

**CHAPTER 121—JURIES; TRIAL BY JURY**

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## AMENDMENTS

1992—Pub. L. 102-572, title IV, §403(b), Oct. 29, 1992, 106 Stat. 4512, substituted "Optional" for "Experimental" in item 1878.

1988—Pub. L. 100-702, title VIII, §805(b), Nov. 19, 1988, 102 Stat. 4659, added item 1878.

1983—Pub. L. 97-463, §3(2), Jan. 12, 1983, 96 Stat. 2532, added item 1877.

1980—Pub. L. 96-417, title III, §302(b), Oct. 10, 1980, 94 Stat. 1739, added item 1876.

1978—Pub. L. 95-572, §6(a)(2), Nov. 2, 1978, 92 Stat. 2456, added item 1875.

1968—Pub. L. 90-274, §101, Mar. 27, 1968, 82 Stat. 53, substituted "Declaration of policy" for "Qualifications" as item 1861, "Discrimination prohibited" for "Exemptions" as item 1862, "Plan for random jury selection" for "Exclusion or excuse from service" as item 1863, "Drawing of names from the master jury wheel; completion of juror qualification form" for "Manner of drawing; jury commissioners and their compensation" as item 1864, "Qualifications for jury service" for "Apportionment within district; additional jury commissioners" as item 1865, "Selection and summoning of jury panels" for "Special petit juries; talesmen from bystanders" as item 1866, "Challenging compliance with selection procedures" for "Summoning jurors" as item 1867, "Maintenance and inspection of records" for "Disqualification of marshal or deputy" as item 1868, "Definitions" for "Frequency of service" as item 1869, and reenacted items 1870-1874 without change.

**§ 1861. Declaration of policy**

It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.

(June 25, 1948, ch. 646, 62 Stat. 951; Pub. L. 85-315, part V, §152, Sept. 9, 1957, 71 Stat. 638; Pub. L. 90-274, §101, Mar. 27, 1968, 82 Stat. 54.)

## HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§411 and 415 (Mar. 3, 1911, ch. 231, §§275, 278, 38 Stat. 1164, 1165).

The revised section prescribes uniform standards of qualification for jurors in Federal Courts instead of making qualifications depend upon State laws. This is in accord with proposed legislation recommended by the Judicial Conference of the United States.

The last paragraph is added to exclude jurors incompetent to serve as jurors in State courts.

## AMENDMENTS

1968—Pub. L. 90-274 substituted provisions declaring the policy of the United States with respect to trial by jury and the opportunity to serve on such juries for provisions setting out the required qualifications of Federal jurors, including age, citizenship, residence, freedom from conviction of certain crimes, ability to read, write, speak, and understand the English language, and capability of rendering efficient jury service.

1957—Pub. L. 85-315 substituted "Qualifications of Federal jurors" for "Qualifications" in section catchline.

Pub. L. 85-315 substituted "and who has resided for a period of one year within the judicial district" for "and resides within the judicial district", and struck out provisions which prohibited service as a grand or petit juror if a person was incompetent to serve as a grand or petit juror by the law of the State in which the district court is held.

## EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-274, §104, Mar. 27, 1968, 82 Stat. 63, provided that: "This Act [amending this section and sections 1821, 1862 to 1869, and 1871 of this title, repealing section 867 of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under this section] shall become effective two hundred and seventy days after the date of enactment [Mar. 27, 1968]: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

## SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-572, §1, Nov. 2, 1978, 92 Stat. 2453, provided that: "This Act [enacting sections 1363 and 1875 of this title, amending sections 1863, 1865, 1866, 1869, and 1871 of this title, renumbering section 1363 (relating to construction of references to laws of the United States or Acts of Congress) as section 1364 of this title, and enacting provisions set out as a note under section 1363 of this title] may be cited as the 'Jury System Improvements Act of 1978'."

## SHORT TITLE

Pub. L. 90-274, §1, Mar. 27, 1968, 82 Stat. 53, provided: "That this Act [amending this section and sections 1821, 1862 to 1869, and 1871 of this title, repealing section 867 of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under this section] may be cited as the 'Jury Selection and Service Act of 1968'."

**§ 1862. Discrimination prohibited**

No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States or in the Court of International Trade on account of race, color, religion, sex, national origin, or economic status.

(June 25, 1948, ch. 646, 62 Stat. 952; Pub. L. 90-274, §101, Mar. 27, 1968, 82 Stat. 54; Pub. L. 96-417, title III, §302(c), Oct. 10, 1980, 94 Stat. 1739.)

