

TITLE 22
JURIES and JURORS
Chapter 1 Qualifications and Exemptions

22-1-101. Basic qualifications.

It is policy of this state that all qualified citizens have an obligation to serve on petit juries or grand juries when summoned by the courts of this state, unless excused. Every person eighteen (18) years of age, being a citizen of the United States, and a resident of the state of Tennessee, and of the county in which the person may be summoned for jury service for a period of twelve (12) months next preceding the date of such summons, is legally qualified to act as a grand or petit juror, if not otherwise incompetent under the express provisions of the code.

Comment: Existing language has been supplemented to add a policy statement concerning jury service. The language in the first sentence is contained in the Jury Patriotism Act, model legislation concerning jury service, developed by the American Legislative Exchange Council (ALEC), which serves as the model for several changes to this Title.

22-1-102. Excluded persons.

The following persons are incompetent to act as jurors:

- (1) Persons convicted of a felony or any other infamous offense(s) in a court of competent jurisdiction; or
- (2) Persons convicted of perjury or subornation of perjury.

Comment: As rewritten, this section declares certain persons to be incompetent to serve as jurors, based primarily on having been convicted of certain criminal offenses. The current version of this section disqualifies persons convicted of any offense involving theft of property, regardless of the severity of the offense. According to court clerks who responded to a jury service survey, the disqualification for all theft offenses has resulted in the exclusion of numerous individuals from jury service, many of whom had committed only petty offenses, often decades ago. "Habitual drunkards" are also automatically disqualified under the current law. The elimination of the establishment of the jury list by jury commissioners precludes an initial determination of this somewhat outdated exclusion. Moreover, subsection (b), which refers to persons with sight or hearing impairments, has been deleted due to ADA concerns. Provisions for determining the fitness for service of any particular juror are contained elsewhere.

22-1-103. Excuse from service.

(a) Any person may be excused from serving as a juror if the prospective juror has a mental or physical condition that causes that person to be incapable of performing jury service. The juror, or the juror's personal representative, must provide the court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the person unfit for jury service for a period of up to twenty-four (24) months.

(b) Any person, when summoned to jury duty, may be excused upon a showing that such person's service will constitute an undue or extreme physical or financial hardship to the prospective juror or a person under the prospective juror's care or supervision.

(1) A judge of the court for which the prospective juror was called to jury service shall make undue or extreme physical or financial hardship determinations unless a judge of that court delegates this authority to the jury coordinator. Initial inquiries and recommendations concerning such requests may be made by the jury coordinator.

(2) A person asking to be excused based on a finding of undue or extreme physical or financial hardship shall take all actions necessary to have obtained a ruling on that request by no later than the date on which the person is scheduled to appear for jury duty.

(3) For purposes of this section, "undue or extreme physical or financial hardship" is limited to circumstances in which a prospective juror would:

(A) be required to abandon a person under such juror's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury;

(B) incur costs that would have a substantial adverse impact on the payment of the juror's necessary daily living expenses or on those for whom such juror provides the principle means of support;

(C) suffer physical hardship that would result in illness or disease; or

(D) be deprived of compensation due to the fact that the prospective juror works out-of-state and the out-of-state employer is unwilling to compensate the juror pursuant to § 22-4-108, or that the prospective juror is employed by an employer who is not required to compensate jurors pursuant to § 22-4-108 and declines to do so voluntarily.

(4) Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from that prospective juror's place of employment.

(5) A person requesting an excuse based on undue or extreme physical or financial hardship shall be required to provide the judge with income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, an affidavit stating that the person is unable to obtain an appropriate substitute caregiver during the period of participation in the jury pool or on the jury, or similar documentation which the judge finds to clearly support the request to be excused. Failure to provide satisfactory documentation may result in a denial of the request to be excused.

(c) Documents submitted pursuant to this section are not public records and shall not be disclosed, except pursuant to a court order. However, the jury coordinator shall maintain a list of members of the jury pool who were excused pursuant to this section, and such information shall be made available upon request.

(d) A person excused from jury service pursuant to this section becomes eligible for qualification as a juror following the period ordered by the court, which shall not exceed twenty-four (24) months. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.

Comment: The current versions of §§ 22-1-103 and -104 provide for numerous "occupational and disability exemptions" and hardship excuses, respectively. Consistent with the policy that all persons have an obligation to perform jury service, the exemptions have been eliminated in favor of language that excuses jury service only upon a showing of "undue hardship." The undue hardship standard has been endorsed by the American Bar Association and the Tennessee Bar Association, as well as numerous other organizations which have made recommendations for jury reforms. Language in this section is largely Jury Patriotism Act model language. However, a specific reference to prospective jurors who are employed outside the state and/or whose employers do not compensate their employees for jury service has been added

22-1-104. Disqualification by interest or relationship.

No person can act as a juror in any case in which the person is interested, or in which either of the parties is connected with the person by affinity or consanguinity, within the sixth degree, computed by the civil law, except by consent of all parties.

