

**TITLE 14
COURT PROCEDURE – CIVIL**

**CHAPTER 305
JURIES**

**SUBCHAPTER 1
GENERAL PROVISIONS**

§1201. Persons exempt from jury service (REPEALED)

§1201-A. Declaration of policy

It is the policy of the State that all persons chosen for jury service be selected at random from the broadest feasible cross section of the population of the area served by the court, that all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service and that qualified citizens fulfill their obligation to serve as jurors when summoned for that purpose.

§1202. Fine for juror's failure to attend (REPEALED)

§1202-A. Prohibition of discrimination

A citizen may not be excluded from jury service in this State on account of race, color, religion, sex, sexual orientation as defined in Title 5, section 4553, subsection 9-C, national origin, ancestry, economic status, marital status, age or physical handicap, except as provided in this chapter.

§1203. Juror's fees (REPEALED)

§1203-A. Definitions

As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

1. Clerk. "Clerk" means the Clerk of Court of the Superior Court and includes any of his assistants.

2. Court. "Court" means the Superior Court of this State and includes, when the context requires, any justice of the court.

3. Juror. "Juror," for the purposes of this chapter, means any person who attends court for the purpose of serving on a jury, is on call and available to report to court to serve on a jury when so needed and so requested by the court or whose summoned service on a jury is postponed to a future date certain.

4. Master list. "Master list" means a list of names and addresses, or identifying numbers, of prospective jurors that have been randomly selected from the source list.

5. Random selection. "Random selection" means the selection of names in a manner immune from the purposeful or inadvertent introduction of subjective bias, so that no

recognizable class of the population on the lists from which the names are being selected can be purposely or inadvertently included or excluded.

6. Source list. "Source list" means the list or lists from which names of prospective jurors are drawn.

§1204. Civil juries

1. Number of members. The court shall seat a jury of either 8 or 9 members, and all jurors shall participate in the verdict unless excused for good cause by the court. Unless the parties otherwise stipulate, the verdict must be decided by the unanimous votes of at least 2/3 of the jurors participating in the verdict and no verdict may be taken from a jury reduced to fewer than 7 members.

2. Procedures. At the commencement of each term, the clerk shall prepare an alphabetical list of the names of those appearing for duty as traverse jurors. Before each trial, after the court has ruled on challenges for cause, the clerk shall randomly draw by lot from the names of all eligible jurors a sufficient number to comprise the jury panel plus enough to account for peremptory challenges. Peremptory challenges may then be exercised in accordance with court rules. When the panel is complete, the court shall appoint a foreperson to oversee deliberations and to speak for the jury.

§1205. Supernumeraries, transfers and excuses

Supernumerary jurors may be excused from time to time until wanted, and they may be placed on either jury as occasion requires. Jurors may be transferred from one jury to the other when convenience requires it. For good reason any juror may be excused.

§1206. Juror's oath

The following shall be the form of oath, administered to traverse jurors in civil causes:

"You, and each of you, swear that in all causes committed to you, you will give a true verdict therein according to the law and the evidence given you. So help you God."

When a juror is conscientiously scrupulous of taking an oath, the word "affirm" shall be used instead of "swear" and the words "this you do under the penalties of perjury" instead of the words "so help you God."

§1207. Foreman (REPEALED)

§1208. Talesman, returned

When, by reason of challenge or other cause, a sufficient number of jurors duly drawn and summoned cannot be obtained for the trial of a cause, the court shall cause jurors to be returned from the bystanders or from the county at large to complete the panel if they are on the jury not less than 7 jurors drawn and returned as provided. Such jurors shall be returned by the sheriff or his deputy or such other disinterested person as the court appoints.

§1209. New jurors summoned during term

The court may, in term time, issue venires for as many jurors as are wanted, to be drawn, notified and returned forthwith or on a day appointed. When in any county the business requires a protracted session, the court may, during the term, excuse all or any of the jurors originally returned and issue venires for new jurors to supply their places, who shall be drawn and notified to attend at such time as the court directs.

§1210. Payment of taxes as disqualification

In prosecutions for recovery of money or other forfeiture, it is not a cause of challenge to a juror that he is liable to pay taxes in a county, town or plantation which may be benefited by the recovery.

**SUBCHAPTER 1-A
JURY SERVICE**

§1211. Disqualifications and exemptions from jury service

A prospective juror is disqualified to serve on a jury if that prospective juror is not a citizen of the United States, 18 years of age and a resident of the county, or is unable to read, speak and understand the English language. The following persons are exempt from serving as jurors: The Governor, active duty military and all persons exempt under Title 37-B, section 185.

