

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TENTH LEGISLATURE  
4

5 **Legislative Document**

**No. 1869**  
6

7 S. P. 793 In Senate, January 21, 1982  
Approved for introduction by the Legislative Council pursuant to  
Joint Rule 26.

8 Referred to the Committee on Judiciary and ordered printed. Sent  
down for concurrence.

MAY M. ROSS, Secretary of the Senate  
Presented by Senator Devoe of Penobscot.

9  
10 **STATE OF MAINE**  
11

12 IN THE YEAR OF OUR LORD  
13 NINETEEN HUNDRED AND EIGHTY-TWO  
14

15 **AN ACT Relating to the Selection and**  
16 **Services of Traverse and Grand Jurors.**  
17

18 Be it enacted by the People of the State of Maine as follows:

19 **Sec. 1. 14 MRSA §1201-A is enacted to read:**

20 §1201-A. Declaration of policy

21 It is the policy of the State that all persons chosen  
22 for jury service be selected at random from the broadest  
23 possible cross section of the population of the area served  
24 by the court, that all qualified citizens have the oppor-  
25 tunity in accordance with this chapter to be considered for  
26 jury service and that qualified citizens fulfill their obli-  
27 gation to serve as jurors when summoned for that purpose.

1           Sec. 2. 14 MRSA §1202-A is enacted to read:

2           §1202-A. Prohibition of discrimination

3           A qualified citizen shall not be excluded from jury  
4 service in this State on account of race, color, religion,  
5 sex, national origin, ancestry, economic status, marital  
6 status, age or physical handicap, except as provided in this  
7 chapter.

8           Sec. 3. 14 MRSA §1203-A is enacted to read:

9           §1203-A. Definitions

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

12           1. Clerk. "Clerk" means the Clerk of Court of the  
13 Superior Court and includes any of his deputies.

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

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

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

26           5. Random selection. "Random selection" means the se-  
27 lection of names in a manner immune from the purposeful or  
28 inadvertent introduction of subjective bias, so that no  
29 recognizable class of the population on the lists from which  
30 the names are being selected can be purposely or inadver-  
31 tently included or excluded.

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

34           Sec. 4. 14 MRSA §1211, as amended by PL 1973, c. 461,  
35 is further amended to read:

36           §1211. Disqualifications and exemptions from jury service

1 A prospective juror is disqualified to serve on a jury  
2 if he: Is not a citizen of the United State, 18 years old  
3 and a resident of the county; is unable to read, speak and  
4 understand the English language; is incapable, by reason of  
5 his physical or mental disability, of rendering satisfactory  
6 jury service; but a person claiming this disqualification  
7 may be required to submit a physician's certificate as to  
8 the disability and the certifying physician is subject to  
9 inquiry by the court at its discretion ~~or~~ ~~has lost the~~  
10 ~~right to vote because of a criminal conviction.~~ The follow-  
11 ing persons are exempt from serving as jurors and their  
12 names shall not be placed on the list: The Governor,  
13 ~~councilors,~~ judges, clerks and deputy clerks of ~~common-~~ law  
14 courts, Secretary and Treasurer of State, all officers of  
15 the United States, judges of probate, physicians and sur-  
16 geons, dentists, sheriffs, counselors and ~~attorneys at law,~~  
17 attorneys-at-law and all persons exempt under Title 37-A,  
18 section 1117.

19 Sec. 5. 14 MRSA §1212, as enacted by PL 1971, c. 391,  
20 §1, is repealed.

21 Sec. 6. 14 MRSA §1213, as enacted by PL 1971, c. 391,  
22 §1, is repealed and the following enacted in its place:

23 §1213. Excuses from jury service

24 1. Determination. The presiding justice or the clerk  
25 of court acting under the supervision of the presiding jus-  
26 tice, upon request of a prospective juror, shall determine  
27 on the basis of information provided on the juror qualifica-  
28 tion form, supplemented by other competent evidence when  
29 deemed necessary to such determination, whether the prospec-  
30 tive juror should be excused from jury service.

31 2. Basis for excuse; record. A qualified prospective  
32 juror may be excused from jury service only upon a showing  
33 of undue hardship, extreme inconvenience or public neces-  
34 sity. This decision shall be made by the presiding justice  
35 or by a clerk of court acting under the supervision of the  
36 presiding justice. Depending upon the circumstances, such a  
37 juror may be excused from jury service finally, be required  
38 to serve at a later specific time or be required to serve  
39 for a period of time less than the usual 15 court days. The  
40 clerk shall enter this determination and the reason therefor  
41 in the appropriate record kept for that purpose.

42 Sec. 7. 14 MRSA §1216, as enacted by PL 1971, c. 391,  
43 §1, is amended by adding at the end a new paragraph to read:

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

6        **Sec. 8.** 14 MRSA §1251, as repealed and replaced by PL  
7 1979, c. 57, §1, is repealed.

8        **Sec. 9.** 14 MRSA §1251-A is enacted to read:

9        §1251-A. Juror selection plan

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

15        **Sec. 10.** 14 MRSA §§1252-A, 1252-B and 1252-C are  
16 enacted to read:

17        §1252-A. Source list

18        1. Lists used. The lists of licensed drivers and per-  
19 sons issued an identification card by the Department of  
20 Transportation shall serve as the source for prospective  
21 jurors in each county. These lists may be supplemented with  
22 names from other lists specified by the Supreme Judicial  
23 Court.

24        2. Release to court. Notwithstanding any provision  
25 regarding confidentiality, whoever has custody, possession  
26 or control of the lists referred to in subsection 1 shall  
27 provide those lists to the court for selection of prospec-  
28 tive jurors at all reasonable times. All lists so supplied  
29 shall contain the name and address of each person on the  
30 lists.

