

SENATE BILL NO. 432

INTRODUCED BY HAFFERMAN, BOYLAN, MEHRENS

IN THE SENATE

February 10, 1979	Introduced and referred to Committee on Judiciary.
February 13, 1979	Fiscal note requested.
February 16, 1979	Fiscal note returned.
February 17, 1979	Committee recommend bill do pass. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 8, 1979	Committee recommend bill be concurred in. Report adopted.
March 12, 1979	Second reading, concurred in.
March 15, 1979	Third reading, concurred in.

IN THE SENATE

March 16, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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Sen. Hoffmann BILL NO. *432*
INTRODUCED BY *Hoffmann Boyle Melum*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW RELATING TO ATTENDANCE OF TRIAL JURIES IN DISTRICT COURT; AMENDING SECTIONS 3-15-401, 3-15-411, 3-15-501, 3-15-503, 3-15-505, AND 3-15-506, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-15-401, MCA, is amended to read:

"3-15-401. Jury lists -- by whom and when made. The chairman or, in his absence, any member of the board of county commissioners, ~~the county treasurer,~~ and the county assessor ~~or any two of such officers~~ clerk and recorder of each county must meet at the county seat of each county at the office of the county clerk and recorder on the second Monday of December of each year for the purpose of making a list of persons to serve as trial jurors for the ensuing year. If they fail to meet on the day specified in this section, they must meet as soon thereafter as practicable."

Section 2. Section 3-15-411, MCA, is amended to read:

"3-15-411. Term of service of jurors. (1) The persons whose names are so returned are known as regular jurors and must serve for 1 year and until other persons are selected and returned unless they are excused by the court or a judge

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pursuant to 3-15-501.

(2) If jurors are drawn before the selection and return of the new jury list as provided in this part and thereafter a new jury list is returned, they shall continue to serve as jurors, if the business of the court requires the attendance of a jury, for a period not exceeding 90 days.

(3) Notwithstanding such limitation of service, a jury composed of such jurors duly impaneled to try any cause shall continue to serve in such cause until discharged by the court from any further consideration of such cause. The fact that a new jury list has been returned shall not affect their status as jurors."

Section 3. Section 3-15-501, MCA, is amended to read:

"3-15-501. Order directing that trial jury be drawn and summoned. (1) At least once each year in each county, when a civil or criminal case has been at issue and ready for trial for more than 6 months and the plaintiff or defendant in such case has requested a jury trial or whenever the business of a district court requires the attendance of a trial jury for the trial of civil or criminal cases and no jury is in attendance, the court must make an order directing a trial jury to be drawn and summoned to attend before said court. Such order must specify the number of jurors to be drawn and the time at

1 which the jurors are required to attend, which time may be
2 at the same term in which the jurors are drawn or at the
3 next succeeding term, in the discretion of the court.

4 (2) The court may direct that such causes, either
5 criminal or civil, in which a jury may be required or in
6 which a jury may have been demanded be continued and fixed
7 for trial when a jury shall be in attendance.

8 (3) A district court may draw more than one trial jury
9 in a given year if, in the opinion of the judge or judges
10 thereof, the service of the trial jury in attendance has
11 been unduly demanding, and in such case the trial jury in
12 attendance may be excused by the court from further jury
13 duty in that year.

14 (4) The judge or judges of a district or the judge of
15 a department may designate that jury service in his or their
16 district or department is on a "one-day or one-trial" basis;
17 that is, each individual juror is excused for the rest of
18 the year after having attended for 1 day and not having been
19 selected to serve at the trial of a particular cause or
20 after having completed service at such a trial.

21 (5) If the number of unexcused jurors is not
22 sufficient to meet current requirements at any time, jurors
23 excused under subsection (3) or (4) may be required to
24 serve."

25 Section 4. Section 3-15-503, MCA, is amended to read:

1 "3-15-503. Drawing -- how conducted. (1) The clerk
2 shall place the box on a rod so that it may readily revolve.
3 The box must be revolved a sufficient number of times to
4 ensure that the numbered slips in it become thoroughly
5 mixed. Thereafter the judge shall draw from the box, one at
6 a time, as many of the numbered slips as are ordered by the
7 court.

8 (2) A record of the drawing shall be entered in the
9 minutes of the court. It must show the names of the jurors
10 corresponding to the numbers drawn from the jury box.

11 (3) If the court is satisfied that any person whose
12 name is drawn is deceased or mentally incompetent or has
13 permanently moved from the county, the name of the person
14 shall be omitted from the list and another name shall be
15 drawn in its place. The reason for the omission shall be
16 entered upon the minutes of the court. The same procedure
17 shall be followed as often as may be necessary, until the
18 number of names of jurors required has been drawn.

