

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB387

Hearing Date: Thursday March 14, 2019
Committee On: Judiciary
Introducer: Pansing Brooks
One Liner: Change and modernize provisions relating to juries

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Brandt, Chambers, DeBoer, Lathrop, Morfeld, Pansing Brooks, Slama, Wayne
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Patty Pansing Brooks
Elaine Menzel
Janet Wiechelman
Troy Hawk

Representing:

Introducer
Nebraska Association of County Officials
Clerk of District Court
Clerk of Lancaster County District Court

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 387 rewrites, recodifies and provides a new title for the Jury Selection Act. The bill reorganizes and establishes jury selection under both the one step qualifying and summons system as well as the two step method separating the qualifying and summons process. Provides requirements for using a key number system to draw jury pools from the lists provided by DMV and election officials. Changes apply to both grand and petit juries. Strikes current section numbers to allow the Revisor to reorganize the sections.

Section 1 Title New section that titles the provisions the Jury Selection Act

Section 2 Amends section 25-1601.03 that has intent language regarding jury selection to add the title of the Act.

Section 3 Definitions Combined list the combination of DMV and voter registration records

Grand Jury Jurors chosen to meet for at least a month and up to a year to decide whether to issue indictments in criminal cases

Jury Commissioner Person designated to develop juror lists

Jury list Potential jurors chosen from master list

Jury management system Electronic process to randomly select potential jurors and to provide qualification forms and jury summons

Jury term Period of time determined by judges for selection of jurors. Does not extend past the time when a new combined list is required.

Manual jury selection Process where jurors are selected randomly by wheel or box. Must be witnessed by either district

judge or designee

Master key list List of names using key number system

One step qualifying and summoning System where qualification form and summons are sent at the same time

Petit juror Jurors chosen for a specific trial

Tales juror Bystanders chosen when juror panel is insufficient

Two step qualifying and summoning Process where the potential juror is sent a qualification form and if qualified is then sent a summons

Section 4 Amends section 25-1625, addressing county jury commissioners, to provide a salary for jury commissioners not to exceed \$3000 per year. Also adds a new subsection (7) to interpret the section to permit the change in salary as soon as possible after the operative date.

Section 5 Amends section 25-1626 to strike language regarding jury commissioner salary in counties over 200,000.

Section 6 Amends 25-1603 to reference the title of the Act.

Section 7 Amends section 25-1601, regarding juror qualifications, to rewrite certain phrasing and provide an exemption for active duty military. Requires documentation for physical or mental disability and active duty military exemptions. Increases the age for a request for exemption from 65 to 70 years of age. Provides that juror disqualification or excusal is a public record except physician certification as to disqualification due to physical or mental disability and as to a nursing mother are not public records or subject to disclosure.

Section 8 Amends section 25-1602 to clarify that inhabitants of a city or county are qualified jurors when the city or county is a party to the action.

Section 9 Amends section 25-1636, providing grounds for juror challenge, by specifying that a challenge for cause includes a juror that doesn't meet the qualifications under section 7, or has requested being placed on the jury. Provides that it is not a ground for challenge if the juror has read or seen media reports but states under oath that they can impartially render a verdict.

Section 10 Amends section 25-1627, addressing the juror selection process, to require counties under 3000 to use two key numbers and permit those over 3000 to use two key numbers if experience shows that using one key number is insufficient.

Section 11 Amends section 25-1628 to provide for the combination of DMV and election records and require the production of a combined list each year, every two years or every five years based on the size of the county. Provides for the creation and use of the master key.

Section 12 New section that provides how the jury commissioner selects and notifies potential jurors for the jury term and notifies jurors using a one or two step qualifying or summoning system.

Section 13 Amends section 25-1641 to provide the method for a jury commissioner to draw and qualify 30 jurors for the jury pool unless a judge directs a different number. The section also provides for the content and service of a jury summons.

Section 14 Amends section 25-1629.01 to provide details on the delivery process for the delivery and timeline of the juror qualification form or if using a one step process the delivery of the qualification form and summons.

Section 15 Amends section 25-1629.02 to replace "prospective" with "potential" juror.

Section 16 Amends section 25-1629 to allow a request to the judge to determine the reason for a juror being stricken.

