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Private Acts of 1947 Chapter 53

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Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1947 Chapter 53

COMPILER'S NOTE: This Act may be superseded by Tennessee Code Annotated Section 22-2-101.

SECTION 1. That for each County in this State having a population of and (sic) not less than four hundred thousand and not over five hundred thousand under the Federal Census of 1940, or any subsequent Federal Census, there is hereby authorized to be created a Board of Jury Commissioners. The members of said Board shall be appointed by the Judge or Judges of the Circuit Court, or Courts, as the case may be, in each of said Counties, acting jointly with the Judges of the Criminal Court, if such there be in such Counties. Said Board shall consist of three discreet persons who are householders or freeholders of the County, and who are not practicing Attorneys at Law, or State or County officers, and who have no suit pending in any of the said Circuit or Criminal Courts at the time of their appointment. No more than two of the said Commissioners shall belong to the same political party. On the first appointment, one of said Commissioners shall be appointed to serve for one year, one for two years, and one for three years; all vacancies which may occur in said Board, either from death, resignation, or otherwise, shall be filled in the same manner and by the same authority as the original appointment, for a three-year term. Such vacancy may be filled immediately upon receipt of satisfactory notice thereof.

The Clerk of the Circuit Court is hereby created (sic) the Clerk of said Board, and whenever any member of said Board shall fail, refuse, or be unable to discharge any of the duties imposed by this Act upon said Board, the two remaining members of said Board shall perform the duties required of said Board temporarily; the performance of said duties by said remaining members of said Board shall be justified at any time when it shall appear by the affidavit of any member of said Board, or certificate of a reputable physician, that any member of said Board is unable for any reason to perform the duties required of such member.

As amended by: Private Acts of 1972, Chapter 322

SECTION 2. That the Jury Commissioners, before entering upon the discharge of their duties, shall take and subscribe before any Judge of the Circuit or Criminal Courts the following oath, viz:

"I, A.B., do solemnly swear (or affirm) that I will faithfully and impartially discharge the duty of Jury Commissioner for the County of _____ (filling in name) to the best of my knowledge and ability, and that I will not place the name of any person on the jury list of said County, or in the jury box thereof, whom I believe to be corrupt or unfit, or who has to my (sic) knowledge solicited or had another to solicit his name to be placed (sic) on the jury list, or in the jury box; that I will keep secret and inviolate the deliberations and counsel of the Jury Commissioners while in the discharge of their duty, unless called on to give evidence thereof in some Court of Justice or other legal tribunal of this State, so help me God."

Said oath shall be spread upon the Minutes of the Circuit Court and the original preserved as a part of the records of said Commissioners.

SECTION 3. That immediately after their appointment and qualification by the taking of said oath, said Jury Commissioners shall meet and organize by electing one of their members as Chairman, and by requiring the Clerk of the Circuit Court to take and subscribe to an oath to faithfully discharge the duties of Clerk of said Board, as required by law, and not to divulge any of the proceedings and deliberations of the Jury Commissioners, unless required to testify thereof in some Court of this State. This oath shall be spread upon the Minutes of the Circuit Court and the original preserved as a part of the records of the Commission.

SECTION 4. That it shall be the duty of said Jury Commissioners to select from the tax books, permanent registration lists, and poll books of the County, and from any other sources of information available to them, and write on pieces of paper, separately, the names of 20,000 upright and intelligent men of fair character and sound judgment, resident citizens of the County, who are eligible for jury service according to the qualifications of jurors as now prescribed by law; said names, when so compiled by said Commissioners and listed as hereinafter provided, shall constitute the jury list of said County until, in the judgment of the majority of Judges of said Courts, it has become necessary to make a new list, at which time a new list shall be prepared upon an order of said majority of Judges of said Commissioners, and said list shall be prepared in like manner as hereinbefore directed. The Clerk of said Board of Commissioners shall purchase for said Board a suitable and well-bound Permanent Record Book, in which the names of said persons so found to be eligible for jury service and selected by said Commissioners, shall be recorded by said Clerk. At the top of each page of said book shall be written or printed the words "Jury List for _____ County" (filling in the name of the County). Said book shall be so ruled as to leave a space at the lefthand side of each page for the names, and at the right-hand side for such entries as are hereinafter provided for. Said book shall be a permanent record of said Courts.

