

**CHAPTER 138**

Original Senate File No. 81

**JURIES**

AN ACT to create W.S. 1-11-129 and 1-11-401; to amend W.S. 1-11-101, 1-11-104, 1-11-106(a), 1-11-109(e), 1-11-113(a), 1-11-114, 1-11-116, 1-11-117, 1-11-118, 1-11-121, 1-11-122, 1-11-124, 1-11-125, 1-11-126, 1-11-127 and 1-11-303; and to repeal W.S. 1-11-108(c), 1-11-110, 1-11-111 and 1-11-113(b) relating to juries; providing procedures for selecting juries; providing for protection of a juror's employment; modifying qualifications of jurors; modifying causes for excusal; providing for discharge of jurors; modifying use of jury boxes; increasing compensation of jurors; providing penalties; and providing for effective dates.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 1-11-129 and 1-11-401 are created to read:

**1-11-129. Alternative procedure.** The procedures for compiling and maintaining of jury lists, jury ballots and jury boxes, and for drawing jurors, may be modified by the court to permit the compilation and maintenance of jury lists and ballots and for the drawing of jurors by any manual, mechanical, electronic or other means calculated to insure the integrity of the system and a random selection process.

**ARTICLE 4**

**JURORS' EMPLOYMENT**

**1-11-401. Protection of jurors' employment.**

(a) No employer shall discharge, threaten to discharge, intimidate or coerce any employee by reason of the employee's jury service, for the attendance or scheduled attendance in connection with jury service, in any court in the state of Wyoming.

(b) Any employer who violates the provisions of this section:

(i) May be enjoined from further violations of this section in order to provide other appropriate relief, including but not limited to reinstatement; and

(ii) Is liable for exemplary damages to the employee in an amount set by the court, but not to exceed one thousand dollars (\$1,000.00) for each violation as to each employee; and

(iii) Is liable for the employee's reasonable costs and attorney's fees, as set by the court, in enforcing his rights hereunder.

(c) Any individual who is reinstated to a position of employment in accordance with this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority and is entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or on leave of absence in effect with the employer at the time the individual entered upon jury service.

(d) No action by an employee aggrieved hereunder shall be brought more than six (6) months after the alleged violation.

(e) The court may award a prevailing employer a reasonable attorney's fee as part of the cost if the court determines that any action brought by an employee is frivolous, vexatious or brought in bad faith.

**Section 2.** W.S. 1-11-101, 1-11-104, 1-11-106(a), 1-11-109(e), 1-11-113(a), 1-11-114, 1-11-116, 1-11-117, 1-11-118, 1-11-121, 1-11-122, 1-11-124, 1-11-125, 1-11-126, 1-11-127 and 1-11-303 are amended to read:

**1-11-101. Qualifications of juror.**

(a) A person is competent to act as juror if he is:

(i) An adult citizen of the United States who has been a resident of the state and of the county ninety (90) days before being selected and returned;

(ii) In possession of his natural faculties, of ordinary intelligence and without mental or physical infirmity preventing satisfactory jury service;

(iii) Possessed of sufficient knowledge of the English language.

(b) No citizen shall be excluded from service as a juror on account of race, color, religion, sex, age, national origin or economic status.

**1-11-104. Causes for excusal.** A juror may not be excused for a trivial cause or for hardship or inconvenience to his business, but only when material injury or destruction to his property or property entrusted to him is threatened, or when his health or the sickness or death of a member of his family requires his absence. A person may be excused at his request if he is over seventy-two (72) years of age. A person may be excused from jury duty when the care of that person's young children requires his absence. No person shall be required to appear as a member of a panel for the next term of court.

**1-11-106. Jury list; preparation of ballots for jury box; drawing jury panel; certificate and summons.**

(a) The list of persons qualified to serve as trial jurors, certified and delivered to the clerk of the district court in accordance with W.S. 18-3-402 is the base jury list for the district court, the county court and justice of the peace courts for the remainder of the calendar year. By order of the district judge, county judge or justice of the peace, for their respective courts, the base jury list may be expanded by including some other source or sources of names in addition to voter lists. After the list is delivered and supplemented when applicable, suitable ballots shall be

prepared and deposited in a box known as and plainly marked "jury box number one". Upon order of the court, the clerk of the district court, sheriff and county treasurer shall draw from jury box number one a panel of trial jurors, which shall contain such number of names as specified by the court.

**1-11-109. Procedure for drawing jury; contents of certificate; service.**

(e) The jurors on the certified list shall be summoned to appear.

