

A BILL

FOR ACT TO REPEAL CHAPTER SEVENTY OF THE ACTS OF THE TWENTY-FIFTH GENERAL ASSEMBLY AND TO PROVIDE FOR THE SELECTING AND DRAWING OF JURORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SECTION 1. All qualified electors of the state, of good moral character, sound judgment, and in full possession of the senses of hearing and seeing, and who can speak, write and read the English language, are competent jurors in their respective counties.

SEC. 2. The following persons are exempt from liability to act as jurors: All persons holding office under the laws of the United States, or this state; all practicing attorneys, physicians, registered pharmacists and clergymen; all acting professors, or teachers of any college, school or other institution of learning, and all persons disabled by bodily infirmity, or over sixty-five years of age, officers and soldiers of the Iowa National Guard, and active members of any fire company.

SEC. 3. Any person may also be excused from serving on a jury when his own interests or those of the public will be materially injured by his attendance, and when the state of his own health, or the death or sickness of a member of his family requires his absence.

SEC. 4. Unless the judge otherwise orders, jurors shall be summoned to appear at each place where court is to be held, at ten o'clock A. M. of the second day of the term, at which they shall be called and all excuses heard and determined by the court. If any person summoned fail to appear without sending a sufficient excuse, the court shall issue a rule returnable at that or the succeeding term, requiring him to appear and show cause why he should not be fined for contempt, and unless he render a sufficient excuse for such failure, the court may fine him in any amount not exceeding twenty-five dollars, and shall require him to pay the costs and stand committed until the fine and costs are paid.

SEC. 5. In counties having a population of sixteen thousand or less, the grand jury shall be composed of five members; in counties having a population of more than sixteen thousand, it shall be composed of seven members. The trial grand jurors in counties containing a population of less than fifteen thousand shall be fifteen in number, unless the judge otherwise orders; but in counties having fifteen thousand or over, the number shall be twenty-four, but where a single county constitutes a district the court may increase the number not to exceed seventy-two.

SEC. 6. Should there not be the number of trial jurors in attendance as provided in the preceding section, by reason of a failure of the persons summoned to attend, or because excused as provided in this chapter, the requisite number of persons to supply the deficiency shall be drawn in the same manner as the original venire, and the persons so drawn shall forthwith summoned to appear and serve as jurors during the term. Persons so drawn shall have the same right to present excuses as provided for the original panel.

SEC. 7. If in the judgment of the court, the business of the term does not require the attendance of all or a portion of the trial jurors, they or such portion as the court deems proper may be discharged. Should it afterwards appear that a jury is required, the court may direct them to be re-summoned.

SEC. 8. There shall annually be made lists from which to select persons to serve as grand jurors, trial jurors and talesmen for the year commencing on the first day of January following; as follows: Seventy-five persons in each county from which to select grand jurors; three hundred persons in each county having twenty thousand inhabitants or less, and six hundred persons in counties having more than twenty thousand inhabitants, from which to select trial jurors; three hundred persons in counties having twenty thousand inhabitants or less, and six hundred persons in counties having more than twenty thousand inhabitants from which to select talesmen. The talesmen shall be drawn from the city or town in which the district court is held and the township wherein said city or town is located.

SEC. 9. On or before the first Monday in September in each year, the county auditor shall apportion the number of grand and trial jurors to be selected from each election precinct, as nearly as practicable in proportion to the number of votes polled therein at the last general election, and shall apportion the number of talesmen to be drawn from the city or town and township where the district court is held.

SEC. 10. At the time of furnishing ballots to the judges of election, the auditor shall cause to be furnished to said judges in each precinct of the county, a statement of the number of persons apportioned to their respective precincts from the foregoing lists, together with the names of all persons who have served as jurors during the preceding year, which names shall be certified to him by the auditor and the clerk of the district court.

The judges shall thereupon make the requisite selection and return lists of names as selected to the auditor with the returns of election, and in case the judges of election shall fail to make and return said lists as herein required, the county canvassers shall at the meeting held to canvass the votes polled in the county, make such lists for the delinquent precincts, and the auditor shall file such lists in his office, and cause a copy thereof to be recorded in the election book. Such lists shall be composed only of persons competent and qualified to serve as jurors, and the judges of election, or county canvassers shall omit from said list the name of any person who has requested to be returned thereon, or any person who has served as a juror in the preceding year.