Preceding the list of names in said book shall be written these words on each page: "Jury List selected by the Board of Jury Commissioners for _____ County, the _____ day of _____" (filling in the name of County and date). Immediately following this shall be recorded the names of said persons eligible for jury service, placing one name on each line; arranging the names in alphabetical order and numbering them consecutively, beginning with number 1, but no name shall be placed on said list except by a majority vote of the Board of Jury Commissioners. At the end of the list shall be written and signed by the Commissioners the following: "We certify that the foregoing is the Jury List selected by us the _____ of _____." The Clerk of said Board, after said Jury List is recorded in said book, as aforesaid, shall deposit each of said pieces of paper containing a name selected by said Commissioners, in a box and label said box "Jury Box No. 1". Said box shall be securely locked and sealed by said Clerk and so kept by him until he is ordered by the Judges of said Courts to break said seal and unlock said box, and said seal shall be broken and said box unlocked only in the presence of two or more of said Judges, as may be convenient. At the said time said Jury Box No. 1 is prepared, the Clerk shall prepare another box and label same "Jury Box No. 2", to be used as hereinafter directed. Said Book containing said Jury List and said Jury Boxes shall be kept by said Clerk under lock and key and no inspection of same shall be permitted except by two or more of said Judges or said Jury Commissioners.

For recording said Jury List in said Book, said Clerk shall be entitled to a fee of ten cents for each name upon said list, to be paid by the County on the certificate of two or more of said Judges that said service has been rendered by said Clerk, and said sum so allowed shall be in full payment of all services rendered by said Clerk pertaining to said Jury List and said Jury Boxes, and the keeping thereof, which said Clerk is required to perform under this Act.

Immediately upon the Jury Commissioner compiling the number of names necessary to complete the Jury box, and having prepared pieces or slips of paper therefor, with the names of the prospective jurors, such pieces or slips of paper, containing such proposed jury lists shall be submitted to the Judges, whose duty it shall be to look over said lists and take therefrom the pieces of slips of paper containing the names of such proposed jurors as the Judges are of the opinion are ineligible or incompetent, for any reason, to serve as jurors. Said pieces or slips of paper so removed by the Judges shall be placed in an envelope or envelopes, sealed, and delivered to the Chairman of the Jury Commission, and upon receipt of these pieces or slips of paper by the Chairman of the Jury Commission, shall call the Jury Commission together and they shall substitute the names of other persons to take the place of those removed by the Judges, and shall destroy such pieces or slips of paper containing the names returned by the Judges.

As amended by:

Private Acts of 1951, Chapter 550,

Private Acts of 1965, Chapter 105.

SECTION 5. That not less than twenty days, nor more than twenty-five days, before each Regular or Special Term of the Circuit Court of (sic) Criminal Court of any County, to which said Act applies (or such less time as the Judges may order), said Board shall unlock the Jury Box No. 1; break the seal thereof, and after having well shaken the same, cause to be drawn therefrom, in the presence of the Board, by a child under the age of ten years, or a person over said age but blind-folded, such number of names as may be ordered to be taken therefrom by the Judges of said Courts from which to impanel to petit and trial juries for the respective terms of said Courts. In the event the Circuit Court is being held in continuous term, said Board shall draw such names when the Judges of the Circuit Court direct.

In the event the name or names of persons known by the Commissioners to have died or removed from the County, or to be mentally or physically disabled, should be drawn from said box, a line shall be drawn through such name upon said Jury List, and the death, removal, mental or physical disability shall be noted beside said name, or on the same line therewith, and the piece of paper containing said name shall be destroyed and another name shall be drawn from said box in lieu of said name to be dealt with, and a like proceeding shall be had in case where the name of any person shall be drawn from said box who, for any reason than that above set out, is not liable to or is ineligible to jury service. When in the manner above required the number of names of persons eligible to jury services has been drawn from said box, required by the order of the Judges of said Courts and certain of them impaneled on the jury, the slips on which the names of said persons shall have been written and drawn from said Box No. 1 shall be immediately placed in an envelope, which envelope shall be thereafter sealed, and shall be endorsed by the Clerk with the date of the drawing of said names, and said envelope shall be placed by said Clerk in said Box No. 2, and shall remain there until the period of three years from the date of said drawing, when said envelope shall be opened by said Clerk in the presence of one or more of said Commissioners, or one of said Judges, and said names shall again be deposited in said Box No. 1. After the number of names of persons eligible for jury service have been drawn from said Jury Box, as required by the order of said Judges, a report shall be prepared by the Clerk of said Board substantially as follows:

"To the Honorable _____ Court of _____ County (filling in the name of the Court or County as the case may be): We, the Jury Commissioners for said County, respectfully report the

following list of persons eligible for jury service on petit and trial juries for said Court which have been drawn, according to law, for the _____ term of said Court, viz.: (filling in the blank before the word "term", and then copying the names from the Jury Box). In the event the Court is being held in continuous term the words "for the _____ Term of said Court" shall be omitted.