Comment: Current § 22-1-105. The changes to this section are non-substantive.

22-1-105. Discharge of unqualified jurors.

A court may discharge from service a grand or petit juror who does not possess the requisite qualifications, or who is disqualified from such service, or for any other reasonable or proper cause, to be judged by the court. That a state of mind exists on the juror's part which will prevent the juror from acting impartially shall constitute such cause.

Comment: Current § 22-1-106. The reference to law enforcement has been deleted, as impartiality due to attitude toward law enforcement is covered by the general impartiality language contained in the current version of the statute.

22-1-106. Exemption from process.

Service of process on any juror while that juror is attending or traveling to or from the court to which the juror is summoned is voidable and subject to challenge.

Comment: Current § 22-1-107. The changes to this section are non-substantive

Chapter 2 Selection and Attendance of Jurors
Part 1 General Provisions

22-2-101. Application of chapter.

(a) The provisions of this chapter apply to all grand and petit juries in all circuit and criminal courts of this state. This chapter also applies to any law court in any of the counties.

(b) Except as provided in § 22-4-101, every private act enacted in this state touching in any way upon the subject of juries, jurors or jury commissioners is hereby repealed in its entirety.

(c) The jury selection methods in the chancery courts of this state shall not be affected in any way by the provisions of this chapter, except as provided in § 22-2-312.

Comment: With the exception of the private act reference in § 22-4-101 (per diem and travel allowance), this section repeals all private acts concerning juries, jurors or jury commissioners in order to bring all counties into a uniform procedure regarding the selection of jurors. For the same reason, this section deletes subsections that have local application.

22-2-102. Unlawful acts - Penalties.

(a) It is a Class A misdemeanor for any jury coordinator to fail to perform any duty imposed by this chapter, and upon conviction thereof, such officer shall be removed from office and be ineligible to hold any state or county office for a period of five (5) years.

(b) It is contempt of court punishable by the court wherein such violation may be under investigation, upon its own motion or upon the petition or motion of the attorney general and reporter, for any person to alter any automated jury database or jury list, to open any jury box except as herein provided, to destroy, deface, or remove without authority such automated jury database, jury list, jury box or the tickets or cards therein, or jury book or any portion of the same, to assist in or connive any such acts, or for any custodian of an automated juror database, jury box or jury list to knowingly permit any such acts to be done.

(c) It is a Class A misdemeanor punishable by fine only for any person to request or to have another request that the person's name be placed in the jury database, upon the jury list, or in the jury box for the purpose of violating any provisions of this title.

Comment: The revised version of this section deletes misdemeanors related to the selection of the jury list and jury panel and the release of the same, as they are matters of public record. The subcommittee also changed

the language in subsection (c) to require a fine only rather than a minimum \$25.00 fine.

Part 2 Jury Coordinator

22-2-201. Jury Coordinator.

(a)(1) The clerk of the circuit court of the county shall be the jury coordinator unless the judge or judges who hold circuit or criminal court in such county appoint someone other than the clerk to serve as the jury coordinator. The jury coordinator, whether it be the clerk or a person appointed by the judges, shall perform all the duties required of the jury coordinator by this title. However, the judges may, in their discretion, distribute the jury coordinator's duties between the circuit court clerk and an appointed jury coordinator.

(2) Before entering upon the duties as jury coordinator, the clerk of the circuit court, or the person filling any separate jury coordinator position, shall take and subscribe, before an officer authorized to administer oaths, the following oath:

"I, _____, do solemnly swear that I will faithfully and impartially discharge the duties imposed upon me as jury coordinator for _____ County to the best of my knowledge and ability; that I will never place the name of any person on the jury list or in the jury box whom I know to be unqualified to serve as a juror, or who has to my knowledge solicited or had others to solicit that the person's own name be placed on the jury list or in the jury box; so help me God."

(3) If the circuit court clerk serving as jury coordinator becomes ill or is absent for any cause when the jury coordinator's services are required, the clerk's deputy may take the oath prescribed for the jury coordinator and thereafter perform the jury coordinator duties in the clerk's absence. If the jury coordinator is a person other than the circuit court clerk, the circuit court clerk may serve as jury coordinator in the jury coordinator's absence after taking the required oath.

(b) If the aforementioned judges appoint a person other than the circuit court clerk to serve as jury coordinator, compensation for such jury coordinator shall be set by the legislative body of the county or the legislative body of the metropolitan government of any county having a metropolitan form of government.

Comment: Current §§ 22-2-201, -202, and -203 are deleted. These sections establish and address the functions of jury commissioners. Because of the growth in our state, communities have evolved from the time when persons were generally known throughout the community. Because of this evolution, the function of the jury commissioners to manually remove disqualified persons from the jury list or from the jury pool has been made extremely difficult. The other function of the jury commissioners, the manual drawing of names from the jury box to comprise the jury pool, has largely been replaced by an automated, random selection of names from a computer database. Since the functions of the jury commissioners have become less significant because of these developments, the subcommittee determined that the deletion of jury commissioners was appropriate.