SEC. 11. On or before the first Monday in December in each year, the county auditor and clerk of the district court shall prepare from said lists separate ballots, containing the names and places of residence of all persons whose names appear thereon, without commingling the names of the several classes of jurors, and shall deposit in separate boxes the ballots of the grand jurors, trial jurors and talesmen as returned on said lists, which boxes shall be so plainly marked and sealed and forthwith deposited with the clerk of the district court.

SEC. 12. When the grand jury consists of five members, the number drawn shall be eight, and when of seven the number shall be twelve; but no more than one person shall be drawn as a grand juror from any civil township, except where such jury is by law required to be drawn from a district containing fewer civil townships than the number of grand jurors required to be summoned, in which case, if the number of civil townships in such district be not less than one-half of the number of jurors required, not more than two persons shall be drawn from any such township, and if the number of civil townships be less than one-half of the number of jurors required, not more than three persons shall be drawn as such jurors from any such township. If more persons shall be drawn from any civil township than are hereby authorized, it shall be the duty of the officer drawing such jury to reject all superfluous names so drawn and to proceed with the drawing until the required number of jurors shall be secured. No person shall be summoned or serve as grand juror for two consecutive years.

SEC. 13. Grand jurors shall be selected for the first term in the year at which jurors are required, commencing next after the first day of January in each year, and shall serve for one year. Trial jurors shall be selected for each term wherein they are required, but no person shall be required to attend as a trial juror more than two terms in the same year.

SEC. 14. The ballots when placed in the box from which the drawing is to be made shall be uniform in size and paper, and be so folded as to conceal the names on the ballots, and the box shall be arranged with only an aperture to insert the hand in, and at the time of the drawing the box shall be thoroughly shaken in the presence of the officers attending the drawing and the seal on the aperture broken in their presence, and one of said officers shall then, without looking at the ballots, draw one from the box and pass it to one of the other officers attending the drawing, who shall open it, and the name thereon shall be read aloud by him and taken down; then another ballot shall be drawn and opened in the same manner, and so on in the same manner until the whole number of jurors required shall be drawn, when the box shall again be sealed up and returned to the clerk.

SEC. 15. At least twenty days prior to the first day of each term at which a grand or petit jury is required to be selected, the county auditor, clerk of the district court and recorder, or their deputies in the absence or inability of their principals, shall meet at the court house and proceed to draw the jury as provided in this chapter, and the clerk of the district court shall immediately issue his precept to the sheriff of the county, commanding him to summon the persons so drawn; and when from any cause the persons so summoned fail to

7 appear, or the court shall determine that either the grand jury or petit jurors have been ille-
8 gally drawn, selected or summoned, the court may set aside the precept under which they
9 were summoned and direct a sufficient number drawn and summoned in the manner above
10 provided; the drawing may be done forthwith, and the jurors required to appear immediately,
11 or at such time as the court may fix.

SEC. 16. The sheriff shall immediately obey such precept; and on or before the day for the
2 appearance of said jurors must make return thereof, and, on a failure to do so without suffi-
3 cient cause, is liable to be fined for contempt in any amount not exceeding fifty dollars.

SEC. 17. Except when required at a special term which has been called in vacation, the
2 grand jury need not be summoned after the first term, but must appear at each succeeding
3 term during the year without summons, under the same penalty as though they had been
4 summoned.

SEC. 18. If upon the trial of any cause or proceeding before a jury there shall not be
2 sufficient jurymen remaining in the regular panel after challenges have been exhausted, the
3 clerk shall, in the presence of the court, draw a sufficient number of names from the talesmen
4 box to complete the jury. The persons whose names are so drawn from the talesmen box
5 shall be immediately summoned by the sheriff to appear forthwith, and the jury shall be com-
6 pleted from the persons so summoned. The court may require such number to be drawn and
7 summoned as deemed necessary to complete the jury, and the ballots of jurors so drawn and
8 who serve shall be placed in a safe receptacle from time to time until all ballots are drawn
9 therefrom, when such ballots shall be returned to the talesmen box to be drawn in like man-
10 ner as before. All ballots drawn when jurors do not appear or do not serve (except when
11 permanent disability or exemption is shown) shall be returned to the respective boxes from
12 which drawn, and the ballots of the trial jurors so drawn who appear and serve for any term
13 shall not be again returned to the first box, but be deposited in a fourth box.