The report shall be delivered to the Clerk of the Circuit or Criminal Court according to the Court for which said panel has been drawn and by him filed in his office with the date of such filing thereon. Thereafter, and at least five days before such panels are needed by the Courts, the Clerk of the Court shall issue to the Sheriff a writ of venire facias commanding him to summon the persons whose names are set out in said reports as jurors for said Courts, and it shall be the duty of the Sheriff to summon said persons to appear on a day specified by the Judge or Judges and from such persons the Court shall impanel the trial juries as they are needed.

In the event that by reason of the disqualification of the proposed jurors, or other causes, the required number of jurors cannot be obtained from said persons so summoned, the Clerk of the Circuit Court shall produce in open Court the Jury Boxes, and Jury Box No. 1 shall be opened and there shall be drawn therefrom, in the manner provided for the original drawing, the number of names deemed by the Judge of said Court to be sufficient to complete the jury or juries. This drawing, however, need not be in the presence of the Jury Commissioners, but will be sufficient if done in open Court. Such drawing from the Box, as last provided for, may continue by order of the Court until the jury is completed.

For and during the present national emergency, the various Judges shall have the right in the event they cannot procure the necessary number of qualified jurymen, submitted to them by the Jury Commission, to select qualified jurors from the body of the County-at-large, as are necessary to complete the panels for that term of Court.

As amended by: Private Acts of 1951, Chapter 550,
Private Acts of 1965, Chapter 105,
Private Acts of 1975, Chapter 85.

SECTION 6. That the Clerk of each Court subject to the provisions of this Act shall procure and keep in his office as a public record a well-bound book in which said Clerk shall keep a list of the jurors who serve upon juries in said Court, and this list shall be alphabetically arranged and shall show the date when each juror was placed upon the jury, and each day that each juror was in attendance upon the Court; and, if not in actual attendance, was subject to call to do jury duty at any time by the Court, so that by examination of said Book it may be at any time ascertained how many days during the said three year period each juror has served upon the jury or been impaneled upon the jury, ready for service and liable at any time to be called thereto; and this record shall be a public one and subject at all times to inspection, during the time that the office of the Clerk of said Court shall be open for business, and said Book shall be duly and correctly posted by the Clerk at the end of each day's sitting of this Court. Said Book shall be known as the "Jury Service Book" in each Court, and each page of said Book shall contain at the top the name of said Book. Said Book shall be properly ruled so as to be easily kept and clearly understood.

SECTION 7. In the selection of the grand jury, the judge or judges of the criminal court, as the case may be, shall be restricted to a list to be designated "Grand Jury List", containing a minimum of 500 names per term, prepared by the jury commission at the request of the judge impaneling said grand jury. In the event this list is exhausted without the selection of the grand jury, such judge, or judges of the criminal court, shall request from the jury commissioners a supplemental list. To be eligible for grand jury service, the individual must be a householder or freeholder and a registered voter and must not have made any effort, directly or indirectly to become a member of the grand jury. The above qualifications shall be determined by the judge by asking such prospective grand juror, under oath, questions concerning the above qualifications. In counties where there are more than one criminal judge, the judges shall alternate in the selection of a grand jury and its foreman. Beginning with the next term of court following the passage of this Act, the judge of the first court or division as the case may be, shall select the entire grand jury and its foreman. The following term, the judge of the second court or division, shall select the entire grand jury and its foreman, and the next term the judge of the third court or division shall select the entire grand jury and its foreman. Such grand jurors shall serve for the term of the court so designated. However, the judge of the court appointing said grand jury is authorized to accept a juror for service upon said grand jury for a three (3) week period, and upon completion of service of such three (3) week period, to replace such grand jury member by an alternate juror chosen from the original grand jury list heretofore referred to. In this manner a person will only be required to serve a minimum of three (3) weeks should he otherwise have a hardship.

