

CHAPTER 255.

JURORS.

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255.01 Qualifications of jurors. Citizens of the United States who are electors of this state, who are possessed of their natural faculties, who are not infirm, who are esteemed in their communities as of good character and sound judgment, and who are able to read and write the English language understandingly, and who are not exempted or disqualified from jury service under section 255.02, shall be liable to be drawn as jurors.

255.02 Who exempt. The following persons shall be exempt from serving as jurors:

(1) All officers of the United States; elective state officers; members and officers of the legislature during the session thereof; judges and clerks of courts of record; city and county officers; constables; officers and employes of the several state institutions; officers of fire departments and active members of fire companies organized according to law; members of Wisconsin National Guard, and members thereof who are honorably discharged after five years' service, or by reason of injury received in the line of duty.

(2) Attorneys and counselors at law; practicing physicians; surgeons; dentists; ministers of the gospel or of any religious society; the president and cashier of any state or national bank.

(3) The president, professors and instructors of the university and their assistants; and of the several colleges and incorporated academies; teachers in normal, public or private schools.

(4) One miller to each gristmill; one head sawyer and engineer in each steam sawmill and shingle mill; one foreman and engineer in each factory and machine shop.

(5) One dispensing druggist in each prescription drug store; one embalmer holding license issued by the state board of health in each undertaking establishment.

(6) Telegraph operators, superintendents, conductors, collectors, engineers, firemen, brakemen, and station agents of any railroad, express or canal company, while in actual regular employment as such; one ferryman to each licensed ferry.

(8) All persons who have been convicted of any infamous crime.

(9) Every person drawn and summoned and having served as a grand or petit juror at any regular term of the court of record shall be disqualified from serving again as a grand or petit juror in the same county for 2 years thereafter, unless summoned on a special venire or as a talesman.

History: 1951 c. 34.

Ch. 488, Laws 1949, requires jury commissioners to exclude from jury lists persons listed as exempt. 39 Atty. Gen. 606.

255.025 Persons over 60 years of age. Any person more than 60 years of age who is drawn as a juror may upon his request be excused from such service by the court or judge thereof.

History: 1951 c. 34.

255.03 Jury commissioners. (1) There shall be 3 jury commissioners in each county appointed as provided in this section. They must be freeholders of the county and possess the qualifications required for jurors by section 255.01. In counties where there is but one court within the provisions of section 255.04, the circuit judge shall appoint

the jury commissioners. In a county where there is more than one court or judge within the provisions of said section, the jury commissioners shall be appointed by the joint action of the judges of such court or courts. One commissioner shall be appointed each year for a term of 3 years commencing on the first day of July following such appointment. Appointments shall be made in writing and shall be filed in the offices of the clerks of circuit courts.

(2) Before entering upon the duties of his office each commissioner shall take and subscribe the following oath: "I do solemnly swear that I will honestly and faithfully discharge the duties of a jury commissioner without fear or favor; and that I will not consent to the selection of a person as juror whom I have been solicited to name as a juror, or whom I believe to be unfit for jury duty, or likely to render a partial verdict; and that I will report to the court the names of all persons who seek by request, hint or suggestion to influence me in the selection of jurors." The oath shall be filed in the office of the clerk of the circuit court of the county.

(3) In all counties having a population not exceeding 100,000 the commissioners shall be paid not less than \$4 nor more than \$8 for each day's service as fixed by the county board and 10 cents for each mile traveled in the discharge of their duties. In all counties having a population exceeding 100,000 the commissioners shall be paid such salary as fixed by the county board, and also \$1 for each meeting of the commission attended in any city or incorporated village in the county, other than the city in which the courthouse is located; provided, that the payments last mentioned shall not exceed \$2 per annum to each commissioner for attendance in any one city or village and shall be made only upon the presentation of an affidavit of the commissioner who is to receive such payment, in which there shall be stated the cities and villages in which he attended such meetings and the dates of such attendance. Such compensation and mileage shall be paid by the county treasurer upon the order of a circuit judge of the county. The commissioners shall be provided with such articles, books, postage, stationery, office space and assistants as shall be required by them to properly discharge their duties, upon the recommendation of the circuit judge, or circuit judges, of the several counties.