SEC. 19. If at the time of drawing the regular jurors for any term there shall not be a
2 sufficient number of ballots in the first box from which to draw the number required by law,
3 or by the order of the court or judge, then the names shall be drawn from the fourth box.
4 The court or judge thereof, either before or during the term, may order as many additional
5 jurors drawn for the term, or for the trial of any particular case, as may be deemed necessary,
6 which drawing shall be in the same manner as for the original panel (except as to time).

SEC. 20. Any officer whose duty it is to perform any of the services in this chapter
2 mentioned, who shall intentionally fail to perform them as required by law, or who shall act
3 corruptly in the discharge of such duties, or any of them, shall be deemed guilty of a misde-
4 meanor, and on conviction thereof shall be punished by imprisonment in the county jail not
5 less than six months, nor more than one year, and shall forfeit his office, and the court in
6 which such conviction is had shall when entering judgment thereon, also enter judgment of
7 removal of such officer and declare his office vacant.

SEC. 21. At the close of each term of the district court, the clerk must make out a certificate to each juror of the amount to which he is entitled for his services, which certificate shall authorize the county auditor to issue a warrant to each juror for the said amount on the county treasurer without the same being audited by the board of supervisors.

SEC. 23. Jurors shall receive the following fees; For each day's service or attendance in court of record, two dollars, and for each mile traveled from his residence to the place of trial, the sum of ten cents; for each day's service before a justice of the peace, one dollar. No mileage shall be allowed talesmen or jurors before justices. Immediately after the adjournment of each term of a court of record, the clerk thereof shall certify to the county auditor a list of the jurors, with the number of days' attendance to which each one is entitled.

A BILL

FOR AN ACT TO REPEAL CHAPTER 70 OF THE ACTS OF THE TWENTY-FIFTH GENERAL ASSEMBLY, AND CHAPTER 10, TITLE III, OF THE CODE, AND TO PROVIDE FOR THE SELECTING AND DRAWING OF JURORS.

SECTION 1. All qualified electors of the state, of good moral character, sound judgment and in full possession of the senses of hearing and seeing, and who can speak, write and read the English language, are competent jurors in their respective counties.

SEC. 2. The following persons are exempt from liability to act as jurors: All persons holding office under the laws of the United States or this state; all practicing attorneys, physicians, registered pharmacists and clergymen; all acting professors or teachers of any college, school, or other institution of learning, and all persons disabled by bodily infirmity, or over sixty-five years of age, and active members of any fire company, and any person who is conscientiously opposed to acting as a juror because of his religious faith.

SEC. 3. Any person may also be excused from serving on a jury when his own interests or those of the public will be materially injured by his attendance, or when the state of his own health, or the death or sickness of a member of his family requires his absence from court. Any person who knowingly makes any false affidavit, statement or claim, for the purpose of relieving him from serving as a juror, shall, upon conviction, be punished by fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than thirty days, or the court may punish such person as for contempt.

SEC. 4. There shall annually be made lists from which to select persons to serve as grand and petit jurors and talesmen for the year, commencing on the first day of January following, as follows: Seventy-five persons in each county from which to select grand jurors; 400 persons in each county having 20,000 inhabitants or less, and 600 persons in counties having more than 20,000 inhabitants from which to select petit jurors; 150 persons in counties having 20,000 inhabitants or less, and 300 persons in counties having more than 20,000 inhabitants from which to select talesmen. The talesmen lists shall be made from names of persons who reside in the city or town in which the district court is held and the townships in which such city or town is located. But if, according to the last state or national census, there be less than 1,000 inhabitants in the territory from which talesmen are required to be drawn, such list may include residents of the townships next nearest the court house. In counties where court is held in more than one place, the persons shall be selected from the qualified electors

of the separate divisions of the county, giving to each division of the county the number of grand and petit jurors and talesmen it would be entitled to under this act if it was a separate county.

SEC. 5. On or before the first Monday in September, in each year, the county auditor shall apportion the number of grand and petit jurors to be selected from each election precinct, as nearly as practicable in proportion to the number of votes polled therein at the last general election, and shall apportion the number of talesmen to be drawn from the territory, as provided in the preceding section.