As amended by: Private Acts of 1947, Chapter 498
Private Acts of 1972, Chapter 322

SECTION 8. That the Judge or Judges if (sic) the Circuit or Criminal Court, after securing the jury lists,

shall select from such lists the trial juries so as to best serve the needs of the Courts and justice. Jurors shall be assigned to trial panels in such numbers as are needed and to serve at such time as the Court requires, having regard to the individual needs of each juror. Jurors for all the Circuit Courts may be selected by one or more of the Judges thereof, jurors for all the Criminal Courts may be selected by one or more of the Judges thereof. If a juror shall not be available for service on the next trial panel of jurors, he may be assigned, in the discretion of the selecting Judge to the first trial panel of jurors for which he is available.

As amended by: Private Acts of 1949, Chapter 358
Private Acts of 1963, Chapter 167
Private Acts of 1975, Chapter 85

SECTION 9. That whenever the Judge of any Circuit or Criminal Court in any County subject to the provisions of this Act shall be satisfied that a jury in cause pending in his Court cannot be obtained from the number of persons ordinarily summoned, such Judge may at such time, previous to the hearing of the cause as he may deem best, cause the Jury Box to be brought into open Court and such number of names as he deems sufficient drawn therefrom, said drawing to be done in the manner last above provided for in order to obtain such jury, and the Sheriff shall summon the persons whose names are so drawn; and from the persons whose names are so drawn, said jury shall be made up, if practicable; and if not, another number of names shall be drawn from said Box in the same manner as hereinbefore directed and summoned instanter, and so on until the jury is completed. It shall be a misdemeanor for any person to make, request, directly or indirectly, of said Clerk or either one of said Commissioners, or other person, to have his name placed upon said Jury list. Actual service upon a jury in the Circuit of (sic) Criminal Courts of any County affected by this Act, for three weeks during any three years shall exempt the person so serving from jury duty and make him ineligible to further service during the three years in which such service shall take place, except in the cases hereinafter provided for. The years for which such person is exempt, under the language above set out, shall be counted to run from the date which the name of said person was drawn from the Jury Box No. 1, and placed in a marked and sealed envelope and deposited in Jury Box No. 2, as hereinbefore provided, and where such exemption is sought to be shown by any person summoned for Jury service, the entries of the Clerk upon the Jury Service Book, hereinbefore provided for, shall be the only competent evidence of service for the time required by the person claiming exemption from jury service on account of service upon the jury for the time above required, and in computing the time of actual service under the provisions above, the Court shall construe "actual service" to mean not only the days which said Jury Book may show said person claiming such exemption to have been actually sitting on the jury in the trial of causes, but also those days during which said person may by said book be shown to have been subject to call at any time from his business, or in actual attendance upon the Court, though not actually sitting upon the cause on trial.

SECTION 10. That any person summoned to serve as a juror in the Circuit or Criminal Court of any County, subject to the provisions of this Act, may present to the Court in which he may be summoned such excuse as such person may have at any time before being selected as a member of the jury, and the Court may thereupon excuse, or not excuse, said persons from service as jurors, according to the sound judgment and discretion of the Court; but, in the event such person shall be excused by the Court, his name shall be replaced in Jury Box No. 1, and this shall be done in the case of any and all persons eligible to jury service, excused for any reason which, in the sound judgment of the Court, temporarily exempts said person from jury service. But in case a person shall be excused from jury service by the Court for the reason that such person under the law is not eligible to jury service, the name of such person, so excused, shall not be again placed as above stated in Jury Box No. 1, and the piece of paper, showing such name, shall be destroyed and a line drawn through said name on the jury list by the Chairman of the Jury Commission, who shall immediately cause substitute names, selected by the Jury Commission.

As amended by: Private Acts of 1951, Chapter 550

SECTION 11. That from time to time as may be necessary, and for the purpose of replenishing or adding to said Jury List such persons as under the provisions of this Act are eligible to jury service, the said Jury Commissioners may add additional names to said Jury List of persons eligible to jury service, and each of said names, so added to said list, shall be written upon a piece of paper and placed in said Jury Box No. 1, following the same procedure and in the same manner as above provided.

SECTION 12. That it shall be a misdemeanor for any Jury Commissioner or the Clerk of the Court or the Sheriff of any County or any of his deputies in said County, subject to the provisions of this Act, to divulge any of the secrets of said Jury Commissioners, or to notify any one what name or names appear upon said Jury list, or appear upon any regular or special venire to be summoned for use in any Court, or any part of such regular or special panel; and it shall also be a misdemeanor for any of the persons or officers charged with the duty of carrying out this Act to fail to perform any duty imposed by the Act. It shall also be a contempt of Court, punishable by the Circuit Court upon its own motion, or by the Criminal Court upon the petition of the Attorney General, or on its own motion, for any Jury Commissioner, Circuit Court

Clerk, or any other person to hold any Jury Box except as authorized by the provisions of this Act, or to destroy, deface, or remove without authority, or to add any name to any Jury list or to assist in or connive at any such acts, or for any custodian of a Jury Box or List to knowingly permit such acts to be done.