## HISTORICAL AND REVISION NOTES

This section makes provision for specific exemption of classes of citizens usually excused from jury service in the interest of the public health, safety, or welfare. The inclusion in the jury list of persons so exempted usually serves only to waste the time of the court.

## AMENDMENTS

1980—Pub. L. 96-417 prohibited discrimination against service as juror in the Court of International Trade.

1968—Pub. L. 90-274 substituted provisions prohibiting discrimination against citizens in their service as jurors because of race, color, religion, sex, national origin, or economic status for provisions identifying three groups as exempt from jury service, including members of the armed forces on active duty, members of fire or police departments, and public officers actively engaged in the performance of official duties.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-274 effective 270 days after Mar. 27, 1968, except as to cases in which an indictment has been returned or a petit jury empaneled prior to such effective date, see section 104 of Pub. L. 90-274, set out as a note under section 1861 of this title.

**§ 1863. Plan for random jury selection**

(a) Each United States district court shall devise and place into operation a written plan for random selection of grand and petit jurors that shall be designed to achieve the objectives of sections 1861 and 1862 of this title, and that shall otherwise comply with the provisions of this title. The plan shall be placed into operation after approval by a reviewing panel consisting of the members of the judicial council of the circuit and either the chief judge of the district whose plan is being reviewed or such other active district judge of that district as the chief judge of the district may designate. The panel shall examine the plan to ascertain that it complies with the provisions of this title. If the reviewing panel finds that the plan does not comply, the panel shall state the particulars in which the plan fails to comply and direct the district court to present within a reasonable time an alternative plan remedying the defect or defects. Separate plans may be adopted for each division or combination of divisions within a judicial district. The district court may modify a plan at any time and it shall modify the plan when so directed by the reviewing panel. The district court shall promptly notify the panel, the Administrative Office of the United States Courts, and the Attorney General of the United States, of the initial adoption and future modifications of the plan by filing copies therewith. Modifications of the plan made at the instance of the district court shall become effective after approval by the panel. Each district court shall submit a report on the jury selection process within its jurisdiction to the Administrative Office of the United States Courts in such form and at such times as the Judicial Conference of the United States may specify. The Judicial Conference of the United States may, from time to time, adopt rules and regulations governing the provisions and the operation of the plans formulated under this title.

(b) Among other things, such plan shall—

(1) either establish a jury commission, or authorize the clerk of the court, to manage the jury selection process. If the plan establishes a

jury commission, the district court shall appoint one citizen to serve with the clerk of the court as the jury commission: *Provided, however,* That the plan for the District of Columbia may establish a jury commission consisting of three citizens. The citizen jury commissioner shall not belong to the same political party as the clerk serving with him. The clerk or the jury commission, as the case may be, shall act under the supervision and control of the chief judge of the district court or such other judge of the district court as the plan may provide. Each jury commissioner shall, during his tenure in office, reside in the judicial district or division for which he is appointed. Each citizen jury commissioner shall receive compensation to be fixed by the district court plan at a rate not to exceed \$50 per day for each day necessarily employed in the performance of his duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of such duties. The Judicial Conference of the United States may establish standards for allowance of travel, subsistence, and other necessary expenses incurred by jury commissioners.

(2) specify whether the names of prospective jurors shall be selected from the voter registration lists or the lists of actual voters of the political subdivisions within the district or division. The plan shall prescribe some other source or sources of names in addition to voter lists where necessary to foster the policy and protect the rights secured by sections 1861 and 1862 of this title. The plan for the District of Columbia may require the names of prospective jurors to be selected from the city directory rather than from voter lists. The plans for the districts of Puerto Rico and the Canal Zone may prescribe some other source or sources of names of prospective jurors in lieu of voter lists, the use of which shall be consistent with the policies declared and rights secured by sections 1861 and 1862 of this title. The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.

(3) specify detailed procedures to be followed by the jury commission or clerk in selecting names from the sources specified in paragraph (2) of this subsection. These procedures shall be designed to ensure the random selection of a fair cross section of the persons residing in the community in the district or division wherein the court convenes. They shall ensure that names of persons residing in each of the counties, parishes, or similar political subdivisions within the judicial district or division are placed in a master jury wheel; and shall ensure that each county, parish, or similar political subdivision within the district or division is substantially proportionally represented in the master jury wheel for that judicial district, division, or combination of divisions. For the purposes of determining proportional representation in the master jury wheel, either the number of actual voters at