shall be selected at random from the master jury list and, if  
53 qualified, placed on the qualified jury list. A prospective juror shall remain on the qualified  
54 jury list for no longer than six months or for such shorter period established by rule of the  
55 Judicial Council. The qualified jury list may be used by all courts within the county, but no  
56 person shall be summoned to serve as a juror in more than one court.

57 (2) The Judicial Council shall by rule govern the process for the qualification of jurors  
58 and the selection of qualified jurors for voir dire.

59 (3) The state court administrator shall develop a standard form for the qualification of  
60 jurors. The form shall include:

61 (a) the name, address, and daytime telephone number of the prospective juror;

62 (b) questions suitable for determining whether the prospective juror is competent under  
63 statute to serve as a juror; and

64 (c) the person's declaration that the responses to questions on the qualification form are  
65 true to the best of the person's knowledge.

66 [~~(4) Any prospective juror who fails to return a completed form as instructed shall be~~  
67 ~~directed by the court to appear before the clerk to complete the form. A person who fails to~~  
68 ~~appear is subject to the procedures and penalties in Section 78-46-20.]~~

69 [~~(5) Any person who willfully misrepresents a material fact on a juror qualification~~  
70 ~~form for the purpose of avoiding or securing service as a juror is guilty of a class C~~  
71 ~~misdemeanor.]~~

72 Section 4. Section **78-46-15** is amended to read:

73 **78-46-15. Excuse from jury service -- Postponement.**

74 [~~(1) The court, upon request of a prospective juror or on its own initiative, shall~~  
75 ~~determine on the basis of information provided on the juror qualification form or by interview~~  
76 ~~with the prospective juror, or by other competent evidence, whether the prospective juror~~  
77 ~~should be excused from jury service. The clerk shall enter this determination in the records of~~  
78 ~~the court.]~~

79 [~~(2)~~] (1) A person may be excused from jury service by the court~~[, at its discretion,]~~  
80 upon a showing of undue hardship, ~~[extreme inconvenience,]~~ public necessity, or that the  
81 person is incapable of jury service. The excused period may be for any period ~~[the court~~  
82 ~~considers necessary.]~~ for which the grounds exist.

83 (2) The grounds for excusal from jury service shall be shown by affidavit, sworn  
84 testimony, or other competent evidence.

85 (3) The court may postpone jury service upon a showing of good cause.

86 Section 5. Section **78-46-20** is amended to read:

87 **78-46-20. Penalties.**

88 (1) A person who fails to respond timely to questions regarding qualification for jury  
89 service shall be in contempt of court and subject to penalties under Title 78, Chapter 32,  
90 Contempt.

91 (2) A person summoned for jury service who fails to appear or to complete jury service  
92 as directed [~~shall be ordered by the court to immediately appear and show cause for failure to~~  
93 comply with the summons. Any person who fails to show good cause for noncompliance with  
94 the summons is guilty of criminal contempt and may be fined not more than \$100 or  
95 imprisoned not more than three days, or both] shall be in contempt of court and subject to  
96 penalties under Title 78, Chapter 32, Contempt.

97 (3) Any person who willfully misrepresents a material fact regarding qualification for,  
98 excuse from, or postponement of jury service is guilty of a class C misdemeanor.

99 Section 6. Section **78-46-21** is amended to read:

100 **78-46-21. Employer not to discharge or threaten employee for jury service --**  
101 **Criminal penalty -- Civil action by employee.**

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

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

112 [~~(2)~~] (3) Any employer who violates this section is guilty of criminal contempt and  
113 upon conviction may be fined not more than \$500 or imprisoned not more than six months, or  
114 both.

115 [~~(3)~~] (4) If any employer discharges an employee in violation of this section, the  
116 employee within 30 days may bring a civil action for recovery of wages lost as a result of the  
117 violation and for an order requiring the reinstatement of the employee. Damages recoverable  
118 may not exceed lost wages for six weeks. If the employee prevails, the employee shall be

119 allowed a reasonable attorney's fee fixed by the court.

120 Section 7. **Effective date.**

121 This act takes effect on July 1, 2003.