

HB

217

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
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FINANCE BUDGET SUBCOMMITTEE
DEPT. OF COMMERCE AND
ECONOMIC DEVELOPMENT

April 13, 1989

MEMORANDUM

TO: Senator Jan Faiks, Chair
Senate Judiciary Committee

FROM: Representative Dave Donley **TD**

RE: Scheduling HB 217

RECEIVED

APR 16 1989

JAN FAIKS
SENATE OFFICE

I would like to request that you schedule House Bill 217, "An Act relating to preparation and maintenance of the jury list" for the House Floor as soon as possible. This bill received an unanimous "do pass" on the House floor and from the House Judiciary and Finance Committees.

This bill would delete fish and game licenses and voter registration lists from those used for jury selection while retaining the Permanent Fund Dividend applicants. This change would help eliminate some of the duplication now occurs and would rely primarily on the Permanent Fund and applicants list which is the most comprehensive list of residents at this time. To assure that a fair cross-section of Alaskans as jurors is retained, a list of persons who have volunteered for jury duty has been added and the Alaska Driver's license list can also be used when necessary.

This legislation is supported by the Alaska Court System. If you have any questions please don't hesitate to contact me, or my aide, Michael Ward.

Thank you for your cooperation.

inconsistent with his attendance or service as a juror; (3) an attorney; (4) a minister of the gospel or priest of any denomination; (5) a teacher in a university, college, academy, or school; (6) a practicing physician; (7) a practicing dentist."

Collateral references. — Deafness of juror as ground for new trial, 15 ALR2d 534.

Relationship of juror to witness in civil case as ground of disqualification, 85 ALR2d 851.

Proper procedure upon illness or other

disability of civil case juror, 99 ALR2d 684.

Religious belief as ground for exemption or excuse from jury service, 2 ALR3d 1392.

Claustrophobia or other neurosis of juror as subject of inquiry on voir dire or of disqualification of juror, 20 ALR3d 1420.

Law enforcement officers as qualified jurors in criminal cases, 72 ALR3d 895.

Former law enforcement officers as qualified jurors in criminal cases, 72 ALR3d 958.

Sec. 09.20.035. Deferral of jury service. A person may have jury service deferred if the person shows that jury service at the time for which the person is summoned will cause hardship to that person or another, or that transportation problems make it temporarily impossible for the person to serve. Jury service may be deferred under this section only if the person seeking the deferment agrees to a deferred date. Jury service may not be deferred for more than 10 months from the date the initial jury service was to begin. (§ 2 ch 70 SLA 1981)

Sec. 09.20.040. Compliance with statute. The selection of jurors shall be made in substantial compliance with the following provisions. A failure in substantial compliance which prejudices the rights of a party is reversible error. (§ 2.04 ch 101 SLA 1962)

NOTES TO DECISIONS

Constitutionality of one-year residency requirement for jury service. — See *Smiloff v. State*, Sup. Ct. Op. No. 1637 (File No. 3006), 579 P.2d 28 (1978); *Webb v. State*, Sup. Ct. Op. No. 1638 (File No. 2632), 580 P.2d 295 (1978). See also *Coffey v. State*, Sup. Ct. Op. No. 1732 (File No. 3002), 585 P.2d 514 (1978).

Violations of the statutory selection methods constitute "substantial failure to comply" only when they affect the random nature or objectivity of the selection process. *Calantas v. State*, Sup. Ct. Op. No. 1914 (File No. 3663), 599 P.2d 147 (1979), aff'd on rehearing, Sup. Ct. Op. No. 2045, 608 P.2d 34 (1980).

While the court clerk's decision to disqualify all jurors living outside of Kodiak proper and her later decision to summon only those Kodiak residents that she could reach by telephone technically violated the statutory

requirement that the names of prospective jurors be randomly selected from those qualified, such violations did not prejudice defendant's rights and hence, did not constitute reversible error. *Calantas v. State*, Sup. Ct. Op. No. 1914 (File No. 3663), 599 P.2d 147 (1979), aff'd on rehearing, Sup. Ct. Op. No. 2045, 608 P.2d 34 (1980).

Selection of additional jurors who had been dismissed from another panel did not constitute reversible error. *Vail v. State*, Sup. Ct. Op. No. 1922 (File Nos. 3309, 3382), 599 P.2d 1371 (1979).

Statutory jury selection procedures held substantially complied with. — See *Smiloff v. State*, Sup. Ct. Op. No. 1637 (File No. 3006), 579 P.2d 28 (1978).

Stated in *Erick v. State*, Ct. App. Op. No. 75 (File No. 5253), 642 P.2d 821 (1982).