19 ~~(4)--After--the--drawing--has--been--completed,--the--clerk~~
20 ~~shall--make--a--copy--of--the--list--of--names--drawn--and--certify--the~~
21 ~~same--in--his--certificate--he--shall--state--the--date--of--the~~
22 ~~order--and--of--the--drawing,--the--number--of--the--names--drawn,--and~~
23 ~~the--time--when--and--the--place--where--the--jurors--are--required--to~~
24 ~~appear.~~

25 ~~(5)--The--certificate--and--list--shall--be--delivered--to--the~~

1 ~~sheriff-for-services~~

2 ~~(6)(4) No person may be asked to serve for more than~~
 3 ~~one term during any year unless all the numbers in the jury~~
 4 ~~box have been drawn and there are no other qualified jurors~~
 5 ~~available."~~

6 Section 5. Section 3-15-505, MCA, is amended to read:

7 "3-15-505. Sheriff Notice to summon jurors. ~~(1) The~~
 8 ~~sheriff as soon as he receives a list or lists of jurors~~
 9 ~~drawn shall summon the persons named therein to attend the~~
 10 ~~court at the time mentioned in the order, by a written~~
 11 ~~notice to that effect by certified mail addressed to them to~~
 12 ~~the post office address named in the jury list and deposited~~
 13 ~~in the post office with the postage thereon prepaid, except~~
 14 ~~in cases where the district judge expressly directs that~~
 15 ~~such service shall be made by giving personal notices~~

16 ~~(2) He shall return the list to the court at the~~
 17 ~~opening of the regular session thereof or at such session or~~
 18 ~~time as the jurors may be ordered to attend, specifying the~~
 19 ~~names of those who were summoned and the manner in which~~
 20 ~~each person was notified. The clerk shall serve notice by~~
 21 ~~mail on the persons drawn as jurors and require response~~
 22 ~~thereto by mail in such form as the supreme court~~
 23 ~~designates. He may attach to the notice a form for an~~
 24 ~~affidavit claiming exemption, provided for in 3-12-114. If a~~
 25 ~~person fails to respond to the notice, the clerk shall~~

1 certify the failure to the sheriff, who shall then serve
 2 notice personally on such person and require a response to
 3 the notice."

4 Section 6. Section 3-15-506, MCA, is amended to read:

5 "3-15-506. Obtaining additional jurors when necessary.

6 (1) Whenever it appears to a district judge that additional
 7 jurors will be needed for any term or trial, the judge shall
 8 draw as many numbers from the jury box as are necessary to
 9 secure the required number of additional jurors. Before
 10 drawing the numbers, the judge shall by appropriate order
 11 designate the number of jurors needed.

12 (2) When the judge believes that securing the
 13 additional jurors from all of the county would cause
 14 unnecessary delay or expense, he may order the jurors
 15 selected from only a designated portion of the county, which
 16 portion shall never be less than the corporate limits of the
 17 county seat. If, in the selection of the additional jurors,
 18 a number is drawn and the jury list shows the person
 19 represented by the number to be a resident of an area
 20 outside the area designated by the court order, that number
 21 shall be returned to the jury box and a new number drawn.

22 (3) When the required number of names have been
 23 selected, the judge may order the prospective jurors
 24 notified by telephone or mail by the clerk of the court or
 25 ~~he may order them summoned by the sheriff either by~~

LC 0592/01

1 ~~certified-not-or-by-personal-service.~~

-End-

STATE OF MONTANA

REQUEST NO. 343-79

FISCAL NOTE

Form BD-15

In compliance with a written request received 02 / 13, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 432 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 432 is an act to change the method of notifying prospective jurors of duty and their possible attendance at jury trials. The clerk of district court would serve notice by mail on persons drawn as jurors instead of the sheriff doing it by certified mail. A judge may designate his district on a one-trial basis, with the possibility of calling up previously excused persons if the need arises.

ASSUMPTIONS:

- 1) The clerk of district court will not use certified mail to notify persons of jury duty.
- 2) Smaller counties, where jury trials are not a significant part of their judicial operation, would probably not be affected.
- 3) Any savings at the local level is based on the number of jurors being called for the 80-81 biennium remaining approximately the same as FY 79.

LOCAL IMPACT:

- 1) If certified mail is no longer used for notifying jurors, the mailing costs in the larger counties would decrease by as much as 50%.
- 2) The sheriff's office would realize a decrease in its workload, since the clerk would be giving notice to jurors by mail.

COMMENTS:

Savings estimates are based on figures received by Yellowstone County.

Richard L. Strang
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/16/79

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 2 INTRODUCED BY *Hoffmann Boyle Nelson*
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 15 each county must meet at the county seat of each county at
 16 the office of the county clerk and recorder on the second
 17 Monday of December of each year for the purpose of making a
 18 list of persons to serve as trial jurors for the ensuing
 19 year. If they fail to meet on the day specified in this
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 25 and returned unless they are excused by the court or a judge

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17 shall be followed as often as may be necessary, until the
18 number of names of jurors required has been drawn.

19 ~~(4) After the drawing has been completed, the clerk~~
20 ~~shall make a copy of the list of names drawn and certify the~~
21 ~~same. In his certificate he shall state the date of the~~
22 ~~order and of the drawing, the number of the names drawn, and~~
23 ~~the time when and the place where the jurors are required to~~
24 ~~appear.~~

25 ~~(5) The certificate and list shall be delivered to the~~

1 ~~sheriff for service~~

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SB 0432/02

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