(4) The commissioners shall meet on the second Monday in each January and at such other times as the judges direct or the discharge of their duties requires. Two commissioners shall constitute a quorum. They may subpoena any person to appear before them within the town, village or city wherein such person resides for examination as to any person's qualifications for jury service, and may compel the person to give testimony under oath. The commissioners may investigate by inquiries at any person's place of business, residence, or elsewhere, or by other means, his reputation, character and fitness for jury service. The department of public welfare, sheriffs, clerks of towns, villages and cities, and the police officials shall furnish the commissioners, upon their request, such records and assistance as the commissioners deem proper to perform their duties.

255.04 Petit jurors; lists; number; how drawn. (1) Petit jurors for all circuit courts, the municipal courts of Milwaukee and Racine counties, the district court of the city and county of Milwaukee, the superior court of Douglas county and all other courts of record when exercising civil or criminal jurisdiction shall be drawn and obtained as prescribed in this and sections 255.05 to 255.07; but this section shall not apply to any court for which the method of drawing jurors is prescribed by any law applicable to it.

(2) (a) The commissioners shall annually before the first Monday in April provide one list of not less than 300 nor more than 500 names of persons to be drawn from the county and apportioned as equally as may be among towns, villages and wards of cities thereof in proportion to population according to the last national census, to serve as petit jurors in the courts specified in subsection (1). They shall not place the name of any person on such list who is exempted or disqualified under section 255.02, nor unless such person is determined to have the qualifications specified in section 255.01 upon the knowledge of the commissioners or upon the receipt by them of reliable information indicating that the person is so qualified. The commissioners may, from time to time, revise said list by striking from it the names of persons found by them to be exempt or ineligible for jury service, and to add thereto the names of additional persons as provided in section 255.05. Such list shall be subscribed and sworn to by the commissioners as having been prepared in strict conformity with the statutes thereto appertaining.

(b) A verified copy of such list, containing the address and occupation of each person named therein shall be furnished to the clerks of the respective courts, to be kept by them for the use of the court and for public inspection. The name of each person listed shall be written by a commissioner on separate cards of like weight, size and color and measuring not more than one by 3 inches. Each card shall be placed in separate opaque envelopes of like weight, size and color and only large enough to admit the cards. The commis-

sioners shall provide a master tumbler of hexagonal shape into which all the cards shall be placed. Such tumbler shall have but one opening, and that only large enough to admit the clerk's hand, and be kept locked at all times, except when the list is being revised or when the jury panel is being drawn therefrom. Such tumbler shall be kept secure against unauthorized entry therein in some repository to be designated by the commissioners.

(3) At least 15 and not more than 30 days before the sitting of any court at which a jury is required to attend, the clerk thereof shall in the presence of the trial judge and of at least 2 of the commissioners draw 36 names from such tumbler. For the purpose of any drawing of names of jurors a box shall not be deemed equivalent to the tumbler herein specified. Before drawing each name, the tumbler shall be rotated at least 6 times. The clerk shall read each name aloud when drawn, pass the card on which it appears to the judge, and the commissioners shall then cause the name to be written, together with the person's address and occupation, in the order in which it was drawn, upon a panel list provided for that purpose, at the bottom of which the commissioners shall certify that the drawing was in accordance with law. The clerk shall then draw the names of 18 additional persons, which names shall be recorded in like manner upon a reserve-panel list. They shall be summoned in the order in which their names appear on the reserve-panel list in the event and to the extent that the regular panel is inadequate. When summoned, they shall become a part of the regular panel. Whenever there shall be a deficiency of jurors of the regular and reserve panels at any time the court may order the drawing and preparation of additional reserve-panel lists as the condition and character of the business require. Such regular and reserve-panel lists shall be kept by the commissioners; and a verified copy thereof shall be furnished the clerk of the court.