Section 17 Amends section 25-1606, to address the process and timeframe for delivering a jury summons using either the one step or two step qualifying and summoning system

Section 18 Amends section 25-1607 to provide for those that fail to appear can be guilty of contempt if no good cause is shown. Provides exceptions to the contempt charge if the juror is not qualified, excused or had jury service postponed.

Section 19 Amends section 25-1632 by rewriting provisions for judges to order additional jurors to be summoned through the regular process outlined in section 13.

Section 20 Amends section 16-1631.03 to rewrite the section that allows judges to discharge those in excess of 24 potential jurors.

Section 21 Amends section 25-1632.01 by making minor wording changes regarding the ability of a judge to draw additional potential jurors when it is felt that a regular pool would be insufficient.

Section 22 Amends section 25-1634 by making minor wording changes in the process for a judge to draw additional jurors and provides new language requiring additional jurors to appear and continuing to draw jurors until the panel is filled.

Section 23 Amends section 25-1634.02 to update language regarding tales jurors and add new language regarding discharging jurors who are not chosen to serve.

Section 24 Amends section 25-1634.01 by striking repetitive language in the section that allows the court to postpone service.

Section 25 New section that provides process for selecting grand jury pools under both a one step and two step qualification and summons process.

Section 26 Amends section 25-1633 to rewrite and update the provisions for drawing a grand jury pool and requires the jury commissioner to draw 40 names of qualified jurors and notify those selected.

Section 27 Amends section 25-1630 to strike the section number as part of the reorganization.

Section 28 Amends section 25-1631 to strike the section number as part of the reorganization.

Section 29 New section that outlines notice from clerk magistrate to jury commissioner for selection of petit jurors.

Section 30 Amends section 25-1635 to make minor wording changes and reference the Jury Selection Act.

Section 31 Amends section 25-1640 to make strike unnecessary language.

Section 32 Amends section 25-1611 to strike duplicative language and make reference to the title.

Section 33 Amends section 25-1630 to strike unnecessary language and rewrite the crime of unauthorized asking to or placing a name on the list of grand or petit jurors.

Section 34 Amends section 25-1612 to make minor changes to the wording of provisions that create penalties for law enforcement, attorneys, or others for improperly soliciting the placement of a person on a jury.

Section 35 Amends section 25-1637 to make minor wording changes and reference the title of the Act.

Section 36 Amends section 25-412.04 to make a minor wording change and reference the title of the Act.

Section 37 Amends section 25-1107.01, regarding the destruction of jury notes to make minor wording changes.

Section 38 Amends section 25-1108, to make reference to the bailiff when a jury visits a location.

Section 39 Amends section 23-131- to make minor wording changes regarding the entry of the judgement in the record.

Section 40 Amends section 28-916 to make minor wording changes.

Section 41 Amends section 29-1201 to make minor wording changes.

Section 42 Amends section 29-2003 to replace language regarding drawing a new jury pool when there are separate trials for the same indictment with language referencing the Act.

Section 43 Amends 29-2011 to rewrite language regarding the destruction of jury notes upon verdict

Section 44 Amends section 29-2017, to make reference to the bailiff when a jury visits a location.

Section 45 Amends section 29-2023 to make minor wording changes.

Section 46 Amends section 33-138 to strike outdated language.

Section 47 Operative date of January 1, 2020

Section 48 Repeals original section.

Section 49 Repeals outright the following sections:

- 25-1609 Jurors; grounds for challenge; sufficiency of challenge.
- 25-1626.02 Jury commissioner in counties over 200,000 population; salary increase, when effective.
- 25-1627.01 Jury list; counties having less than 3,000 inhabitants; two key numbers; additional key numbers; when.
- 25-1629.03 One-step qualifying and summoning system.
- 25-1629.04 One-step qualifying and summoning system; procedure.
- 25-1633.01 Grand jury; summons.
- 25-1634.03 Petit jury; additional jurors; how chosen.
- 25-1642 Petit jury; special; how drawn.
- 25-1643 Petit jury; how notified.

Explanation of amendments:

AM 404 makes four changes to LB 387. First, it removes language in section 3(5) of LB 387 by removing language in the definition of "Jury management system" that required approval by the court. The other three changes address items that will not be public records but are maintained as court records. These items include grounds for a juror who is excused or disqualified, the postponement form and reasons for postponement of a juror and the records on the key number determination for jury selection.

Steve Lathrop, Chairperson