SEC. 6. The auditor shall, at the time of furnishing the poll books to the judges of election, furnish them also a statement of the number of persons apportioned to their respective precincts to be returned for the said jury lists, together with the names of all persons who have served as jurors during the preceding year, which latter names shall be furnished to him by the clerk of the district court. The judges shall thereupon make the requisite selection, and return lists of names so selected to the auditor with the returns of election; and in case the judges of election shall fail to make and return said lists as herein required, the board of supervisors shall, at the meeting held to canvass the votes polled in the county, make such lists for the delinquent precincts, and the auditor shall file such lists in his office, and cause a copy thereof to be recorded in the election book. Such lists shall be composed only of persons competent and qualified to serve as jurors; and the judges of election or board of supervisors shall omit from said list the name of any person who has requested directly or indirectly that his name be returned thereon, or any person who has served as a juror in a court of record during the preceding year. And if the name of any such person is returned, the fact that he has requested to be so returned, or has served as a juror in a court of record during the preceding year, shall be a ground for challenge for cause. The members of the election board or board of supervisors when certifying such list shall state that the lists do not contain the name of any person who requested directly or indirectly that his name appear thereon.

SEC. 7. On or before the first Monday in December in each year the county auditor and clerk of the district court shall prepare from said lists separate ballots, containing the names and places of residence of all persons so returned by the judges of election or board of supervisors, keeping the names of the several classes of jurors separate, and deposit in separate boxes the ballots of the grand jurors, petit jurors and talesmen as returned on said lists, which boxes shall be plainly marked, sealed and forthwith deposited with the clerk of the district court.

SEC. 8. The empanelling of the grand or petit juries may be postponed to a subsequent day by order of court or judge. Twelve grand jurors shall be drawn from the grand jury list and shall serve one year; but no more than one person shall be drawn as a grand juror from any civil township except when there are less civil townships in the county, in which case not

5 more than two persons shall be drawn from any one township. No person shall be summoned
6 or serve as grand juror for two consecutive years. If more persons shall be drawn from any
7 civil township than is hereby authorized, or any person is drawn who has served the preced-
8 ing year as grand juror, it is the duty of the officers drawing such grand jury to reject all such
9 names so drawn, and to proceed with the drawing until the required number of jurors shall be
10 secured.

SEC. 9. The names of the twelve persons constituting the panel of the grand jury shall
2 on the second day of each term of court, unless otherwise ordered by the court or judge, be
3 placed by the clerk in a box and after thoroughly mixing the same he shall draw therefrom
4 seven names; and the persons so drawn shall constitute the grand jury for that term. Should
5 any of the persons so drawn be excused or fail to attend on said second day of the court the
6 clerk shall draw other names until the seven grand jurors are secured. This provision shall
7 not apply to talesman.

SEC. 10. Petit jurors shall be drawn from the petit jury lists for each term, but no per-
2 son shall be required to attend as a petit juror more than one term in the same year. But
3 this exception shall not apply to talesmen.

SEC. 11. At least twenty days prior to the first day of each term at which a grand or
2 petit jury is required to be selected, the county auditor, clerk of the district court, and recorder
3 shall meet at the courthouse and proceed to draw the grand and petit jury as provided herein.
4 The ballots when placed in the respective boxes from which the drawings are to be made
5 shall be uniform in size and paper, and be so folded as to conceal the names on the ballots,
6 and the boxes shall be arranged with only an aperture to insert the hand, and at the time of
7 the drawing the boxes shall be thoroughly shaken in the presence of the officers attending
8 the drawing and the seal on the aperture broken in their presence, and one of said officers
9 shall then, without looking at the ballots, draw one from the appropriate jury, grand jury or
10 talesmen box, as the case may be, and pass it to one of the other officers attending the draw-
11 ing, who shall open it and the name thereon shall be read aloud by him and taken down;
12 then another ballot shall be drawn and opened in the same manner until the whole number
13 of jurors required shall be drawn for each class, when the boxes shall again be sealed up and
14 returned to the clerk of the district court who shall immediately issue his precept to the
15 sheriff of the county, commanding him to summon the persons so drawn to appear at the
16 courthouse at the time designated in such precept, or if the court shall determine that either
17 the grand jury or the petit jurors have been illegally drawn, selected or summoned the court
18 may set aside the precept under which they were summoned, and direct a sufficient number
19 drawn and summoned in the manner above provided; the drawing may be done forthwith,
20 and the jurors required to appear immediately, or at such time as the court may fix.

SEC. 12. The sheriff shall immediately obey such precept, and on or before the day for the appearance of said jurors must make return thereof, and, on a failure to do so without sufficient cause, is liable to be fined for contempt in any amount not exceeding fifty dollars.

SEC. 13. Except when required at a special term which has been called, the twelve persons from which the grand jury is to be drawn need not be summoned after the first term, but must appear at each succeeding term during the year without summons, under the same penalty as though they had been summoned.