Sec. 09.20.050. Jury list. (a) At such times as need may require, but not later than March 15 of each year, the administrative director

of courts shall prepare for each judicial district a list of the names of the residents of the district who are qualified by law for jury service. If the superior court is located in different cities in the same judicial district, the administrative director shall prepare for each location of the court a list of the names of the qualified residents of that portion of the district considered to be appropriate.

(b) The jury list shall be based on a list of all persons who purchased a resident trapping, hunting or fishing license during the preceding calendar year which showed an Alaskan address (to be prepared by the Department of Fish and Game), a list of all persons who filed for a distribution of Alaska permanent fund income under AS 43.23.010 — 43.23.100 during the preceding calendar year which showed an Alaskan address (to be prepared by the Department of Revenue), a list of all persons who have registered to vote in this state (to be prepared by the director of elections), and, if considered necessary by the administrative director of courts, a list of all persons who hold a valid Alaska drivers' license (to be prepared by the Department of Public Safety). The departments and the director of elections shall submit their respective lists to the Department of Administration not later than January 15 of each year. To the extent that it is available, the lists submitted by the departments and the director of elections shall contain the following information for each person on the list for the preceding calendar year: first name, middle initial, and last name; residence address as well as mailing address, including the zip code for each; birth date; and the number of years and months the person has been a resident of the state. The lists submitted by the departments and the director of elections shall be recorded on magnetic tape compatible with Department of Administration data processing equipment.

(c) A copy of the appropriate portion of the jury list shall be transmitted to the presiding judge of each judicial district and shall only be used to summon jurors and for other purposes of judicial administration. Duplicate names and the names of deceased persons and persons permanently excused from jury service shall be eliminated from the list before it is transmitted to the presiding judge. A questionnaire for prospective jurors may be adopted and submitted to them by the administrative director of courts. (§ 2.05 ch 101 SLA 1962; am § 3 ch 24 SLA 1966; am § 1 ch 67 SLA 1969; am § 1 ch 10 SLA 1971; am §§ 3, 4 ch 66 SLA 1981)

Cross references. — For court administrative rules relating to jury list, see Admin. R. 15(b).

Effect of amendments. — The 1981 amendment, in subsection (b), substituted "for a distribution of Alaska permanent fund income under AS 43.23" for "a state income tax return," deleted "and" preceding "a list of all," substituted "(to be prepared by the director of elections), and,

if considered necessary by the administrative director of courts, a list of all persons who hold a valid Alaska drivers' license (to be prepared by the Department of Public Safety)" for "(to be prepared by the lieutenant governor)" in the first sentence. Also in subsection (b), the amendment substituted "director of elections" for "lieutenant governor" in three places and substituted "lists" for "files" in three places and in the

requested by the court decreeing the adoption, the adoptive parents, or the adopted person if the adopted person is of legal age; or

(2) the evidence required by law and regulation proving that the person has been legitimated.

(b) When a new certificate of birth is established, the actual place and date of birth shall be shown. The new certificate shall be substituted for the original certificate of birth, and

(1) thereafter, in the case of an adoption, the original certificate and the evidence of adoption are not subject to inspection except as provided in AS 18.50.500 — 18.50.510 or by order of the superior court under AS 25.23.150; but the state registrar shall allow inspection by an agent of the state or federal government acting in the performance of the agent's official duties; in the case of a legitimation, the original certificate and the evidence of legitimation are not subject to inspection except upon order of the superior court or as provided by regulation; however, the regulation shall allow inspection by an agent of the state or federal government acting in the performance of the agent's official duties;

(2) upon receipt of a report that an adoption has been vacated, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence are not subject to inspection except upon order of a superior court.

(c) If no certificate of birth is on file for the person for whom a new certificate is to be established under this section, a delayed certificate of birth shall be filed with the bureau as provided in this chapter, before a new certificate of birth may be established.

(d) When a new certificate of birth is established by the state registrar, the state registrar shall direct the disposition of and substitution for all copies of the original certificate of birth in the custody of a local registrar of vital statistics or other local custodian of the records. When an adoption has been vacated, the state registrar shall instruct the local officials as to a necessary action. (§ 18 ch 118 SLA 1960; am § 2 ch 140 SLA 1986)

Effect of amendments. — The 1986 amendment rewrote paragraph (1) of subsection (b) which read, "thereafter, the original certificate and the evidence of adoption or legitimation are not subject to inspection except upon order of the supe-

rior court or as provided by regulation; however, the regulation shall allow inspection by an agent of the state or federal government acting in the performance of his official duties."