Current § 22-2-204 becomes the new § 22-2-201, which establishes the position of jury coordinator. The jury coordinator assumes the remaining functions of the jury commissioners. The circuit court clerk, who under current law serves as the clerk of the jury commissioner board, becomes the jury coordinator, performing essentially the same tasks that were performed as clerk of the jury commissioner board. The section does allow the trial judges in a county a separate person to perform some or all of the duties of the jury coordinator, and to be compensated by the county (or metropolitan) government. This reflects the current practice in a number of larger counties.

Part 3 Jury Selection and Attendance

22-2-301. Automated method of selection of names for jury list.

(a) The jury coordinator in each county shall select names of prospective jurors, to serve in the courts of such county, by random automated means, without opportunity for the intervention of any human agency to select a particular name, and in a manner that causes no prejudice to any person. The names, which shall constitute the jury list, shall be compiled from licensed driver records or lists, tax records, permanent voter registration records, or other available and reliable sources which are so tabulated and arranged that names can be selected by automated means. The jury coordinator may utilize a single source or any combination thereof, except that the coordinator shall not include the permanent voter registration records as the sole or primary source.

(b) The jury coordinator shall repeat this procedure as often as reasonably necessary, but in no event may a list be retained for more than two (2) years. Prior to repeating this procedure and compiling a new jury list, no person may add to or take from the existing list, except as hereinafter provided.

Comment: This section is based upon current § 22-2-302(d), which provides for electronic or mechanical generation of the jury list. Since electronic jury list generation (relabelled automated selection in the new sections) is used by a majority of counties in Tennessee, the subcommittee chose to make automated selection the default rule from which counties could opt out to perform a manual selection. For the sake of clarity, jurors comprise the following separate groups: the jury list (the list of prospective jurors (licensed drivers, etc.)), from which is selected the jury pool (the summoned jurors), from which is selected the grand jury and jury panel (or venire). Finally, the petit jury is selected from the jury panel/venire.

22-2-302. Manual method of selection of names for jury list.

In the event that any county of this state cannot obtain and select names for jury selection by automated means pursuant to § 22-2-301, such county may utilize the alternate jury selection method set out herein.

(a) The jury box, a suitable and well-bound book in which to record the jury list, and any necessary stationery shall be purchased by the jury coordinator and paid for by the county, and the jury coordinator shall be the custodian of these items. Neither the book nor the box shall be opened except as hereinafter provided.

(b)(1) The jury coordinator and the circuit court clerk, or the clerk's deputy if the circuit court clerk serves as the jury coordinator, hereinafter referred to as "witness", shall meet in the circuit court clerk's office at a time fixed by the presiding judge of the judicial district to select the names of prospective jurors to serve in the courts of such county. The names, which shall constitute the jury list, shall be selected from licensed driver records or lists, tax records, permanent voter registration records, or other available and reliable sources. The jury coordinator may utilize a single source or any combination thereof, except that the coordinator shall not include the permanent voter registration records as the sole or primary source.

(2) The number of such names to be placed on the jury list shall be determined by the presiding judge of the judicial district.

(3) The aforementioned persons shall repeat this procedure as often as reasonably necessary, but in no event may a list be retained for more than two (2) years. Prior to repeating this procedure and compiling a new jury list, no person may add to or take from the existing list, except as hereinafter provided.

(c)(1) At the top of each page of the well-bound book shall be written or printed the words, "Jury list for _____ County." Following these words and preceding the list of names shall be written these words, "Jury List Selected by _____, Jury Coordinator for _____ County, on the _____ day of _____, _____."

(2) Immediately following this heading shall be recorded the list of jurors selected, placing one (1) name on each line, arranging the names in alphabetical order and numbering them consecutively, beginning with No. 1.

(3) At the end of the list shall be written and signed by the jury coordinator and the witness the following: "I, _____, Jury Coordinator for _____ County, and _____, (witness) certify that the foregoing is the jury list selected by us for the next _____ year(s)/month(s)/days for the county. This the _____ day of _____, _____."

(d)(1) The names on the list, preceded by the original number thereof, shall be written by the jury coordinator on tickets or cards of paper uniform in size, and placed in the jury box in the presence of the aforementioned witness, the box to be kept securely locked and under seal, and it shall not be unlocked or the seal broken except by the order of and in the presence of the jury coordinator and a witness, and then only for the purpose of refilling the box or drawing therefrom the names of jurors for jury service, or by order of a judge holding court as hereinafter provided.

(2) The jury book shall be kept in secret by the jury coordinator under lock and key and no one shall be allowed to inspect the same except the presiding judge of the judicial district or the jury coordinator.

Comment: The manual method of jury selection for the jury list is left largely unchanged. The functions that are performed under the current law by the jury commissioners are performed in the revised section by the jury coordinator and a witness.

22-2-303. Counties having courts in two places - Separate records.