§1212. No exemptions (REPEALED)

§1213. Excuses from jury service

1. Determination. Upon request of a prospective juror, the presiding justice or the clerk of court acting under the supervision of the presiding justice shall determine whether the prospective juror is excused from jury service. The determination must be made on the basis of information provided on the juror qualification form, supplemented by other competent evidence when considered necessary to the determination.

2. Basis for excuse. A qualified prospective juror may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, public necessity or inability to render satisfactory jury service because of physical or mental disability.

A. A person claiming to be excused on the grounds of disability may be required to submit a physician's certificate or accredited Christian Science practitioner's certificate. The certifying physician or Christian Science practitioner is subject to inquiry by the court at its discretion.

B. Municipal election officials, as defined in Title 21-A, section 1, subsection 14, are excused from serving on a jury on the day of an election. State election officials and municipal clerks and registrars and their employees are excused from serving on a jury for 31 days prior to an election.

C. A person 80 years of age or older who does not wish to serve on a jury is excused from jury service.

3. Extent of excuse; record. Depending upon the circumstances, a juror may be finally excused from jury service, be required to serve at a later specific time or be required to serve for a period of time less than the usual 15 court days. The clerk shall enter the determination

regarding the requested excuse and the reason for the determination in the appropriate record kept for that purpose.

§1214. Challenging compliance with selection procedures

Within 7 days after the moving party discovered or by the exercise of diligence could have discovered the grounds therefor, and in any event before the traverse jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to dismiss the indictment, or for other appropriate relief, on the ground of substantial failure to comply with the provisions of this chapter for selecting the grand or traverse jury.

Upon motion filed under this section containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with such provisions, the moving party is entitled to present in support of the motion the testimony of the jury commissioners or the clerk, any relevant records and papers not public or otherwise available used by the jury commissioners or the clerk and any other relevant evidence. If the court determines that in selecting either a grand jury or a traverse jury there has been such a substantial failure, the court shall stay the proceedings pending the proper selection of the jury, dismiss an indictment or grant other appropriate relief.

The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the State or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with the provisions of this chapter.

§1215. Mileage and compensation of jurors

A juror is entitled to paid mileage at the rate of 15¢ per mile for travel expenses from the juror's residence to the place of holding court and return, except that, beginning July 1, 2016, a juror is entitled to paid mileage at the rate established in Title 5, section 8. A juror is entitled to compensation at the rate of \$15 for each day of required attendance at sessions of the court.

§1216. Frequency and length of service by jurors

- 1. Frequency.** Over the course of a person's life, the person may not be required:
 - A. To serve or attend court for prospective service as a traverse juror more than 3 times and not more often than once in any 5-year period. For purposes of this paragraph, a requirement to serve or attend court for possible service as a juror for more than 15 court days, except if necessary to complete service in a particular case, is considered a separate call to service as a juror;
 - B. To serve on more than 3 grand juries but not on more than one grand jury in any 5-year period; or
 - C. To serve as both a grand and traverse juror in any 5-year period.

2. Term of grand jury service. The terms of the grand jury in any county must be set by the Chief Justice of the Superior Court with a maximum of 12 months' service required. When the number of grand jurors is reduced by death or otherwise, additional grand jurors may be selected and summoned under the direction of the court at any time.

§1217. Penalties for failure to perform jury service

A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court to appear forthwith and show cause for his failure to comply with the summons. Notwithstanding Title 17-A, section 4-A, a prospective juror who fails to show good cause for noncompliance with the summons is guilty of contempt and upon conviction may be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

§1218. Protection of jurors' employment and health insurance

An employer may not deprive an employee of employment or health insurance coverage, or threaten or otherwise coerce the employee with respect to loss of employment or health insurance coverage, because the employee receives a summons for jury service, responds to a summons for jury service, serves as a juror or attends court for prospective jury service.

Any employer who violates this section is guilty of a Class E crime.

If an employer discharges an employee or terminates the health insurance coverage of an employee in violation of this section, the employee may bring a civil action within 90 days for recovery of wages or health insurance benefits lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable for wages may not exceed lost wages for 6 weeks. If the employee prevails, the employee must be allowed a reasonable attorney's fee fixed by the court.

§1219. Court rules

The Supreme Judicial Court may make and amend rules, not inconsistent with the provisions of this chapter, regulating the selection and service of jurors.