Sec. 18.50.230. Death registration. (a) A death certificate for each death that occurs in the state shall be filed with the local registrar of the registration district in which the death occurred within three days after death and before final disposition of the body or removal of the body from the state, except as provided by regulation in

special problem cases. For the purpose of this section, if the place of death is unknown, a death certificate shall be filed in the registration district in which the dead body is found. When a death occurs on a moving conveyance a death certificate shall be filed in the registration district in which the dead body is first removed from the conveyance.

(b) The funeral director or person acting as the funeral director who first assumes custody of a dead body shall file the death certificate. The funeral director or the person acting as the funeral director shall obtain the personal data from the next of kin or the best qualified person or source available and the medical certification of cause of death from the person responsible for this information.

(c) The medical certification shall be completed and signed within 24 hours after death by the physician in charge of the patient's care for the illness or condition that resulted in death except when an official inquiry or inquest is required and except as provided by regulation in special problem cases.

(d) When a death occurs without medical attendance, or when official inquiry is required, the department shall provide by regulation, in accordance with law, the responsibility for completing and signing the medical certification. This subsection is intended to include, among others, cases involving a medical examiner or a coroner, and cases involving presumption of death. (§ 19 ch 118 SLA 1960)

Sec. 18.50.240. Fetal death registration. (a) A fetal death certificate for each fetal death that occurs in the state shall be filed with the local registrar of the registration district in which the delivery occurred within three days after the delivery and before final disposition of the fetus or removal of the fetus from the state, except as provided by regulation in special problem cases. However, the filing of a certificate for a product of a pregnancy of less than 20 weeks may be determined by regulation. For the purposes of this section, if the place of fetal death is unknown, a fetal death certificate shall be filed in the registration district in which the dead fetus is found. When a fetal death occurs on a moving conveyance a fetal death certificate shall be filed in the registration district in which the fetus is first removed from the conveyance.

(b) The funeral director or person acting as the funeral director who first assumes custody of a fetus shall file the fetal death certificate. In the absence of a funeral director or a person acting as a funeral director, the physician or other person in attendance at or after the delivery shall file the certificate of fetal death. The person who files the certificate shall obtain the personal data from the next of kin or the best qualified person or source available and the medical certification of cause of death from the person responsible for this information.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 217 (JUD)
PUBLISH DATE: HOUSE 4/11/89

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act relating to preparation
and maintenance of the jury list
Sponsor: Donley et al.
Requestor: House Judiciary

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend
Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS: See attached.

Prepared By: Erwin Jones
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: March 21, 1989

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 3/21/89

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Permanent Fund Dividend Division
Fiscal Note AnalysisSB 217
03/21/89

The Permanent Fund Dividend Division will be able to provide a magnetic tape of all persons who filed a Permanent Fund Dividend application, listing the following information:

First Name
Middle Initial
Last Name
Mailing Address
Birth date

The division will not be able to provide residence address or year and months of residency, as this information is not available from the Permanent Fund Dividend system. After discussing the bill with Jan Strandberg of the Court System, I would suggest the following amendments:

1. Section 1, page 1, line 17: Delete [SHOWED]; add shows:

The Court System needs the most current address available as of January 15. Given that the Permanent Fund Dividend Division receives 60,000 address changes between April 1 and December 31 of each year, this change would appear important.

2. Section 1, page 2, line 3: Delete [RESIDENCE ADDRESS AND];

Section 1, page 2, line 4-5: Delete [FOR EACH] and [AND THE NUMBER OF YEARS AND MONTHS THE PERSON HAS BEEN A RESIDENT OF THE STATE].

The court system does not need this information, and the Permanent Fund Dividend system cannot provide it.

3. Section 2, page 2, lines 14-16: Delete [THE ADMINISTRATIVE DIRECTOR SHALL PROVIDE A LIST OF PERSONS VOLUNTEERING FOR JURY DUTY TO THE DEPARTMENT OF REVENUE FOR INCLUSION ON THE JURY LIST UNDER (b) OF THIS SECTION.].

This would be unnecessary, as the Court System will be creating the jury list from potentially three sources. The Department of Revenue will provide the Permanent Fund Dividend list as indicated in Section 1.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

Bill Version: CSHB 217 (JUD)
Publish Date: HOUSE 3/24/89

FISCAL NOTE

REQUEST:

Revision Date: Agency Affected: Alaska Court System
Title: An act relating to selector, and maintenance of the jury list
Agency Affected: RRU: Trial Courts
Sponsor: Donley, Gruenberg, Goll, Spohnholz... Components:
Requestor: Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strauberg*
Jan Strauberg, General Counsel
Division: Alaska Court System
Phone: 264-8228
Date: 03/17/89

Approved by: *W. H. Snowdon, II*
W. H. Snowdon, II, Administrative Director
Agency: Alaska Court System
Date: 03/17/89

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