

Legislative Analysis



JUROR QUALIFICATION QUESTIONNAIRE

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House Bill 4403 as introduced
Sponsor: Rep. Shanelle Jackson
Committee: Judiciary

First Analysis (5-18-11)

BRIEF SUMMARY: The bill would require a county jury board to supply a juror qualifications questionnaire to each person on the first jury list even if a person had previously failed to return the questionnaire.

FISCAL IMPACT: The bill would have no fiscal impact on state and local government.

THE APPARENT PROBLEM:

Juror qualifications questionnaires are used by county jury boards to determine a person's eligibility to serve on a jury. First, a list of names is compiled from a source list provided by the secretary of state containing the names of licensed drivers and state identification card holders. Next, the names of people already determined to be ineligible are removed from the list. (For example, convicted felons are excluded). The remaining list of names is known as the Master Jury List. The juror qualifications questionnaires are mailed to each person on the Master Jury List. The questionnaire must be returned within 10 days; failure to do so can result in fine, imprisonment, or both for contempt of court.

Despite the threat of punishment, some people do not return the questionnaires. A few years ago, Wayne County followed a practice by which the names of those who did not return the questionnaire were placed in what is called a "suppression file" and their names were struck from subsequent Master Jury Lists. Thus, a person who failed to return a juror qualifications questionnaire even one time would never have a chance to serve on a jury in that county again, regardless of the reason why the questionnaire was not returned (for instance, it got lost in the mail or the person moved and it wasn't forwarded).

The use of suppression files proved to be problematic, and resulted in a disparity in the rate of African-American representation in the jury pool as well as the exclusion of some who wanted to serve on a jury and had no idea why they never received a summons. A comprehensive assessment of the Wayne County jury system was conducted in 2006 by the National Center for State Courts (NCSC) and the final report included several recommendations – one of which was to discontinue the suppression file practice of removing the names of individuals who failed to respond to the questionnaire from the Master Jury List. Legislation to adopt the NCSC recommendation has been offered.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act (MCL 600.1313) to require a county jury board to supply a juror qualifications questionnaire to each person on the first jury

list, regardless of whether the person previously failed to return a juror qualification questionnaire. (Underlining denotes proposed change.)

ARGUMENTS:

For:

Apparently, the practice in Wayne County of placing the name of a person who did not return a juror qualifications questionnaire into a suppression file has stopped, but enactment of the bill would ensure that it will not resume. According to American Bar Association principles, "courts should use open, fair, and flexible procedures to select a representative pool of prospective jurors." To exclude someone simply because they didn't return the questionnaire does not reflect that principle.

Further, excluding from jury service a person who fails to return the questionnaire promotes a poor attitude towards service by providing a way for people to opt out without having to meet any of the statutory exclusions. For instance, senior citizens over 70 years of age can opt out or can choose to serve. Those who can't speak or understand English are ineligible, as are convicted felons. A person can also be excused for certain physical and mental health conditions. No one should be able to self-exclude simply by choosing not to return the questionnaire.

Moreover, sometimes mail gets lost. A person would have no idea if he or she had been removed from the Master Jury List because of not returning a questionnaire, especially as it appears that Wayne County did little to enforce compliance. Many see jury service not as a burden but as an opportunity to serve their community and fulfill their civic duty. People also change. To exclude a person for life means some good people would never get a chance to discover their questionnaire had been lost or to "grow up" and become more responsible. In some communities, exclusion of so many people who otherwise would be eligible results in a final jury pool that doesn't represent a defendant's right to a jury of peers. The bill would give many a second chance.

POSITIONS:

The State Bar of Michigan supports the bill. (4-26-11)

The Lansing Black Lawyers Association supports the bill. (5-5-11)

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