In those counties of the state where the circuit or criminal courts or both sit in two (2) places, the jury coordinators for those counties shall be required to select jurors from the territorial jurisdiction of each of the two (2) courts and will maintain two (2) sets of records; one (1) for each of the courts as is provided in this part, the same as if both courts were in separate counties.

Comment: Jury coordinators were substituted for jury commissioners.

22-2-304. Automated selection of names for jury pool.

(a) In any county in this state where the names of prospective jurors are obtained by automated means pursuant to § 22-2-301, the selection of names of prospective jurors to be summoned shall likewise be made by automated means in such a manner as to assure proportionate distribution of names selected without opportunity for the intervention of any human agency to select a particular name, and in a manner that causes no prejudice to any person. It is the duty of the presiding judge of the judicial district to notify the jury coordinator of the number of names to be selected from the jury list, and these names shall constitute the jury pool.

(b) When the required number of names have been selected for the jury pool, the jury coordinator shall place a list of those names in an envelope, and with the same shall be enclosed a report prepared and signed by the jury coordinator. A copy of the list and report shall be retained by the jury coordinator for use under the provisions of this chapter, and the report shall provide substantially as follows:

To the Honorable _____, Presiding Judge of the _____ Judicial District, at _____
County:

I, _____ the jury coordinator for such county, report that the enclosed names, which have been drawn according to law, constitute the jury pool for the upcoming jury service term:

This the _____ day of _____, _____.

Jury Coordinator

(c) The jury coordinator shall also file a copy of the aforementioned report and list with the clerk of the court.

Comment: This section establishes a default procedure in which an automated process is used to select the

jury pool from the jury list. Counties that cannot obtain and select names for the jury pool with an automated process may opt out and perform the manual method of jury pool selection. This language is based upon the language of current § 22-2-304(e).

22-2-305. Manual method of selection of names for jury pool.

In the event that any county of this state cannot obtain and select names for the jury pool by automated means pursuant to § 22-2-304, such county may utilize the alternate jury selection method set out herein.

(a) On Monday, two (2) weeks before each jury service term, the jury coordinator shall unlock the jury box and break the seal thereof, and after well shaking the same, cause to be drawn therefrom in the presence of the witness, that number of names which the presiding judge of the judicial district shall have directed to be drawn, to constitute the jury pool for such jury service term. If the Monday two (2) weeks before the jury service term begins is a legal holiday, the jury coordinator may perform his function on the following business day.

(b) In the event the name is drawn of a person known by the jury coordinator to no longer be qualified or competent to serve pursuant to §§ 22-1-101 or 22-1-102, the name shall be put aside and not used, and another name shall be drawn instead. Should the jury coordinator, when drawing names from the jury box, overlook the names of persons who are incompetent or unqualified to serve, the presiding judge of the judicial district and the judge presiding over a trial in which those persons serve as jury panel members each shall have the authority to excuse those persons from jury service and direct that their names be withdrawn from the jury pool.

(c)(1) Not more than five (5) days before the jury service term and not later than the first day of such term, the jury coordinator and witness shall certify that the names drawn constitute the jury pool for the term by following the procedures below.

(2) When the required number of names have been drawn for the jury pool, the original tickets or cards on which they have been written shall be placed in an envelope and with the same shall be enclosed a report prepared and signed by the jury coordinator and witness, a copy of which shall be retained by the jury coordinator for use under the provisions of this chapter, substantially as follows:

To the Honorable _____, Presiding Judge of the _____ Judicial District, at _____
County:

I, _____ the jury coordinator for such county, and _____, who
witnessed the selection of names, respectfully report the following names, which have been drawn
according to law, arranged alphabetically and numbered, as shown on the original tickets or cards
enclosed with this report, as the jury pool for the upcoming jury service term:

Names
No.
No.
No.

We further report that in addition to the above list there were drawn from the jury box at the same
time the following names of persons known to the jury coordinator to be unqualified or incompetent
to serve (copying such names and numbers), and we enclose such original tickets or cards with this
report separate from the other tickets or cards.

This the _____ day of _____, _____.

Jury Coordinator

Witness

(3) The jury coordinator shall then seal the envelope containing his report and the original tickets or cards, address the envelope to the presiding judge of the judicial district, write the judge's name across the sealing of the envelope, and deliver the envelope to the judge at the opening of the jury service term.

(d) The jury coordinator shall also file a copy of the aforementioned report with the clerk of the court.

Comment: This section establishes the manual method of drawing names from the jury box to create the jury pool. The process is largely unchanged from current law regarding the manual method, although functions performed by the jury commissioners in the current law are carried out by the jury coordinator and witness in the revised section. Also, the provision regarding returning names to the box was unnecessary and has been deleted.