(4) No advertisement of the drawing need be given, but the clerk shall fix the date of the drawing and give 5 days' notice thereof to the commissioners and the judge. If the judge be absent from the county or unable to attend, then the county judge shall attend the drawing. If any court be held by more than one judge the action required in this section may be taken by them jointly or severally; and they may by order provide the length of service, and the number in which the jurors shall be required to serve in the different branches of such court.

(5) The cards containing the names appearing on any regular or reserve-panel list shall be kept separately by the commissioners and shall be returned to the tumbler upon report from the clerk that such person did not attend and serve as a juror at the term for which drawn.

255.05 Insufficient number of jurors. Whenever at any term of either such court there shall be a partial or entire absence of jurors of the regular panel, from any cause whatever, the court may direct that the clerk, in his presence, immediately draw from the names so furnished and provided such number of names of persons as may be required to serve as jurors during the term; and whenever there shall be a deficiency of jurors of the regular panel at any time during the term the court may order a sufficient number to be so drawn to fill the regular panel, or a less or larger number as the public interest and the condition and character of the business shall require. Whenever it becomes apparent to the court or the trial judge that the regular panel will not be sufficient to provide a jury for a particular cause to be tried at the current or next term of court, the court or judge may direct the clerk to draw and summon a sufficient additional number of jurors, specifying the number. Whenever the list of names furnished any such court shall have been depleted the commissioners shall supply other names so that there will be not less than 150 nor more than 500 names in the tumbler at the time any drawing of jurors takes place. Such names shall be written on slips of paper which shall be put into the tumbler as hereinbefore provided.

255.06 Bystanders, when called. When a sufficient number of jurors, so drawn and summoned, cannot be obtained for any trial the court may order persons qualified to serve as jurors to be returned from the bystanders for the trial thereof.

255.07 How jurors excused. Any such court may, whenever it seems proper and necessary, having regard to the length of term and an equitable distribution of the duties of jurors, excuse any panel or number of jurors after a service of 2 weeks or more and order another panel or additional jurors to be drawn to complete the business of the term.

255.08 Venires, when and how issued. The clerk shall, at least twelve days before the first day of the court, issue and deliver to the sheriff or undersheriff of said county a venire for the petit jury, under the seal of the court, commanding him to summon the persons so drawn as jurors to appear before the said court at or before the hour of eleven o'clock in the forenoon on the first day of the term thereof or at such other time as may be fixed by law or shall have been fixed by the presiding judge of said court, to serve as

petit jurors. And when ordered to draw a grand jury, as provided by law, he shall in like manner issue and deliver a venire commanding the sheriff or undersheriff to summon the persons so drawn as grand jurors to appear before the said court at the time specified in the order of said judge.

255.09 Jurors; how summoned; sheriff's return. The sheriff or undersheriff shall summon the persons named in such venires to attend such court as grand or petit jurors, as the case may be, by giving personal notice to each person or by leaving a written notice at his place of residence with some person of proper age or by sending a written notice to each person by registered mail. He shall return such venires to the court at the opening thereof, specifying those who were summoned and the manner in which each person was notified. Petit jurors shall be summoned at least four days before the sitting of the court. All special venires shall be executed by the officer to whom delivered according to the command thereof.

[255.10 Stats. 1947 repealed by 1949 c. 488]

255.11 Grand jurors. Grand jurors shall not be summoned to attend the sittings of any court unless the judge thereof shall make and file with the clerk an order in writing directing such jury to be summoned, and specifying the time at which the jurors shall appear, the number of days' notice which shall be given them, and the number of jurors, not less than fifteen nor more than seventeen.