SUBCHAPTER 2 COMMISSIONERS

§1251. Prepare jury list; summon jurors; revise list (REPEALED)

§1251-A. Juror selection plan

The Supreme Judicial Court shall adopt and implement a written master plan for the random selection and usage of grand and traverse jurors that shall be designed to foster the policy, protect the rights secured and otherwise comply with the provisions of this chapter.

§1252. Salaries (REPEALED)

§1252-A. Source list

1. Lists used. The lists of licensed drivers, persons issued an identification card by the Secretary of State and any person who notifies the clerk of the court in the county of their residence and requests to be put on the source list of prospective jurors shall serve as the source for prospective jurors in each county. These lists may be supplemented with names from other lists specified by the Supreme Judicial Court.

2. Release to court. Notwithstanding any provision regarding confidentiality, whoever has custody, possession or control of the lists referred to in subsection 1 shall provide those lists to the court at cost for selection of prospective jurors at all reasonable times. All lists so supplied shall contain the name and address of each person on the lists.

3. Use of source list. The source list shall be used for the random selection of names or identifying numbers of prospective jurors to whom questionnaires shall be sent to determine their qualifications for jury service, as provided in sections 1253-A and 1254-A. When supplemental lists are used, selection of names shall be accomplished in a manner which accords the names on all lists an equal probability of selection.

4. Notice. At least once each year, the clerk shall give public notice to the residents of the county that their names may be placed on the source list of prospective jurors by notifying the clerk of the court. This notice may be made by newspapers, radio or any other method or combination of methods which will reasonably assure as broad a dissemination as possible to the residents of the county.

§1252-B. Master list

When the volume of names on the source list is, in the judgment of the court, so large as to render the drawing of names by the means available to the court unduly cumbersome, burdensome and uneconomical, the court may order that a secondary list be created. This list shall be created by randomly drawing from the source list the number of names the court deems necessary to permit subsequent random selections of names, over a period of time administratively convenient for the court, for the mailing of qualification questionnaires and summonses for jury service.

§1252-C. Creation and maintenance of lists

The lists required to be created and maintained by this subchapter may be created and maintained by use of electronic data processing equipment.

§1252-D. Limitation on use of certain information

The lists of licensed drivers provided by the Secretary of State may only be used for the selection of traverse and grand jurors pursuant to this chapter.

§1253. Vacancies (REPEALED)

§1253-A. Drawing of names to determine qualified jurors

From time to time and in a manner prescribed by the juror selection plan, the clerk shall draw, or cause to be drawn, at random, from the source or master list, as appropriate, the names or identifying numbers of as many prospective jurors as the court deems necessary for service on trials during the time period established by the court.

§1254. Preparation of list of prospective jurors (REPEALED)

§1254-A. Qualification questionnaire; juror selection

1. Procedure. The clerk shall, at times considered reasonable and necessary to promote the efficient operation of the court and the juror selection system, mail a juror qualification form to every prospective juror whose name has been drawn in accordance with section 1253-A. The form must be accompanied by instructions directing the prospective juror to fill out and return the form by mail to the clerk within the time specified. The clerk shall prepare or cause to be prepared a list of the names to whom questionnaires are mailed. The list of questionnaire recipients and the names drawn are confidential and may not be disclosed to any person, except as provided in this chapter.

2. Content. The juror qualification form must conform, in form and content, to the qualification form prescribed by the Supreme Judicial Court and must solicit information sufficient to determine the prospective juror's qualification for jury service. The qualification questionnaire may also solicit other information including, but not limited to, education and employment.

3. Ambiguous or erroneous responses. If it appears there is an omission, ambiguity or error in a returned form, the clerk may, at the clerk's discretion, contact the prospective juror by telephone to obtain the additional information, clarification or correction.

4. Failure to complete form; penalty. A prospective juror who fails to return a completed juror qualification form as instructed may be ordered by the court to appear and show cause why the prospective juror should not be held in contempt for the failure to complete and submit the questionnaire. Notwithstanding Title 17-A, section 4-A, a prospective juror who fails to show good cause for the failure to complete and submit the questionnaire or who without good cause fails to appear pursuant to a court order may be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

5. Intentional misrepresentation. Notwithstanding Title 17-A, section 4-A, a person who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may upon conviction for a violation of this section be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

6. Determination of qualification. The clerk shall determine on the basis of information provided on the juror qualification form, supplemented by other competent evidence when considered necessary to such determination, whether the prospective juror is qualified for jury service. This determination must be reflected on the juror qualification form or any other record designated by the court.

