

By: Marchant

H.B. No. 2923

A BILL TO BE ENTITLED

AN ACT

relating to jury service; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 51, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. ADDITIONAL FILING FEE FOR LENGTHY TRIAL TRUST FUND

Sec. 51.961. ADDITIONAL FILING FEE FOR LENGTHY TRIAL TRUST FUND. (a) In addition to other fees authorized or required by law, the clerk of each district court, county court, county court at law, or justice court shall collect a fee of \$20 on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee.

(b) Court fees collected under this subchapter shall be collected in the same manner as other fees, fines, or costs in the case.

(c) The clerk shall remit the fees collected under Subsection (a) at least as frequently as monthly to the county treasurer or the person who performs the duties of the county treasurer. The county treasurer or the person who performs the duties of the county treasurer shall remit the fees collected to the comptroller not later than the 10th day after the end of each quarter.

1 (d) The comptroller shall deposit the fees received under
2 this section to the credit of the lengthy trial trust fund for use
3 by the Office of Court Administration of the Texas Judicial System
4 in accordance with this subchapter.

5 Sec. 51.962. EXEMPTIONS. The following are exempt from
6 paying the filing fee imposed by Section 51.961(a):

7 (1) a local, state, or federal government;

8 (2) a pro se litigant;

9 (3) a plaintiff or defendant in an action seeking:

10 (A) a social security benefits disability
11 determination;

12 (B) compensation for a service-connected
13 disability, as defined by the Department of Veterans Affairs;

14 (C) recoupment of a loan made under a guaranteed
15 loan program of the United States government or a state government;
16 or

17 (D) support of or access to a child;

18 (4) a plaintiff or defendant who is indigent; and

19 (5) a plaintiff or defendant in any other action or
20 proceeding designated by rule to:

21 (A) involve a minimal amount of court resources;

22 and

23 (B) be the kind of action that customarily does
24 not involve a trial by jury.

25 Sec. 51.963. RULES. The Office of Court Administration of
26 the Texas Judicial System shall adopt rules and procedures for the
27 distribution of funds collected under this subchapter and rules

1 regarding actions and proceedings described by Section 51.962(5).

2 Sec. 51.964. LENGTHY TRIAL TRUST FUND. (a) The lengthy
3 trial trust fund is a trust fund outside the state treasury held by
4 the comptroller and shall be made available to the Office of Court
5 Administration of the Texas Judicial System for expenditures
6 without legislative appropriation to make lengthy trial
7 reimbursements for jurors available to a court described by Section
8 51.961(a).

9 (b) The office of court administration may disburse funds
10 from the lengthy trial trust fund only to pay jurors who qualify for
11 reimbursement under Section 62.022.

12 (c) The office of court administration shall file an annual
13 report with the Legislative Budget Board describing the amounts
14 collected for and disbursed from the trust fund. All funds expended
15 are subject to audit by the comptroller and the state auditor.

16 (d) At the end of each fiscal year, the comptroller shall
17 transfer one-half of any unencumbered amount in the lengthy trial
18 trust fund in excess of \$500,000 to the credit of the judicial fund,
19 and the comptroller shall transfer the other one-half of that
20 amount to the credit of the judicial and court personnel training
21 fund.

22 SECTION 2. Section 62.0141, Government Code, is amended to
23 read as follows:

24 Sec. 62.0141. CRIMINAL PENALTY FOR FAILURE TO ANSWER JURY
25 SUMMONS. (a) A [In addition to any criminal penalty prescribed by
26 law, a] person commits an offense if the person is summoned for jury
27 service and the person:

1 (1) does not comply with the summons as required by
2 law; or

3 (2) knowingly provides false information in a request
4 to be exempted or excused from jury service [~~who does not comply~~
5 ~~with the summons as required by law is subject to a contempt action~~
6 ~~punishable by a fine of not less than \$100 nor more than \$1,000~~].

7 (b) An offense under this section is a Class B misdemeanor.

8 SECTION 3. Subchapter A, Chapter 62, Government Code, is
9 amended by adding Sections 62.0142, 62.022, and 62.023 to read as
10 follows:

11 Sec. 62.0142. POSTPONEMENT OF JURY SERVICE. (a) A person
12 summoned for jury service may request a postponement of the
13 person's initial appearance for jury service. The person may
14 request the postponement by contacting the clerk of the court in
15 person, in writing, or by telephone before the date on which the
16 person is summoned to appear.