[255.12 Stats. 1947 repealed by 1949 c. 488]

255.13 Grand jurors; lists. On or before the last Monday of November in each year said commissioners shall select, in the manner prescribed in section 255.04, the names of not less than 75 nor more than 150 persons to serve as grand jurors in the county for the ensuing year. The grand jury list so made shall be securely kept by the commissioners so that the same shall not become known and no cards shall be prepared for such names unless and until a grand jury is directed to be summoned as provided in section 255.14.

255.14 Drawing grand jury. Whenever any court or judge thereof shall direct a grand jury to be summoned as provided by section 255.13, said commissioners shall write the names of all the persons selected as aforesaid on separate cards and inclose each card in a separate opaque envelope and place them in a tumbler, all as provided in section 255.04. Seventeen names shall be drawn therefrom in the manner prescribed for drawing a panel of petit jurors. Thereupon the presiding judge shall order that the persons whose names are so drawn be summoned, in the manner provided in section 255.04, to serve as a grand jury. The commissioners shall furnish to the presiding judge an additional copy of the names of grand jurors so drawn.

255.15 Duty of jurors; deficiency, how filled. Such grand jurors so selected shall be summoned to attend the sittings of the court in the same manner as is now provided by law. In case of a deficiency of grand jurors for any cause the court may order to be drawn in the manner aforesaid from the box containing the names of persons selected to serve as grand jurors a sufficient number of names to fill the panel.

255.16 Juror not to serve more than once in three years. Said jury commissioners shall not place upon the list of grand jurors, provided for by section 255.13, the name of any person who shall have served as a grand juror of said county at any time within three years prior thereto.

255.17 Report progress and return indictments. Said grand jury so selected may report progress and return indictments to the court from time to time during its session and until discharged.

255.18 Stenographic reporter; oath; salary; assistant. (1) Every grand jury shall have the power in addition to the appointment of one of their own number to be their clerk, as now provided by law, when ordered by the judge ordering such grand jury, to employ a competent stenographic reporter to attend all their sessions and to take down in shorthand a complete report of all proceedings had before them, and such stenographic notes shall, as soon as convenient, be transcribed into longhand by such reporter and deposited with the attorney-general or with the district attorney of the county or both as the grand jury may direct.

(2) Before assuming the duties herein prescribed such reporter shall make and file an oath faithfully to report and transcribe all the proceedings before such grand jury and to keep inviolate the secrecy required by law to be kept relative to such proceedings. He shall be paid out of the county treasury of the county in which the service is rendered such sum as shall be audited and allowed by the court ordering said grand jury, not to exceed ten

dollars per day for each day actually engaged before the grand jury as such stenographic reporter, and for transcribing his notes the fees prescribed by law for similar services in courts of record. Such stenographic reporter may at his own expense employ the assistance of a competent typewriter operator in transcribing his notes of the testimony and proceedings of said grand jury, but before entering upon his duties hereunder such typewriter operator shall be required to make and file an oath similar to that required of such reporter. The accounts of such stenographic reporter shall be approved by the presiding judge of the court ordering said grand jury.

255.19 Oath of grand jurors. Whenever a grand jury is summoned the clerk of the court shall prepare a list of the names of the persons returned as grand jurors, and when the jury is to be impaneled two persons on the list shall be first called and the following oath shall be administered to them: You, as grand jurors of this inquest for the body of this county of . . . , do solemnly swear (or affirm, as the case may be) that you will diligently inquire and true presentment make of all such matters and things as shall be given you in charge; the counsel of the state of Wisconsin, your fellows and your own, you shall keep secret; you shall present no man for envy, hatred or malice, neither shall you leave any man unrepresented for love, fear, favor, affection or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding; so help you God. The other jurors shall then be called in such divisions as the court may deem proper and the following oath shall be administered to them: The same oath which your fellows have taken on their part you and each of you, on your behalf, shall well and truly observe and keep; so help you God.