22-2-306. Juror Summons

(a) Each juror summons shall include the following:

(1) Name of the juror;

(2) Address of the juror;

(3) Date, time, and place juror is required to appear in response to the summons or, in the alternative, date and method by which the juror is required to contact the jury coordinator or otherwise respond to the court regarding the juror's service;

(4) Penalty for juror's failure to appear or otherwise respond to the summons in the prescribed manner;

(5) Juror qualifications listed in §§ 22-1-101 and -102;

(6) Process by which the juror may attempt to be excused due to a hardship pursuant to § 22-1-103, including the juror's obligation to submit documentation in support of the juror's request; and

(7) Process by which the juror may request a postponement of jury service pursuant to § 22-2-315.

(b) The administrative office of the courts shall prepare a form juror summons that may be used by the jury coordinator in any county.

Comment: This section is new. It sets out the minimum amount of information which must be included in a summons and directs the administrative office of the courts to prepare a summons form.

22-2-307. Summoning jurors.

(a) The sheriff shall summon jurors by first class mail sent to the regular address of each member of the jury pool, giving notice of such person's selection for jury duty. Such summons shall be mailed to such regular address at least ten (10) days prior to the date fixed for such person's appearance for jury service.

(b) Notwithstanding subsection (a), the sheriff may summon jurors by personal service.

(c) The jury coordinator shall provide sufficient information regarding the members of the jury pool to enable the sheriff to summon the jurors pursuant to this section.

Comment: Currently § 22-2-305. As rewritten, this section allows for service either by mail a minimum of 10 days prior to service or by personal service regardless of the county's size or the method which was used to select the names of the prospective jurors. The section is broad enough to allow for service by the sheriff, jury coordinator, or other appropriate person. The secrecy provision in current § 22-2-305(a) has been deleted.

22-2-308. Publication of jury pool - Copies.

Immediately after the jury pool has been summoned in accordance with § 22-2-307, the jury coordinator shall create a list of the members of the jury pool, and a copy thereof shall be posted in the clerk's office for public inspection. In addition thereto, the jury coordinator shall cause to be made a sufficient number of copies thereof, which shall be placed in the clerk's office and available for general distribution to the members of the bar and to all other interested persons.

Comment: This section simplifies the rules concerning the publication of the jury pool. The current law in § 22-2-306 establishes a procedure in Davidson and Hamilton counties and a separate procedure for all other counties. The new procedure would apply to all counties and simply require posting of the jury pool and the making of a “sufficient number of copies” for distribution to interested persons.

22-2-309. Attendance of prospective jurors.

(a) All persons summoned as members of the jury pool shall attend at the time and place designated in the summons, or otherwise respond as specified in the summons, unless excused pursuant to § 22-1-103, granted a postponement pursuant to § 22-2-315, or otherwise discharged in a manner authorized by this title or other binding legal authority.

(b) If a person who has been summoned but not excused or discharged pursuant to (a) fails to appear for service or otherwise respond as directed, a show cause order shall issue and be served upon the person, requiring the person to appear at a date certain and show cause why the person should not be held in civil contempt of court for the person's failure to appear.

(c) Upon the appearance of any person served with a show cause order, the person may make the person's excuse known. If the person was summoned and if the excuse is sufficient in the opinion of a judge of the court for which the individual was called to jury service, such person shall be excused; but the person shall pay the cost incident to issuance and service of the show cause order, unless waived by the judge. If the excuse is insufficient, such person shall be adjudged in civil contempt of court and shall be assessed a civil penalty of not more than five hundred dollars (\$500.00) and the costs of the show cause order. The court shall suspend payment of that portion of the civil penalty in excess of fifty dollars (\$50.00) upon the condition that the person complete the jury service term for which the person was summoned. The civil penalty authorized by this subsection is remedial in nature.

Comment: This section specifies the procedures to be utilized upon failure of a summoned juror, who has not previously been excused from service, to appear or respond as ordered. A juror who fails to appear/respond and subsequently provides a sufficient excuse to the trial judge may be excused, but will be responsible for payment of the costs associated with securing the juror's appearance. A juror who fails to appear/respond and fails to provide a sufficient excuse is in civil contempt of court, and must be assessed a civil penalty not to exceed \$500. Any penalty in excess of \$50 is suspended to comply with constitutional limitations as enumerated in *City of Chattanooga v. Davis*, 54 S.W.3d 248 (Tenn. 2001). A summoned juror who fails to complete jury service would be subject to the full penalty.

22-2-310. Impaneling juries - Additional jurors.

(a) The members of the grand and petit juries shall be made up as provided by law from the jury pool. In the event the original jury pool does not include a sufficient number of jurors, courts shall follow the procedures below for securing additional jurors. These additional names shall supplement, not replace, the original jury pool. These procedures shall be repeated, as necessary, until the grand and petit juries are completed.

(b)(1) Regardless of whether a county utilizes the automated or manual method of jury selection, additional names shall be selected for the special jury pool in the same manner this part provides for the selection of the original jury pool. Likewise, these members of the special jury pool shall be summoned in the manner specified in § 22-2-307.

(2) In the event the presiding judge of the judicial district is unavailable for good cause, any judge of the court for which the jury pool is being selected may perform the duties required of the presiding judge.

