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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



ENROLLED

HOUSE BILL No. *H. 713*

(By Delegates *Dammron and Reid*)



Passed *March 7,* 1992

In Effect *Ninety Days from* Passage

ENROLLED
H. B. 4713

(By DELEGATES DAMRON AND REID)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to repeal section eight, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections five, seven-a, nineteen and twenty, article one, chapter fifty-two of said code; and to amend and reenact section two, article one-c, chapter sixty-two of said code, all relating to court administration generally, repealing the requirement that circuit clerks keep an execution book, allowing the master list to be compiled by a merge sampling; setting a time schedule for compilation of the master list; requiring electronic methods of jury selection be documented in writing and approved by the chief judge; requiring that jury commissioners be notified of all selections from jury lists; requiring attendance at selections only if required by chief judge; eliminating requirement that clerk transmit juror payment order to the auditor; updating language on payment records kept by clerk; allowing method of payment of jurors to be determined by tax commissioner; allowing payment of jurors in cash; and allowing magistrate court to receive cash bail in excess of two thousand five hundred dollars.

Be it enacted by the Legislature of West Virginia:

That section eight, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections five, seven-a, nineteen and

twenty, article one, chapter fifty-two of said code be amended and reenacted; and that section two, article one-c, chapter sixty-two of said code be amended and reenacted, all to read as follows:

CHAPTER 52. JURIES.

ARTICLE 1. PETIT JURIES.

§52-1-5. Master list; method for compilation; additional freeholder list; lists to be available to public.

1 (a) In each county, the jury commission shall compile
2 and maintain a master list of residents of the county
3 from which prospective jurors are to be chosen. The
4 master list shall be a list of individuals compiled from
5 not less than two of the following source lists:

6 (1) Persons who have filed a state personal income tax
7 return for the preceding tax year;

8 (2) Persons who are registered to vote in the county;

9 (3) Persons who hold a valid motor vehicle operator's
10 or chauffeur's license as determined from the drivers'
11 license lists provided by the department of motor
12 vehicles.

13 The jury commission shall compile the master list by
14 combining all the names from each source used and
15 eliminating all duplicates or by selecting a sample of
16 names from each source used by means of a random key
17 number system. If a sample of names is selected from
18 each source list, the same percentage of names must be
19 selected from each list. One source list shall be desig-
20 nated a primary source. Names selected from the second
21 source shall be compared with the entire list of names
22 on the primary source. Duplicate names shall be
23 removed from the second source sample, and the
24 remaining names shall be combined with the sample of
25 names selected from the primary source to form the
26 master list. If more than two source lists are used, this
27 process shall be repeated, using the previously combined
28 list for comparison with the third source list, and so on.

29 (b) The master list so compiled shall be used for a
30 period of two years or such other period as designated

31 by the chief judge.

32 (c) In addition to the master list required to be
33 compiled under the provisions of subsection (a) of this
34 section, the jury commission shall compile a list of
35 persons who pay real property taxes to compile and
36 maintain a list of freeholders to be used as jurors in
37 condemnation cases.

38 (d) Any public officer of an agency, department or
39 political subdivision of this state having custody,
40 possession or control of any of the source lists designated
41 to be used in compiling the master list, shall make the
42 source list available to the jury commission for inspec-
43 tion, reproduction and copying at all reasonable times:
44 *Provided*, That the tax commissioner shall be exempt
45 from this requirement. The master list and the free-
46 holder list shall be open to the public for examination.

**§52-1-7a. Alternate procedure for selection of jury by
electronic data processing methods.**

1 Notwithstanding any provision of this article to the
2 contrary, the court may, after conferring with the clerk
3 and the jury commissioners and documenting in writing
4 the methods to be used, with such documentation to be
5 approved by the chief judge, direct the use of electronic
6 data processing methods, or a combination of manual
7 and machine methods, for any combination of the
8 following tasks:

9 (a) Recording in machine readable form names that
10 are initially selected manually from source lists autho-
11 rized by this article.

12 (b) Copying of names from source lists authorized by
13 this article, from any counties or other sources that
14 maintain those lists in machine readable form such as
15 punched cards, magnetic tapes or magnetic discs.

16 (c) Selecting names from source lists for inclusion in
17 the jury list.

18 (d) Selecting names from the jury list for the list of
19 jurors summoned to attend at any term of court.

20 (e) Sorting or alphabetizing lists of names, deleting

21 duplicate selections of names and deleting names of
22 persons exempt, disqualified or excused from jury
23 service.

24 (f) Selecting and copying names for the creation of
25 any papers, records or correspondence necessary to
26 recruit, select and pay jurors and for other clerical
27 tasks.

28 If the court elects to use electronic machine methods
29 for any tasks described above, the selection system shall
30 be planned and programmed in order to ensure that any
31 group of names chosen will represent all segments of
32 source files from which drawn and that the mathemat-
33 ical odds of any single name being picked are substan-
34 tially equal.

35 When machine methods for jury selection are em-
36 ployed, both the jury list and the jury list as recorded
37 in machine readable form shall be safely kept in a
38 secure location with the office of the clerk of the circuit
39 court. The jury commissioners shall be notified of any
40 selection of jurors from a source list and may be present
41 for such selections or shall be in attendance if directed
42 by the chief circuit judge.

§52-1-19. Record of allowance to jurors.

1 The clerk of any court upon which juries are in
2 attendance shall make an entry upon its record stating
3 separately the amount which each juror is entitled to
4 receive out of the state treasury for services or attend-
5 ance during the term. Any clerk who fails to pay over,
6 as required by law, any moneys so received by the clerk
7 or otherwise to comply with the provisions of this article,
8 is guilty of a misdemeanor, and, upon conviction thereof,
9 shall be fined not less than fifty dollars nor more than
10 three hundred dollars.

§52-1-20. Payment of compensation.

1 The method of payment of jurors shall be determined
2 by the chief judge and approved by the state tax
3 commissioner. It is the duty of the clerk, as soon as
4 practicable after the adjournment of the court or before
5 the adjournment of the court at such time as the chief

6 judge may direct, to deliver to the sheriff of the county
7 a certified accounting of the amount to which each juror
8 is entitled. If any sheriff fails to pay any allowance as
9 required by law, the sheriff may be proceeded against
10 as for a contempt of court.

11 Any allowance paid by the sheriff under the provi-
12 sions of this section shall be repaid to the sheriff out of
13 the state treasury upon the production of satisfactory
14 proof that the same has actually been paid by the
15 sheriff. Proof of payment shall be in the form of a
16 complete itemized statement indicating the total amount
17 eligible for reimbursement.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1C. BAIL.

§62-1C-2. Bail defined; form; receipts.

1 Bail is security for the appearance of a defendant to
2 answer to a specific criminal charge before any court
3 or magistrate at a specific time or at any time to which
4 the case may be continued. It may take any of the
5 following forms:

6 (a) The deposit by the defendant or by some other
7 person for him of cash.

8 (b) The written undertaking by one or more persons
9 to forfeit a sum of money equal to the amount of the bail
10 if the defendant is in default for appearance, which shall
11 be known as a recognizance.

12 (c) Such other form as the judge of the court that will
13 have jurisdiction to try the offense may determine.

14 All bail shall be received by the clerk of the court, or
15 by the magistrate and, except in case of recognizance,
16 receipts shall be given therefor by him.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Thomas Leck

Chairman Senate Committee

Ernest C Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Robert E. Spivey

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Kevin Pundette

President of the Senate

Robert C. Bell

Speaker of the House of Delegates

The within is approved this the 30th
day of March 1992.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/92

Time 12:10 pm