255.20 Objections to grand jurors. Any person held to answer to any criminal charge may object to the competency of any one summoned to serve as a grand juror before he is sworn, on the ground that he is a prosecutor or complainant upon any charge against such person or that he is a witness on the part of the prosecution and has been subpoenaed or been bound in a recognizance as such; and if such objection be established the person summoned shall be set aside.

255.21 Oaths to witnesses. The foreman of every grand jury, district attorney or other prosecuting officer who shall be before them shall have authority to administer all oaths and affirmations in the manner prescribed by law to witnesses who shall appear before such jury for the purpose of testifying in any matter of which they have cognizance; and the foreman shall return to the court a list, under his hand, of all witnesses who shall have been sworn before the grand jury during the term, and the same shall be filed by the clerk.

255.22 Grand jury may appoint a clerk. The grand jury may appoint one of their number to be their clerk, to preserve minutes of the proceedings before them, which minutes shall be delivered to the attorney-general or district attorney when the grand jury shall so direct.

255.23 District attorney, when to attend. Whenever required by the grand jury it shall be the duty of the district attorney of the county to attend them for the purpose of examining witnesses in their presence or of giving them advice upon any legal matter, and to issue subpoenas and other process to bring up witnesses.

255.24 Twelve to concur. No presentment shall be made nor any indictment found by any grand jury unless at least twelve of their number shall concur therein.

255.25 Indictment not to be disclosed. No grand juror or officer of the court, if the court shall so order, shall disclose the fact that any indictment for a felony has been found against any person not in custody or under recognizance, otherwise than by issuing or executing process on such indictment, until such person has been arrested.

255.26 Votes not to be disclosed. No grand juror shall be allowed to state or testify in any court in what manner he or any other member of the jury voted on any question before them, or what opinion was expressed by any juror in relation to such question.

255.27 Testimony, when may be disclosed. Members of the grand jury may be required by any court to testify whether the testimony of a witness examined before such jury is consistent with or different from the evidence given by such witness before such court; and they may also be required to disclose the testimony given before them by any person upon a complaint against such person for perjury, or upon his trial for such offense.

255.28 May serve twice at same term. When the grand jury attending any court shall have been dismissed before the court is adjourned without day they may be summoned to attend again in the same term, at such time as the court shall direct, for the dispatch of any business that may come before them.

255.29 Fine for nonattendance. If any person lawfully summoned to attend as a juror in any court of record shall neglect to attend, without any sufficient excuse, he shall pay a fine not exceeding forty dollars, which shall be imposed by the court to which the juror was summoned and shall be paid into the county treasury.

255.30 Jurors, how paid. The clerk of the court whenever a juror shall be discharged, or at the end of each term of court, or within ten days thereafter, shall make out a certificate to each juror attending the court, certifying the number of days attendance, the number of miles traveled, and the amount of compensation due him, and every such juror shall make affidavit thereto and receipt for same, before it shall be delivered to him, and thereupon the county treasurer shall pay the amount thereof out of the county treasury. In counties having a population of five hundred thousand or more and containing an entire judicial circuit, for which more than one judge is provided by law, such affidavit may be executed and sworn to before the calendar clerk or one of his assistants.

255.31 Juror's fees and mileage. Every grand and petit juror summoned upon any venire shall receive not less than \$4 nor more than \$8, as fixed by the county board, for each day's actual attendance upon any circuit court, county court or municipal court from either of which an appeal in such action, as may be for trial, must be taken directly to the supreme court, and 10 cents for each mile actually traveled each day in going and returning by the most usual route; but shall be paid for no day when the court is not in session unless specially ordered by the presiding judge.

County board has no authority to de- under 255.31, as amended by ch. 498, Laws
crease statutory mileage allowance of jurors 1949. 38 Atty. Gen. 571.

255.32 Talesman to receive four dollars per day. Every talesman, summoned and acting as a juror, shall receive the same compensation as jurors, as provided in section 255.31.