(c)(1) If a judge presiding over a trial discovers that the number of jurors constituting the panel, or venire, assigned to the trial is not adequate to secure a petit jury, and that the jury pool has been exhausted or contains an insufficient number of jurors, the judge shall direct the jury coordinator to comply with subsection (b) unless the trial is pending in a county which utilizes the manual method of jury selection. In that event, the judge shall direct the jury coordinator to produce the jury box in open court, the judge shall open the box, and there shall be drawn therefrom, as directed by the judge, the number of names deemed by the judge to be sufficient to secure a petit jury for that trial. These prospective jurors shall be summoned by personal service pursuant to § 22-2-307(b) if time constraints preclude compliance with the notice requirement in § 22-2-307(a).

(2) If a judge causes the jury box to be unlocked pursuant to subsection (c)(1), the judge shall cause it to be relocked and sealed by the jury coordinator, and the judge shall write the judge's own name across the seal. The box then shall be returned by the jury coordinator to its place of keeping.

(d) In the event the names of jurors are selected pursuant to subsection (c) for service in a particular trial, the jury coordinator shall make a list of such names, but the names shall not be removed from the jury list and, in counties utilizing the manual method of jury selection, shall be returned to the jury box. Service on a jury pursuant to (c) does not constitute jury service for purposes of § 22-2-314, and shall not disqualify or excuse any person from service on the regular juries if the person's name is regularly drawn.

(e) Jurors selected pursuant to this section may be excused for good cause.

Comment: Current § 22-2-308. This section has been revised substantially to incorporate the automated jury selection method, delete references to jury commissioners, and clarify/simplify the process for selecting additional jurors when the size of the original jury pool is insufficient. This new method essentially requires the jury coordinator to select the additional jurors in the same manner in which the original jurors were selected unless jury selection in a particular trial has begun and the county is utilizing the manual method of jury selection, in which case the selection of names must occur in open court.

22-2-311. Irregularities Investigated by judge.

(a) At the beginning of the jury service term, the presiding judge of the judicial district shall compare the jury coordinator's report, including the original tickets or cards in a county utilizing the manual method of jury selection, the list of summoned jurors, and the list(s) prepared by the jury coordinator identifying each prospective juror who was excused pursuant to § 22-1-103, granted a postponement pursuant to § 22-2-315, or otherwise discharged in a manner authorized by this title or other binding legal authority. If they correspond, such information shall be spread on the record in the caption of the first day's minutes of the jury service term. Nothing in this subsection is intended to prevent a judge or jury coordinator from subsequently excusing, disqualifying, postponing the service of, or otherwise discharging a member of the jury pool in a manner consistent with this title.

(b) If the presiding judge of the judicial district at any time believes that the jury list has not been prepared or renewed as required by law, the jury box has been tampered with, or any other provisions of this title have been violated, he shall have broad authority to investigate. Should the judge conclude that any provisions of this title have been violated, he shall correct any irregularities necessary to ensure that this title is duly enforced.

Comment: This section, currently § 22-2-310, has shifted authority to investigate from the judge of the circuit or criminal court to the presiding judge of the judicial district, and is broadened to include violations of the title, as opposed to the part. Moreover, the text which is currently included in § 22-2-308(a)(1) has been modified and moved to this section.

22-2-312. Selection of panel and additional jurors by court.

(a) If for any reason a jury pool is not furnished at any jury service term as provided by this part, then the presiding judge of the judicial district shall have the right to select a jury pool as may be needed during the jury service term.

(b) In all counties of this state, regardless of population, jurors required to try issues of fact in the chancery or other court, not supplied with regular jurors, may be summoned instanter, by order of the court, as in subsection (a).

Comment: This section, currently section 22-2-311, has shifted authority from the judge of the court to the presiding judge of the judicial district. Other changes to this section are to the language only and produce no substantive change.

22-2-313. Validity unaffected by irregularities unless objection.

In the absence of fraud, no irregularity with respect to the provisions of this title or the procedure thereunder shall affect the validity of the selection of any grand jury or the validity of any verdict rendered by a petit jury unless such irregularity has been objected thereto before the jury is sworn.

Comment: This section has been broadened to include the entire title as opposed to the part. The other changes are non-substantive.

22-2-314. Limitation on jury service.

A juror who has completed a jury service term shall not be summoned to serve another jury service term in any court of this state for a period of twenty-four (24) months following the last day of such service.

Comment: This section has been revised to establish a standard statewide limitation on jury service, limiting an individual's obligation to no more than one jury service term every two years.

22-2-315. Postponement of jury service.

(a) Notwithstanding any of the foregoing provisions, individuals scheduled to appear for jury service may request a postponement of the date of their initial appearance for jury service. When requested, postponements shall be granted by the jury coordinator, provided that:

- (1) The juror has not previously been granted a postponement;
- (2) The prospective juror appears in person or contacts the jury coordinator by telephone, electronic mail, facsimile, or in writing to request a postponement; and
- (3) Prior to the grant of a postponement and with the concurrence of the jury coordinator, the prospective juror fixes a date certain on which such juror will appear for jury service within twelve (12) months after the date on which the prospective juror originally was called to serve and on which date the court will be in session.