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

1     §1252-B. Master list

2             When the volume of names on the source list is, in the  
3 judgment of the court, so large as to render the drawing of  
4 names by the means available to the court unduly cumbersome,  
5 burdensome and uneconomical, the court may order that a  
6 secondary list be created. This list shall be created by  
7 randomly drawing from the source list the number of names  
8 the court deems necessary to permit subsequent random selec-  
9 tions of names, over a period of time administratively con-  
10 venient for the court, for the mailing of qualification  
11 questionnaires and summonses for jury service.

12     §1252-C. Creation and maintenance of lists

13             The lists required to be created and maintained by this  
14 subchapter may be created and maintained by use of elec-  
15 tronic data processing equipment.

16             Sec. 11. 14 MRSA §1253-A is enacted to read:

17     §1253-A. Drawing of names to determine qualified jurors

18             From time to time and in a manner prescribed by the  
19 juror selection plan, the clerk shall draw, or cause to be  
20 drawn, at random, from the source or master list, as appro-  
21 priate, the names or identifying numbers of as many prospec-  
22 tive jurors as the court deems necessary for service on  
23 trials during the time period established by the court.

24             Sec. 12. 14 MRSA §1254, as last amended by PL 1979, c.  
25 57, §4, is repealed.

26             Sec. 13. 14 MRSA §§1254-A and 1254-B are enacted to  
27 read:

28     §1254-A. Qualification questionnaire; juror selection

29             1. Procedure. The clerk shall, at times deemed  
30 reasonable and necessary to promote the efficient operation  
31 of the court and the juror selection system, but in no event  
32 less than 30 days before service by jurors is required, mail  
33 a juror qualification form to every prospective juror whose  
34 name has been drawn in accordance with section 1253-A. The  
35 form shall be accompanied by instructions directing the  
36 prospective juror to fill out and return the form by mail to  
37 the clerk within the time specified. The clerk shall pre-  
38 pare or cause to be prepared a list of the names to whom

1 questionnaires are mailed. Neither the list of question-  
2 naire recipients nor the names drawn may be disclosed to any  
3 person, except as provided in this chapter.

4 2. Content. The juror qualification form shall con-  
5 form, in form and content, to the qualification form pre-  
6 scribed by the Supreme Judicial Court and shall solicit  
7 information sufficient to determine the prospective juror's  
8 qualification for jury service. The qualification question-  
9 naire may also solicit other information concerning educa-  
10 tion and employment.

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

16 4. Failure to complete form; penalty. A prospective  
17 juror, who fails to return a completed juror qualification  
18 form as instructed, may be ordered by the court to appear  
19 and show cause why he should not be held in contempt for his  
20 failure to complete and submit the questionnaire. Notwith-  
21 standing Title 17-A, section 4-A, a prospective juror, who  
22 fails to show good cause for his failure to complete and  
23 submit the questionnaire or who without good cause fails to  
24 appear pursuant to a court order, may be punished by a fine  
25 of not more than \$100 and by imprisonment for not more than  
26 3 days, or by both.

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

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

41 7. Availability of qualification forms. The names of  
42 prospective jurors and the contents of juror qualification  
43 forms shall be made available to the public upon specific

1 request to the court, supported by an affidavit setting  
2 forth the reasons therefor, unless the court determines in  
3 any instance that this information in the interest of jus-  
4 tice should be kept confidential or its use limited in whole  
5 or in part. The contents of juror qualification forms may  
6 at the discretion of the court be made available to attor-  
7 neys at the courthouse for use in the conduct of voir dire  
8 examination.

9 §1254-B. Preservation of records

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

14 2. Records' confidentiality; limits. The contents of  
15 any records or lists used in connection with the selection  
16 process and not made public under any other provision of  
17 this chapter shall not be disclosed, except in connection  
18 with the preparation or presentation of a motion under  
19 section 1216, until all persons selected to serve as grand  
20 jurors or traverse jurors from those lists have been dis-  
21 charged.

22 Sec. 14. 14 MRSA §1255, as repealed and replaced by PL  
23 1979, c. 57, §5, is repealed.

24 Sec. 15. 14 MRSA §1255-A is enacted to read:

25 §1255-A. Summoning prospective qualified jurors

26 From time to time, as specified in the juror selection  
27 plan, the clerk shall summon or cause to be summoned suffi-  
28 cient prospective jurors as in his judgment are necessary to  
29 supply traverse jurors or grand jurors, or both, for the  
30 Superior Court.

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

35 Sec. 16. Effective date. This Act takes effect Sep-  
36 tember 1, 1982.



1 STATEMENT OF FACT

2 The primary purpose of this bill is to establish and  
3 implement procedures to ensure that persons selected for  
4 jury service be chosen at random from the broadest possible  
5 population of the area served by an individual Superior  
6 Court. To achieve this, the bill specifies that the list of  
7 licensed drivers and persons issued identification cards,  
8 prepared by the Department of Transportation, will be the  
9 primary source for obtaining the names of prospective  
10 jurors. At present, local courts use municipal voting  
11 lists, a practice which has already been criticized and  
12 which, in fact, does not provide as full a cross section of  
13 the population as does the drivers' license list.

14 Other changes made by the bill include the clarifica-  
15 tion of qualifications and exemptions with respect to indi-  
16 vidual jurors, the establishment of uniform court practices  
17 regarding jurors throughout the State and the granting of  
18 rule-making power to the Supreme Judicial Court to adopt  
19 appropriate rules and procedures in furtherance of the pur-  
20 poses of this bill.

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