7. Availability of qualification forms. The names of prospective jurors and the contents of juror qualification forms are confidential and may not be disclosed except as provided in this chapter. The names of prospective jurors and the contents of juror qualification forms may at the discretion of the court be made available to the attorneys and their agents and investigators and the pro se parties at the courthouse for use in the conduct of voir dire examination.

8. During period of service. During the period of service of jurors and prospective jurors, the names of the members of the jury pool are confidential and may not be disclosed except to the attorneys and their agents and investigators and the pro se parties.

9. Protection of confidentiality. A person who has access to or receives information or a record designated confidential under this chapter shall maintain the confidentiality of the information or record and use it only for the purposes for which it was released and may not further disclose it except as authorized by the court at the time of the disclosure to that person.

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§1254-B. Preservation of records

1. Records preserved. The clerk shall cause to be preserved all records and lists compiled and maintained in connection with selection and service of jurors for the length of time ordered by the court.

2. Records' confidentiality. The records and information used in connection with the selection process are confidential and may not be disclosed except as provided in this chapter.

3. Exceptions to confidentiality. Once the period of juror service has expired, a person seeking the names of the jurors may file with the court a written request for disclosure of the names of the jurors. The request must be accompanied by an affidavit stating the basis for the request. The court may disclose the names of the jurors only if the court determines that the disclosure is in the interests of justice. The factors the court may consider in determining if the disclosure is in the interests of justice include, but are not limited to, encouraging candid responses from prospective jurors, the safety and privacy interests of prospective jurors and the interests of the media and the public in ensuring that trials are conducted ethically and without bias.

§1255. Selection of jurors (REPEALED)**§1255-A. Summoning prospective qualified jurors**

From time to time, as specified in the juror selection plan, the clerk shall summon or cause to be summoned sufficient prospective jurors as in his judgment are necessary to supply traverse jurors or grand jurors, or both, for the Superior Court.

The summons shall require the prospective juror to report for possible jury service at a specified time and place unless advised by the clerk in advance that his attendance will not be required.

§1256. New jurors

If for any reason a grand jury or a traverse jury is dismissed before completing its work, the clerk of courts shall proceed to draw and notify new jurors in accordance with section 1255-A.

§1257. Regional juries

The Supreme Judicial Court is authorized to prescribe by rule or order the selection of juries from regions consisting of a single county or a reasonably compact group of counties for trials of criminal prosecutions or civil actions in the Superior Court. If the Supreme Judicial Court shall by rule provide for such regions for the purpose of selection of juries, this chapter shall be applied to such regions and to such regional juries and the word "counties" where it appears in this chapter shall be read to mean "region."

**SUBCHAPTER 3
CHALLENGES****§1301. For cause**

The court, on motion of either party in an action, may examine, on oath, any person called as a juror therein, whether he is related to either party, has given or formed an opinion or is sensible of any bias, prejudice or particular interest in the cause. If it appears from his answers or from any competent evidence that he does not stand indifferent in the cause, another juror shall be called and placed in his stead.

§1302. Peremptory (REPEALED)

§1303. Objections not stated before trial waived

If a party knows any objection to a juror in season to propose it before trial and omits to do so, he shall not afterwards make it, unless by leave of court for special reasons.

**SUBCHAPTER 4
VERDICTS**

§1351. Separate verdicts as to defendants

In actions of contract against more than one defendant, the jury may return a separate verdict as to each defendant or as to 2 or more defendants jointly, and judgments shall be entered accordingly. In case of separate judgment against defendants in the same action, the court shall apportion the costs to be taxed against each defendant.

§1352. Verdict not affected by irregularities

No irregularity in the venires or drawing, summoning, returning or impaneling jurors is sufficient to set aside a verdict, unless the party objecting was injured by the irregularity or unless the objection was made before the return of the verdict.

§1353. Verdict set aside for improper practices with jurors

If either party, in a cause in which a verdict is returned, during the same term of the court, before or after the trial, gives to any of the jurors who try the cause any treat or gratuity or purposely introduces among the papers delivered to the jury when they retire with the cause, any papers which have any connection with it but were not offered in evidence, the court on motion of the adverse party may set aside the verdict and order a new trial.

§1354. Less than unanimous verdict or finding

In the trial of all civil suits in the Superior Court of this State, if a number of jurors equal to at least $\frac{2}{3}$ of the total number of jurors serving on a jury agree on a verdict or finding, they shall return it into court as the verdict or finding of that jury and the trial judge shall so instruct the jury; provided, however, that the parties to a civil suit may stipulate that a verdict or finding of a stated majority of the jurors must be taken as the verdict or finding of the jury.