(b) Notwithstanding subsection (a), if a judge holding court in the county finds good cause to postpone the jury service term for a juror, the judge shall notify the juror and the jury coordinator in writing designating an alternate date to which the juror's service is postponed.

(c) A subsequent request to postpone jury service may be approved by a judge only on the basis of an extraordinary event, such as a death in the prospective juror's family, sudden grave illness, or a natural disaster or national emergency in which the prospective juror is personally involved, that could not have been anticipated at the time the initial postponement was granted. Prior to the grant of a second postponement, the prospective juror must fix a date certain on which the juror will appear for jury service within twelve (12) months of the postponement and on which date the court will be in session.

(d) A juror who is granted a postponement pursuant to this section shall remain under summons to appear on the alternate date without the necessity of the issuance of a new summons.

(e) The jury coordinator shall maintain a list of members of the jury pool whose service was postponed pursuant to this section, and such information shall be made available upon request.

Comment: This revised section, patterned after the Jury Patriotism Act, requires the jury coordinator to grant a one-time postponement of jury service for no more than twelve months if the prospective juror

satisfies the listed requirements. If the juror fails to contact the coordinator or the coordinator denies the request, the judge has the discretion to grant a postponement and designate an alternative date for service. If the juror requests a second or subsequent postponement, the judge may grant the request only in the very limited circumstances listed in subsection (c) and may not postpone the service for more than twelve months.

22-2-316. Delegation.

The presiding judge may delegate any or all of the duties imposed upon the judge by this part to another chancellor or judge authorized to conduct jury trials.

Comment: This new section gives trial judges the flexibility to efficiently distribute responsibilities for jury management

Chapter 3 Examination and Challenge of Jurors

22-3-101. Absolute right of parties to examine.

Parties in civil and criminal cases or their attorneys shall have an absolute right to examine prospective jurors in such cases, notwithstanding any rule of procedure or practice of court to the contrary.

Comment: No changes.

22-3-102. Challenge for general causes of incompetency.

Either party to an action may challenge for cause any person presented as a petit juror, in either a civil or criminal proceeding, who is incompetent to act as a juror under the provisions of chapter 1 of this title.

Comment: No changes.

22-3-103. Challenge for interest or recent prior service.

Either party to an action may challenge for cause any person who has an adverse interest in a similar suit involving like questions of facts or involving the same parties.

Comment: The references to persons having suits pending for trial in the same term of court and persons having served as jurors during the previous two years have been deleted.

22-3-104. Peremptory challenges - Effect of consolidation of cases.

(a) Either party to a civil action may challenge four (4) jurors without assigning any cause.

(b) In the event there is more than one (1) party plaintiff or more than one (1) party defendant in a civil action, four (4) additional challenges shall be allowed to such side or sides of the case; and the trial court shall in its discretion divide the aggregate number of challenges between the parties on the same side which shall not exceed eight (8) challenges to the side, regardless of the number of parties. Even when two (2) or more cases are consolidated for trial purposes, the total challenges shall be eight (8), as herein provided.

(c) If a party is both a plaintiff and a defendant, that party is considered one (1) party for the purpose of this section.

Comment: Current § 22-3-104 (challenge for drunkenness) has been deleted. The text of the section above, which is currently § 22-3-105, has not been changed.

Chapter 4 Compensation of Jurors

22-4-101. Per diem and travel allowance.

- (a) Every regular juror, including jurors on chancery court juries, is entitled to receive at least ten dollars (\$10.00) for each day's attendance.
- (b) The legislative body of any county or the legislative body of the metropolitan government of any county having a metropolitan form of government may by vote increase this rate to an amount in excess of ten dollars (\$10.00) for each day's attendance and to allow all tolls necessarily incurred in going to and returning from court and mileage at the rate of ten cents (10 cent(s)) per mile on the way from the home of the juror to the courthouse of the county where such juror is summoned and attends. In the alternative, such county may pay each juror a flat rate of eleven dollars (\$11.00) per day, or any county with a metropolitan or home rule type of government may, at its option, set the compensation for each juror in its county by ordinance, to be paid out of the county treasury.
- (c) The provisions of this section shall not be intended or considered as repealing or rescinding any special or private act now in effect.
- (d) The amount of fees or compensation of juries serving in all criminal actions shall be equal to that of juries serving in felony cases.
- (e) Notwithstanding the provisions of this section, any juror who is sequestered is entitled to receive at least thirty dollars (\$30.00) for each day's attendance.

Comment: The changes to this section are non-substantive.

22-4-102. Board and lodgings.

For boarding and lodging each jury, persons shall be allowed twenty-seven dollars (\$27.00) per day.