SEC. 14. Unless the court or judge otherwise orders, jurors shall be summoned to appear at each place where court is to be held at ten o'clock A. M., of the second day of the term, at which time they shall be called and all excuses shall be heard and determined by the court. If any person summoned fail to appear without sending a sufficient excuse, the court may issue a rule returnable at that or the succeeding term, requiring him to appear and show cause why he should not be fined for contempt, and unless he render a sufficient excuse for such failure, the court may fine him in any amount not exceeding twenty-five dollars, and shall require him to pay the costs and stand committed until the fine and costs are paid.

SEC. 15. The grand jury shall be composed of seven members. The petit jurors, in counties containing a population of less than fifteen thousand, shall be fifteen in number, unless the court or judge otherwise orders. In counties having fifteen thousand or over, the number shall be twenty-four, unless the court or judge otherwise orders. When a single county constitutes a district the court may increase the number not to exceed seventy-two.

SEC. 16. Should the number of petit jurors summoned fail to appear, or be excused as provided in this chapter, the requisite number shall be drawn in the same manner as the original panel, and the persons so drawn shall be forthwith summoned to appear and serve as jurors during the term. Persons so drawn shall have the right to present excuses as provided for the original panel. The court or judge thereof, either before or during the term, may order as many additional jurors drawn for the term or for the trial of any particular case as may be deemed necessary, which drawing shall be in the same manner as for the original and regular panel.

SEC. 17. If in the judgment of the court the business of the term does not require the attendance of all the petit jurors, such number as the court deems proper may be discharged. Should it afterwards appear that a jury is required, the court may direct them to be re-summoned.

SEC. 18. If upon the trial of any cause the court shall determine that it is probable talesmen will be needed to complete the jury, or if the regular panel has been exhausted the clerk shall, in the presence of the court, draw such number of names as the court may order from the talesmen box from which to complete the jury. In drawing such names the clerk, when the court directs, shall reject those known to be unable to serve or absent from the territory from

6 which drawn and proceed until the required number is secured. The persons whose n
7 are so drawn, or as many thereof as may be found within the territory from which tale
8 are selected, shall be immediately summoned by the sheriff to appear forthwith, and the
9 shall be completed from the persons so summoned and appearing. The names of jur
10 drawn and who serve shall be placed in a safe receptacle from time to time until all the
11 lots are drawn from the talesmen box, when such ballots shall be returned to the said b
12 be drawn in like manner as before. When the parties to the cause by agreement enter
13 record, waive the drawing of talesmen as above provided the court may direct the sheri
14 summon such talesmen from the body of the county.

SEC. 19. All ballots drawn when the persons do not appear or do not serve (except
2 permanent disability or exemption is shown) shall be returned to the respective boxes
3 which drawn, but the ballots of the petit jurors, except talesmen, so drawn who appear
4 serve for any term shall be destroyed.

SEC. 20. Where a city or town is party to a suit the talesmen shall not be drawn th
2 for, but in such cases the court shall order a special venire, or may order the talesmen dr
3 from the petit jurors' box.

SEC. 21. Any officer whose duty it is to perform any of the services in this chapter
2 tioned, who shall intentionally fail to perform them as required by law, or who shall act
3 ruptly in the discharge of such duties, or any of them, shall be deemed guilty of a mi
4 meanor, and on conviction thereof shall be imprisoned in the county jail not less than
5 months nor more than one year.

SEC. 22. At the close of each term of the district court the clerk shall make out a cer
2 cate to each juror of the amount to which he is entitled for his services, and on the prese
3 tion of such certificate the county auditor shall issue to each juror a warrant for the
4 amount on the county treasurer without the same being audited by the board of superviso

SEC. 23. All acts required to be performed by the several officers named in this act
2 the preparation and making of the several lists and selection of names of persons to
3 returned to the auditor from which jurors are to be drawn, and the return thereof, as p
4 vided herein, and the drawing of names from the several jury boxes and the summoning
5 jurors shall be done and performed so that the juries for the year 1897 shall be select
6 drawn and summoned in pursuance of the provisions of this act.

SEC. 24. Chapter 70 of the acts of the Twenty-fifth General Assembly, and chapter
2 title 3 of the code, are hereby repealed, but this repeal shall not take effect until the first d
3 of January, A. D. 1897, and shall not affect the trial of any cause pending on the first day
4 January, A. D. 1897, wherein the jury may have been selected, drawn and empanelled un
5 the acts of the Twenty-fifth General Assembly.