17 (b) On receipt of a request under Subsection (a), the clerk
18 of the court shall grant the person a postponement if:

19 (1) the person has not been granted a postponement in
20 that county during the one-year period preceding the date on which
21 the person is summoned to appear; and

22 (2) the person and the clerk determine a substitute
23 date on which the person will appear for jury service that is not
24 later than six months after the date on which the person was
25 originally summoned to appear.

26 (c) A person who receives a postponement under Subsection
27 (b) may request a subsequent postponement in the manner described

1 by Subsection (a). The clerk of the court may approve the
2 subsequent postponement only because of an extreme emergency that
3 could not have been anticipated, such as a death in the person's
4 family, sudden serious illness suffered by the person, or a natural
5 disaster or national emergency in which the person is personally
6 involved. Before the clerk may grant the subsequent postponement,
7 the person and the clerk must determine a substitute date on which
8 the person will appear for jury service that is not later than six
9 months after the date on which the person was to appear after the
10 postponement under Subsection (b).

11 Sec. 62.022. ADDITIONAL REIMBURSEMENT FOR PETIT
12 JURORS. (a) In addition to the reimbursement provided by Section
13 61.001, a petit juror in a civil case tried in a district court,
14 county court, county court at law, or justice court may be
15 reimbursed from the lengthy trial trust fund established under
16 Subchapter M, Chapter 51, for costs incurred due to jury service
17 during the 4th through the 10th days that the person serves on a
18 jury. A juror is eligible for reimbursement under this subsection
19 if the juror served on the jury for at least 10 days and the court
20 finds that, as a result of the jury service and despite any
21 reimbursement to which the juror is entitled under Subsection (b),
22 the juror incurred costs that have a substantial adverse effect on
23 the necessary daily living expenses of the juror or persons for whom
24 the juror provides the primary financial support. Reimbursement
25 under this subsection may not exceed \$100 for each day or fraction
26 of each day for which reimbursement is paid.

27 (b) In addition to the reimbursement provided by Section

1 61.001, a petit juror in a civil case tried in a district court,
2 county court, county court at law, or justice court may be
3 reimbursed from the lengthy trial trust fund established under
4 Subchapter M, Chapter 51, for any income the person did not receive
5 due to jury service for each day or fraction of each day on which the
6 person served on a jury after the 10th day of that service, minus
7 any amount the person's employer paid to the person during that
8 service after the 10th day. Reimbursement under this subsection
9 may not exceed \$300 for each day or fraction of each day for which
10 the reimbursement is paid.

11 (c) To receive reimbursement from the lengthy trial trust
12 fund, a petit juror who qualifies under Subsection (a) or (b) must
13 submit a request for reimbursement to the court in which the case
14 for which the person served as a juror was tried. The request must
15 be made on a form provided to the court by the Office of Court
16 Administration of the Texas Judicial System and must include:

17 (1) the amount of the person's regular compensation
18 when not serving as a juror;

19 (2) the amount the employer paid to the person during
20 the person's jury service;

21 (3) verification of the amounts described by
22 Subdivisions (1) and (2), as required by the office of court
23 administration;

24 (4) an affidavit stating the person's approximate
25 gross weekly income if the person is self-employed or receives
26 income in addition to compensation from an employer;

27 (5) the amount requested as reimbursement from the

1 lengthy trial trust fund; and

2 (6) any other information the office of court
3 administration finds necessary.

4 (d) The court shall certify a request for reimbursement from
5 the lengthy trial trust fund and send the request to the office of
6 court administration. The office of court administration shall pay
7 the reimbursement directly to the person who served on the jury.

8 Sec. 62.023. LIMITATION ON LENGTH OF SERVICE. A person is
9 not required to appear for jury service for more than one day unless
10 the person is selected to serve on a particular jury or is being
11 considered to serve on a particular jury. Once selected, a juror
12 shall serve on the jury until the jury renders a verdict, unless
13 excused by the court.

14 SECTION 4. Section 62.102, Government Code, is amended to
15 read as follows:

16 Sec. 62.102. GENERAL QUALIFICATIONS FOR JURY SERVICE. A
17 person is disqualified to serve as a petit juror unless the person
18 ~~[he]~~:

19 (1) is at least 18 years of age;

20 (2) is a citizen of this state and of the county in
21 which the person ~~[he]~~ is to serve as a juror;

22 (3) is qualified under the constitution and laws to
23 vote in the county in which the person ~~[he]~~ is to serve as a juror;

24 (4) is of sound mind and good moral character;

25 (5) is able to read and write;

26 (6) has not served as a petit juror ~~[for six days]~~
27 during the preceding three years ~~[months in the county court or~~

1 ~~during the preceding six months in the district court];~~

2 (7) has not been convicted of a felony; and

3 (8) is not under indictment or other legal accusation
4 of misdemeanor or felony theft or any other felony.