**1-11-113. Completion of jury panel.**

(a) The persons drawn from jury box number one and certified as trial jurors shall appear in answer to the summons and be examined as to their qualifications. If after all qualified trial jurors have been accepted it appears that there are not enough in attendance, the court shall order the clerk to draw from jury box number one the necessary number of names to complete the jury panel, and the clerk shall continue to draw from that box until a sufficient number of jurors are obtained. The person so drawn shall be summoned to appear.

**1-11-114. Service of summons; return and proof of service.**

(a) Service of a summons may be made by such means as the court may order.

(b) If necessary the court may require proof of service.

**1-11-116. Empaneling of jury.** At the opening of court on the day that trial jurors are summoned to appear, the clerk shall call the names of those summoned. The court shall hear the jurors summoned, and shall excuse those whom the court finds are exempt, disqualified or have material cause for being excused. The clerk shall write the names of the jurors present and not excused upon separate ballots, fold the ballots so that the names are concealed, and deposit the ballots in a sealed box numbered two. The box shall remain sealed until ordered by the court to be opened.

**1-11-117. Drawing trial jury.** When an issue of fact to be tried by a jury is brought to trial, the clerk under the direction of the court shall openly draw out of box number two as many ballots as necessary to form a jury. Before the first ballot is drawn, the box must be well shaken so as to thoroughly mix the contents, and the clerk shall draw each ballot without seeing the name written on any of them.

**1-11-118. Procedure upon exhaustion of ballots during empaneling.** If at any time during the empaneling of a jury all the ballots contained in box number two are exhausted, the court shall enter an order directing that such number of names as necessary be drawn from box number one. The court may excuse any jurors so drawn if it appears that, because of distance, the delay occasioned by summoning the juror and requiring his presence would unduly prolong empaneling the trial jury. The clerk shall forthwith summon the persons drawn to appear in court immediately. The names of those accepted by the court shall be placed in box number two and shall be drawn therefrom to complete the jury. The process shall continue from time to time when necessary until a jury is obtained.

**1-11-121. Same; names placed in another box.** The ballots containing the names of the jurors so sworn shall be deposited in another box numbered three and there kept apart from the other ballots until that jury is discharged.

**1-11-122. Discharge of jurors.** After the jury is discharged the jurors, upon request, shall be excused from jury service for the remainder of the calendar year.

**1-11-124. Procedure where additional jury needed.** If an issue is brought to trial while a jury is empaneled in another cause and not then discharged, the court may order a jury for the trial of that issue to be drawn out of box number two containing the ballots then undrawn and the second jury may be completed as provided by law. In any other case the ballots containing the names of all trial jurors returned and attending the court shall be placed together in the same box before a jury is drawn.

**1-11-125. Procedure when sufficient number of jurors fail to attend.** If a sufficient number of jurors duly drawn and notified do not attend to form a jury the court shall direct the clerk to draw a sufficient number of ballots from box number one to complete the jury and shall summon the persons drawn to attend immediately or at a time fixed by the court. If for any reason a sufficient number of jurors to try the issue is not obtained from the persons notified, the court may make successive orders until a sufficient number is obtained. The court may excuse any juror so drawn if it appears that, because of distance, the delay occasioned by summoning the juror and requiring his presence would unduly prolong empaneling the trial jury. Each person so notified, unless excused by the court, shall serve as a juror at the trial. For a neglect or refusal to serve he may be fined in the same manner as a trial juror regularly drawn and notified and he is subject to the same exceptions and challenges as any other trial juror.

**1-11-126. No objection jury not original one returned.** It is not a valid objection to a jury that it contains none of the jurors originally returned to the court or is only partially composed of such jurors or that the base jury list was not supplemented as permitted herein.

**1-11-127. Furnishing of jury boxes; number, form, etc.** The board of county commissioners of each county of this state shall furnish to the clerk of the district court in their county jury boxes suitable for the purposes prescribed herein.

**1-11-303. Amount of fees.** Effective July 1, 1984, jurors shall receive thirty dollars (\$30.00) for each full or part day of actual attendance. A juror in attendance for more than five (5) consecutive days, exclusive of Saturdays, Sundays and holidays, may, in the discretion of the court, be allowed an additional twenty dollars (\$20.00) per day for each day actually in attendance.

**Section 3.** W.S. 1-11-108(c), 1-11-110, 1-11-111 and 1-11-113(b) are repealed.

STATE OF WYOMING GENERAL SESSION 1983

**Section 4.** This act is effective May 27, 1983, except for W.S. 1-11-303 which is effective July 1, 1984.

Approved March 7, 1983.