SECTION 13. That the Judge or Judges having the right to appoint Jury Commissioners, under the provisions of this Act, shall also have the right and authority to remove any or all of such Jury Commissioners for cause and upon due hearing for incompetency, failure to perform their duties as required by law, or corruption in office, or any other good and sufficient reason to said Judge, or Judges, appearing, upon giving five days notice to said Commissioners or Commissioner of the time and place of taking action thereon and the grounds therefor.

SECTION 14. That it shall be a misdemeanor for any person, in any County subject to the provisions of this Act, to serve upon any jury in the Circuit or Criminal Courts of said County for more than three weeks in any three years dating from the time the name of such person is drawn from said Jury Box No. 1, unless at the end of this three weeks service he shall be engaged in the hearing of a cause as a juror, which cause shall not then be concluded, in which event such person shall sit until the end of said cause without offending against this Act.

SECTION 15. That the Jury Commissioners provided for by this Act shall receive ten dollars each for each and every day's service while actually engaged in the performance of the duties required of them in this Act. Their service will be certified by the Clerk of the Board to the County Judge of the County, who will, thereupon issue paper warrants for their payment by the County Trustee.

As amended by: Private Acts of 1947, Chapter 497

SECTION 16. That all books and boxes and other things required by this Act to be purchased by the Clerk of said Board of Commissioners shall be paid for by the County for whose use they were purchased in the manner now provided by law.

SECTION 17. That in the absence of fraud no irregularity with respect to the provisions of this Act shall affect the validity of any action of a Grand Jury if this Act has been substantially complied with, or the validity of any verdict rendered by a trial jury if this Act has been substantially complied with, unless such irregularity has been specially pointed out and exception taken thereto before the Jury is sworn.

SECTION 18. That the provisions of this Act shall apply to all grand, petit, or trial juries in all Circuit and Criminal Courts of this State in Counties subject to the provisions of this Act; provided, the above provisions limiting jury service to three weeks shall apply only to petit or trial juries.

SECTION 19. That all Circuit and Criminal Courts of this State in Counties subject to the provisions of this Act that have selected petit or trial juries for the current terms under the provisions of Acts repealed by this Act, and are now in regular session, shall either discharge said juries and proceed to organize said Courts under the terms and provisions of this Act, if such Courts and Judges thereof so elect, or they may continue the trial of cases in such Courts until the end of the current terms, and organize the next subsequent terms under the terms and provisions of this Act. Any indictments heretofore returned by Grand Juries and in all criminal cases pending in Circuit or Criminal Courts of Counties in this State to which this Act applies, are hereby declared legal, and the passage of this Act shall not affect in any wise any prior acts of Grand Juries or Trial Juries in Counties in this State to which this Act applies.

SECTION 20. That the Judges of the said Courts may, acting within the limitations and framework of this Act, formulate, make, and put into effect such demands and procedural rules and regulations, applicable alike to all of the said Courts, as may be necessary or proper to efficiently work out and put into practice the selection of juries as herein provided.

SECTION 20-A. In addition to the foregoing method of providing names for jury venires, the following alternative method is authorized. In event said Judges find that the roll of all the registered voters in such counties is so tabulated and arranged that names can be selected therefrom by mechanical or electronic means in such manner as to assure proportionate distribution of names selected without opportunity for the intervention of any human agency to select a particular name, then and in that event, such Judges may authorize the Jury Commission to obtain names for jury venires from such source and by such method, under such rules as may be prescribed by said Judges.

Such rules may prescribe intervals and times of selection of names other than those set out elsewhere in this Act in order to facilitate the process provided in this Section.

The means of providing names for jury venires as otherwise provided by this Act shall remain available to the Courts and may be used at any time when any of the Judges find the means provided by this Section is impractical or by all the Judges whenever they determine such other method is preferable.

As amended by: Private Acts of 1967-68, Chapter 329

SECTION 21. That all laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 22. That this Act take effect and be in force from and after February 4, 1947, the public welfare requiring it.

Passed: January 22, 1947.

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