

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 405

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOSTER.

Read 1st time February 23, 2005, and ordered printed.

Read 2nd time February 28, 2005, and referred to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

Reported from the Committee March 15, 2005, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 31, 2005. Read 3rd time and placed upon its final passage; bill passed.

1517S.01P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 494.430 and 494.432, RSMo, and to enact in lieu thereof two new sections relating to jury service.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 494.430 and 494.432, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 494.430 and 494.432, to read as follows:

494.430. 1. Upon timely application to the court, the following persons shall be excused from service as a petit or grand juror:

(1) Any person who has served on a state or federal petit or grand jury within the preceding two years;

(2) Any person whose absence from his or her regular place of employment would, in the judgment of the court, tend materially and adversely to affect the public safety, health, welfare or interest;

(3) Any person upon whom service as a juror would in the judgment of the court impose an undue or extreme physical or financial hardship;

(4) Any person licensed to engage in and actively engaged in the practice of medicine, osteopathy, chiropractic, dentistry or pharmacy, but only if such person provides a written statement to the court certifying that he or she is actually providing health care services to patients, and that the person's service as a juror would be detrimental to the health of the person's patients.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. A judge of the court for which the individual was called to jury service shall make undue or extreme physical or financial hardship determinations. The authority to make these determinations is delegable only to court officials or personnel who are authorized by the laws of this state to function as members of the judiciary.

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

4. For purposes of sections 494.400 to 494.460 undue or extreme physical or financial hardship is limited to circumstances in which an individual would:

(1) Be required to abandon a person under his or her 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; or

(2) Incur costs that would have a substantial adverse impact on the payment of the individual's necessary daily living expenses or on those for whom he or she provides the principal means of support; or

(3) Suffer physical hardship that would result in illness or disease.

5. 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 his or her place of employment.

6. A person asking a judge to grant an excuse based on undue or extreme physical or financial hardship shall [be required to] provide the judge with documentation **as required by the judge**, such as, but not limited to, federal and state income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, and similar documents, which the judge finds to clearly support the request to be excused. Failure to provide satisfactory documentation shall result in a denial of the request to be excused. Such documents shall be filed under seal.

7. After two years, a person excused from jury service shall become eligible once again for qualification as a juror unless the person was excused from service permanently. 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.

494.432. 1. Individuals scheduled to appear for jury service have the right to postpone the date of their initial appearance for jury service one time only for reasons other than undue influence or extreme physical or financial hardship. When requested, postponements shall be granted, provided that:

(1) The prospective juror has not previously been granted a postponement;

(2) The prospective juror appears in person or contacts the board of jury commissioners by telephone, electronic mail, or in writing to request a postponement; and

(3) Prior to the grant of a postponement [with the concurrence of the board of jury

commissioners, the prospective juror fixes a date certain] **the court shall set the date** on which [he or she] **the prospective juror** will appear for jury service that is not more than six months after the date on which the prospective juror originally was called to serve and on which date the court will be in session. **If** a prospective juror [who] is a full-time student of any accredited institution [may fix a date certain], **the court shall set the date** on which [he or she] **the prospective juror** will appear for jury service that is not more than twelve months after the date on which the prospective juror originally was called to serve and on which the court will be in session.

2. A subsequent request to postpone jury service may be approved by a judicial officer only in the event of an extreme emergency, such as a death in the 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 individual will appear for jury service within six months of the postponement on a date when the court will be in session.

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