5 SECTION 5. Section 62.103(b), Government Code, is amended
6 to read as follows:

7 (b) A court may suspend the qualification for jury service
8 that requires a person to have not served as a petit juror during
9 the preceding three years [~~less than six days of service as a petit~~
10 ~~juror during the preceding three months in the county court or~~
11 ~~during the preceding six months in the district court]~~ if it appears
12 to the court that the county's sparse population makes its
13 enforcement seriously inconvenient.

14 SECTION 6. Section 62.106, Government Code, is amended to
15 read as follows:

16 Sec. 62.106. EXEMPTIONS [~~EXEMPTION~~] FROM JURY
17 SERVICE. (a) A person qualified to serve as a petit juror may
18 establish an exemption from jury service if the person:

19 (1) is over 70 years of age;

20 (2) [~~has legal custody of a child younger than 10 years~~
21 ~~of age and the person's service on the jury requires leaving the~~
22 ~~child without adequate supervision,~~

23 [~~3~~] is a student of a public or private secondary
24 school;

25 (3) [~~4~~] is a person enrolled and in actual
26 attendance at an institution of higher education;

27 (4) [~~5~~] is an officer or an employee of the senate,

1 the house of representatives, or any department, commission, board,
2 office, or other agency in the legislative branch of state
3 government; or

4 (5) [~~(6)~~] ~~is summoned for service in a county with a~~
5 ~~population of at least 200,000, unless that county uses a jury plan~~
6 ~~under Section 62.011 and the period authorized under Section~~
7 ~~62.011(b)(5) exceeds two years, and the person has served as a petit~~
8 ~~juror in the county during the 24-month period preceding the date~~
9 ~~the person is to appear for jury service;~~

10 [~~(7)~~] ~~is the primary caretaker of a person who is an~~
11 ~~invalid unable to care for himself; or~~

12 [~~(8)~~] except as provided by Subsection (b), is
13 summoned for service in a county with a population of at least
14 250,000 and the person has served as a petit juror in the county
15 during the three-year period preceding the date the person is to
16 appear for jury service.

17 (b) Subsection (a)(5) [~~(a)(8)~~] does not apply if the jury
18 wheel in the county has been reconstituted after the date the person
19 served as a petit juror.

20 (c) A person qualified to serve as a petit juror who is
21 summoned to appear for jury service may apply for a hardship
22 exemption if:

23 (1) jury service would cause an undue or extreme
24 physical or financial hardship to the person or another person
25 under that person's care or supervision; or

26 (2) the person has a mental or physical condition that
27 renders the person incapable of performing as a juror.

1 (d) A person who applies for a hardship exemption under
2 Subsection (c) or the person's representative must provide to the
3 court documentation from a licensed physician verifying that a
4 mental or physical condition renders the person incapable of
5 performing as a juror for at least a 24-month period from the date
6 on which the person files the application.

7 (e) A court shall hear an application for an exemption under
8 Subsection (c) and shall grant or deny the exemption in accordance
9 with the procedure described by Section 62.110.

10 SECTION 7. Sections 62.107(a) and (b), Government Code, are
11 amended to read as follows:

12 (a) A person who is notified to appear for jury service may
13 establish an exemption from the service under Section 62.106(a)
14 [~~62.106~~] without appearing in person by filing a signed statement
15 of the ground of the [~~his~~] exemption with the clerk of the court
16 before the date on which he is summoned to appear.

17 (b) A person may also claim an exemption from jury service
18 under Section 62.106(a) [~~62.106~~] by filing with the sheriff, tax
19 assessor-collector, or district or county clerk of the county of
20 his residence a sworn statement that sets forth the ground of and
21 claims the exemption. The name of a person who claims an [~~his~~]
22 exemption by filing the sworn statement may not be placed in the
23 jury wheel for the ensuing year.

24 SECTION 8. Section 62.109, Government Code, is amended to
25 read as follows:

26 Sec. 62.109. EXEMPTION FOR [~~PHYSICAL OR MENTAL IMPAIRMENT~~
27 ~~OR~~] INABILITY TO COMPREHEND ENGLISH. (a) The judge of a district

1 court by order may permanently or for a specified period exempt from
2 service as a juror in all the county and district courts in the
3 county a person [~~with a physical or mental impairment or~~] with an
4 inability to comprehend or communicate in the English language that
5 makes it impossible or very difficult for the person to serve on a
6 jury.

