



1995 ASSEMBLY BILL 211

March 17, 1995 - Introduced by Representatives GOETSCH, DOBYNS, JENSEN, GROTHMAN, OTTE, AINSWORTH, HAHN, LEHMAN, F. LASEE, SCHNEIDERS, DUFF, RYBA, OWENS, GARD, MUSSER, HUEBSCH, LADWIG, HANDRICK, SERATTI, HARS DORF, SILBAUGH, NASS, LORGE, ALBERS, URBAN, VRAKAS and SKINDRUD, cosponsored by Senators RUDE, HUELSMAN, SCHULTZ, FITZGERALD, PANZER, BUETTNER and DARLING. Referred to Committee on Judiciary.

1 **AN ACT to amend** 756.096 (3) (a), 972.02 (1), 972.02 (2), 972.03 and 972.04 (1);
2 and **to create** 756.096 (3) (am) of the statutes; **relating to:** juries in
3 misdemeanor cases.

Analysis by the Legislative Reference Bureau

Currently, crimes are either felonies or misdemeanors. A crime that is punishable by imprisonment in a state prison is a felony; any other crime is a misdemeanor. A jury in any criminal case, whether a felony or a misdemeanor, consists of 12 persons unless both parties agree to a lesser number. This bill provides that misdemeanor juries must consist of 6 persons.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 756.096 (3) (a) of the statutes is amended to read:
5 756.096 (3) (a) A jury in criminal felony cases shall consist of 12 persons unless
6 both parties agree on a lesser number as provided in s. 972.02.
7 **SECTION 2.** 756.096 (3) (am) of the statutes is created to read:
8 756.096 (3) (am) A jury in misdemeanor cases shall consist of 6 persons.
9 **SECTION 3.** 972.02 (1) of the statutes is amended to read:

1 972.02 (1) Except as otherwise provided in this chapter, criminal cases shall
2 be tried by a jury of 12, drawn as prescribed in s. 756.096 (3) (a) or (am), whichever
3 is applicable, and ch. 805, unless the defendant waives a jury in writing or by
4 statement in open court or under s. 967.08 (2) (b), on the record, with the approval
5 of the court and the consent of the state.

6 **SECTION 4.** 972.02 (2) of the statutes is amended to read:

7 972.02 (2) At any time before the verdict in a felony case, the parties may
8 stipulate in writing or by statement in open court, on the record, with the approval
9 of the court, that the jury shall consist of any number less than 12. If the case is a
10 misdemeanor case, the jury shall consist of 6 persons.

11 **SECTION 5.** 972.03 of the statutes is amended to read:

12 **972.03 Peremptory challenges.** Each side is entitled to only 4 peremptory
13 challenges except as otherwise provided in this section. When the crime charged is
14 punishable by life imprisonment the state is entitled to 6 peremptory challenges and
15 the defendant is entitled to 6 peremptory challenges. If there is more than one
16 defendant, the court shall divide the challenges as equally as practicable among
17 them; and if their defenses are adverse and the court is satisfied that the protection
18 of their rights so requires, the court may allow the defendants additional challenges.
19 If the crime is punishable by life imprisonment, the total peremptory challenges
20 allowed the defense shall not exceed 12 if there are only 2 defendants and 18 if there
21 are more than 2 defendants; in other felony cases 6 challenges if there are only 2
22 defendants and 9 challenges if there are more than 2. In misdemeanor cases, the
23 state is entitled to 3 peremptory challenges and the defendant is entitled to 3
24 peremptory challenges, except that if there are 2 defendants, the court shall allow
25 the defense 4 peremptory challenges, and if there are more than 2 defendants, the

1 court shall allow the defense 6 peremptory challenges. Each side shall be allowed
2 one additional peremptory challenge if additional jurors are to be impaneled under
3 s. 972.04 (1).

4 **SECTION 6.** 972.04 (1) of the statutes is amended to read:

5 972.04 (1) The number of jurors impaneled shall be ~~12~~ prescribed in s. 756.096
6 (3) (a) or (am), whichever is applicable unless a lesser number has been stipulated
7 and approved under s. 972.02 (2) or the court orders that additional jurors be
8 impaneled. That number, plus the number of peremptory challenges available to all
9 the parties, shall be called initially and maintained in the jury box by calling others
10 to replace jurors excused for cause until all jurors have been examined. The parties
11 shall thereupon exercise in their order, the state beginning, the peremptory
12 challenges available to them, and if any party declines to challenge, the challenge
13 shall be made by the clerk by lot.

14 **SECTION 7. Initial applicability.**

15 (1) This act first applies to actions commenced on the effective date of this
16 subsection.

17 (END)