Comment: The committee has not amended this section but intends to do so. Any suggestions would be appreciated.

22-4-103. Tales jurors.

Tales jurors shall be compensated in the same manner as regular jurors.

Comment: The current version of this section states that, except in limited circumstances, tales jurors are not compensated unless they serve for more than one day. Under the revised version, tales jurors are compensated in the same manner as regular jurors.

22-4-104. Proof of attendance.

To qualify for reimbursement, jurors must prove under oath, during the jury service term in which they serve, and before the jury coordinator, the tolls necessarily incurred in going to or returning from their place of residence to the courthouse.

Comment: "Jury coordinator" was substituted for "clerk of the court." The other changes to this section are non-substantive.

22-4-105. Certification of List to County Clerk

The jury coordinator shall, when the jury pool is discharged, make out and certify a list of the jurors, with the number of days they have respectively served, and the amount due to each, and deliver the same to the county clerk, who shall record it in the revenue docket, and the county mayor shall issue separate warrants to the jurors for the amount due to each of them.

Comment: "Jury coordinator" was substituted for "clerk of the court." The other changes to this section are non-substantive.

22-4-106. Issuance of warrants.

It is the duty of the county mayor of each county to issue the county mayor's warrant in payment of jury service, every thirty (30) days, for the full amount due up to that time, to each member of the regular jury, grand or petit, in all cases when the term of the court which the jurors are attending extends beyond thirty (30) days in length.

Comment: The committee has not amended this section but requests comments regarding whether an amendment is necessary.

22-4-107. Receipt of warrants for taxes.

The warrants issued pursuant to § 22-4-106 shall be received by the county trustee in the payment of the county tax, unless the tax laid is insufficient to pay all the jurors' certificates, in which case the warrants shall be filed with the county trustee, and shall be paid in the order in which they are filed.

Comment: The committee has not amended this section but requests comments regarding whether an amendment is necessary.

22-4-108. Absence from employment - Amount of compensation.

(a)(1) Upon receiving a summons to report for jury duty, any employee shall on the next day the employee is engaged in such employee's employment exhibit the summons to the employee's immediate superior, and the employer shall thereupon excuse the employee from employment for each day the employee's service as a juror in any court of the United States or the state of Tennessee exceeds three (3) hours.

(2) If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, such employee shall also be excused from employment as provided by this section for the shift immediately preceding the employee's first day of service. After the first day of service, when such person's responsibility for jury duty exceeds three (3) hours during a day, such person shall be excused from the person's next scheduled work period occurring within twenty-four (24) hours of such day of jury service. Any question concerning the application of the provisions of this subsection to a particular work shift or shifts shall be conclusively resolved by the trial judge of the court to which the employee has been summoned.

(b) Notwithstanding the excused absence as herein provided, the employee shall be entitled to such employee's usual compensation received from such employment; however, the employer has the discretion to deduct the amount of the fee or compensation the employee receives for serving as a juror. Moreover, no employer shall be required to compensate an employee for more time than was actually spent serving and traveling to and from jury duty. If an employer employs less than five (5) people on a regular basis or if the juror has been employed by an employer on a temporary basis for less than six (6) months, the employer is not required to compensate the juror during the period of jury service pursuant to this section.

(c) It is the duty of all persons paying jurors their fee or compensation for jury service to issue to each juror a statement showing the daily fee or compensation and the total amount of fees or compensation received by the juror. Such person(s) also shall provide a juror with a statement showing the number of hours the juror spent serving each day if the juror or juror's employer requests such a statement prior to the service at issue.

(d)(1) No employer shall discharge or in any manner discriminate against an employee for serving on jury duty if such employee, prior to taking time off, gives the required notice pursuant to subsection (a).

(2)(A) Any employee who is discharged, demoted, or suspended because such employee has taken time off to serve on jury duty is entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer.

(B) Any employer who willfully refuses to rehire, or otherwise restore an employee or former employee, commits a Class A misdemeanor.

(e) Any employer who violates the provisions of this section commits a Class A misdemeanor.

(f) For the purposes of this section, "employer" includes, but is not limited to, the state of Tennessee or any local government.

Comment: This section was revised to clarify the intent of the current language. Also, the provision regarding railroad employees has been deleted, as their compensation appears to be covered by the general compensation provisions in this section.

22-4-109. Donation of juror reimbursement to criminal injuries compensation fund.

(a) Each prospective juror reporting for jury service shall be provided a form letter that when signed by the prospective juror directs the county treasurer to donate all of the prospective juror's reimbursement for jury service to the criminal injuries compensation fund provided for in title 29, chapter 13.

(b) The county treasurer shall send all donations made under subsection (a) to the state department of the treasury for deposit to the credit of the criminal injuries compensation fund.

Comment: No changes.

THE BILL SHOULD ALSO INCLUDE AN AMENDMENT TO 8-8-201(b)(1) SUBSTITUTING 22-2-307 FOR 22-2-305 AND 22-2-310 FOR 22-2-308.