7 (b) A person requesting an exemption under this section must
8 submit to the court an affidavit stating the person's name and
9 address and the reason for and the duration of the requested
10 exemption. [~~A person requesting an exemption due to a physical or
11 mental impairment must attach to the affidavit a statement from a
12 physician. The affidavit and physician's statement may be
13 submitted to the court at the time the person is summoned for jury
14 service or at any other time.~~

15 [~~(c) The clerk of the district court shall promptly notify
16 the county tax assessor-collector of the name and address of each
17 person exempted and state whether the exemption is permanent or for
18 a specified period. The tax assessor-collector shall maintain a
19 current register showing separately the name and address of each
20 person permanently exempt from jury service under this section and
21 the name and address of each person exempt from jury service under
22 this section for a specified period.~~

23 [~~(d) A person listed on the register may not be summoned for
24 jury service during the period for which the person is exempt. The
25 name of a person listed on the register may not be placed in the jury
26 wheel or otherwise used in preparing the record of names from which
27 a jury list is selected during the period for which the person is~~

1 ~~exempt.~~

2 ~~[(e) A person exempt from jury service under this section~~
3 ~~may rescind the exemption at any time by filing a signed request for~~
4 ~~the rescission with the county tax assessor-collector.]~~

5 ~~[(f) An affidavit accompanying a request for an exemption~~
6 ~~from jury service because of a physical or mental impairment may be~~
7 ~~presented by the affiant or by a friend or relative of the affiant.~~
8 ~~The affidavit must state:~~

9 ~~[(1) the name and address of the physician whose~~
10 ~~statement accompanies the affidavit;~~

11 ~~[(2) whether the request is for a permanent or~~
12 ~~temporary exemption;~~

13 ~~[(3) the period of time for which a temporary~~
14 ~~exemption is requested; and~~

15 ~~[(4) that as a direct result of the physical or mental~~
16 ~~impairment it is impossible or very difficult for the affiant to~~
17 ~~serve on a jury.]~~

18 (c) ~~[(g)]~~ An affidavit accompanying a request for an
19 exemption from jury service because of an inability to comprehend
20 or communicate in the English language must be presented by the
21 affiant in person. The affidavit must:

22 (1) be sworn to by the affiant in person before the
23 district clerk or a deputy district clerk; and

24 (2) be subscribed with a statement by a third party
25 that the affidavit was read to the affiant before signing and that
26 the affiant stated that it was the affiant's ~~[his]~~ request to be
27 permanently exempted or exempted for a specified period from jury

1 service in the county.

2 (d) [~~(h)~~] The name and address of a person exempted from
3 jury service under this section shall be added to or deleted from
4 the list or register at any time permitted by law and when the names
5 and addresses of eligible jurors are regularly deleted or added to
6 the list or register.

7 SECTION 9. Section 62.110, Government Code, is amended to
8 read as follows:

9 Sec. 62.110. JUDICIAL EXCUSE OF JUROR. (a) A court may
10 hear an excuse of a prospective juror and shall determine whether
11 the prospective juror may be excused from jury service. The court
12 may delegate this determination only to another judge as defined by
13 Section 33.001. [~~Except as provided by this section, a court may~~
14 ~~hear any reasonable sworn excuse of a prospective juror and release~~
15 ~~him from jury service entirely or until another day of the term.~~]

16 (b) A person requesting to be excused from jury service must
17 take all reasonable actions to obtain a ruling on the request not
18 later than the date on which the person is to appear for jury
19 service. [~~Pursuant to a plan approved by the commissioners court of~~
20 ~~the county in the same manner as a plan is approved for jury~~
21 ~~selection under Section 62.011, the court's designee may hear any~~
22 ~~reasonable excuse of a prospective juror and discharge the juror or~~
23 ~~release him from jury service until a specified day of the term.~~]

24 (c) The court may grant a judicial excuse from jury service
25 based on undue or extreme physical or financial hardship under
26 Section 62.106(c) only if that service would require the
27 prospective juror to:

1 (1) abandon a person under the prospective juror's
2 care or supervision without an appropriate substitute caregiver
3 during the period of jury service;

4 (2) incur costs that would have a substantial adverse
5 effect on the necessary daily living expenses of the prospective
6 juror or persons for whom the prospective juror provides the
7 primary financial support; or

8 (3) suffer physical hardship that would result in
9 illness.

10 (d) The court may not grant a judicial excuse from jury
11 service based on undue or extreme physical or financial hardship
12 solely because a prospective juror would be absent from the
13 prospective juror's place of employment during the period of jury
14 service.

15 (e) A person asking a court to grant an excuse based on undue
16 or extreme physical or financial hardship must provide the court
17 with documentation to support the claimed hardship. Failure to
18 provide satisfactory supporting documentation will result in a
19 denial of the request to be excused. Satisfactory supporting
20 documentation includes, as appropriate:

21 (1) a federal income tax return;

22 (2) a medical statement from a licensed physician;

23 (3) proof of dependency or guardianship of another
24 person; or

25 (4) any other document the court requires.

26 (f) Except as provided by Section 62.107(c), the court shall
27 permanently excuse a person from jury service only if the court

1 determines that the basis of the excuse is of a permanent nature.

2 (g) Except as provided by Subsection (f), a person who is
3 excused from jury service may not be summoned until the second
4 anniversary of the date on which the person was excused. [The court
5 or the court's designee as provided by this section may not excuse a
6 prospective juror for an economic reason unless each party of
7 record is present and approves the release of the juror for that
8 reason.]

9 SECTION 10. Subchapter C, Chapter 72, Government Code, is
10 amended by adding Section 72.029 to read as follows:

11 Sec. 72.029. LENGTHY TRIAL TRUST FUND. The office shall
12 administer the lengthy trial trust fund established under
13 Subchapter M, Chapter 51.

14 SECTION 11. Section 122.001, Civil Practice and Remedies
15 Code, is amended to read as follows:

16 Sec. 122.001. EMPLOYMENT PROTECTION OF JURORS [~~JUROR'S~~
17 ~~RIGHT TO REEMPLOYMENT, NOTICE OF INTENT TO RETURN~~]. (a) A person
18 summoned to appear for jury service who notifies the person's
19 employer of the summons within a reasonable period after its
20 receipt and before the person's appearance for jury service may not
21 be terminated or removed from employment or otherwise subject to an
22 adverse employment action as a result of jury service. [A private
23 employer may not terminate the employment of a permanent employee
24 because the employee serves as a juror.]

25 (b) An employee whose employment is terminated in violation
26 of this section is entitled to return to the same employment that
27 the employee held when summoned for jury service if the employee, as

1 soon as practical after release from jury service, gives the
2 employer actual notice that the employee intends to return.

3 (c) An employer may not require or request that an employee
4 use annual, vacation, or sick leave for time spent in reporting for
5 jury service.

6 (d) On request, a court shall postpone and reschedule a
7 person's jury service if the person is employed by an employer who
8 employs five or fewer full-time employees and another employee of
9 the employer is summoned to appear for jury service concurrently.
10 Of the two employees who are summoned, the employee summoned to
11 appear on the earlier date or, if both employees are summoned to
12 appear on the same date, the second employee to notify the employer
13 of the summons is not eligible for a postponement under this
14 subsection. A postponement under this subsection is not considered
15 a postponement for purposes of Section 62.0142, Government Code.

16 SECTION 12. Sections 62.111 and 62.112, Government Code,
17 are repealed.

18 SECTION 13. (a) Except as provided by Subsections (b) and
19 (c) of this section, the changes in law made by this Act apply only
20 to a person summoned to appear for jury service on or after the
21 effective date of this Act. A person summoned to appear for jury
22 service before the effective date of this Act is governed by the law
23 in effect on the date the person was summoned to appear, and the
24 former law is continued in effect for that purpose.

25 (b) Section 51.961, Government Code, as added by this Act,
26 applies only to a suit filed on or after the effective date of this
27 Act. A suit filed before the effective date of this Act is governed

1 by the law in effect on the date the suit was filed, and the former
2 law is continued in effect for that purpose.

3 (c) Section 62.022, Government Code, as added by this Act,
4 applies only to a person summoned to appear for jury service on or
5 after January 1, 2004. A person summoned to appear for jury service
6 before January 1, 2004, is governed by the law in effect on the date
7 the person was summoned to appear, and the former law is continued
8 in effect for that purpose.

9 SECTION 14. The Office of Court Administration of the Texas
10 Judicial System shall adopt the rules required by Section 51.963,
11 Government Code, as added by this Act, not later than January 1,
12 2004.

13 SECTION 15. This Act takes effect September 1, 2003.