

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

394I0107

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1053** - 01/22/2003

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to provide for the centralization and computerization of
2 certain jury selection processes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 16-13-4.1 be amended to read as follows:

5 16-13-4.1. For the purposes of this chapter, the jury selection list shall be prepared using
6 electronic means by the ~~county auditor pursuant to § 12-4-10~~ state court administrator's office
7 and shall consist of the current voter registration list, ~~as~~ obtained from the secretary of state,
8 supplemented by the list of persons eighteen years of age and over holding a valid driver's license
9 ~~list.~~ The state court administrator's office shall annually merge these lists, and purge duplicate
10 listings, to create an accurate jury selection list for preparing the master juror list in each county.

11 The county auditor may request that the supplemental driver's license list be compiled from a list
12 of those drivers within the county who have renewed, updated, or applied for a driver's license
13 in the last two years. The ~~driver's license list shall be used for the express reason of~~
14 ~~supplementing the jury list and~~ jury selection list may not be distributed, sold, or duplicated for
15 any other purpose.



1 Section 2. That § 16-13-5 be repealed.

2 ~~16-13-5. The board of jury selectors each year shall prepare the master juror list for the~~
3 ~~county.~~

4 Section 3. That § 16-13-9 be repealed.

5 ~~16-13-9. A quorum of the board of jury selectors shall at all times be present during the~~
6 ~~preparation of the master juror list.~~

7 Section 4. That § 16-13-9.1 be amended to read as follows:

8 16-13-9.1. For the purposes of this chapter, the master juror list shall be that list of names
9 randomly selected by the ~~board of jury selectors~~ state court administrator's office from the jury
10 selection lists and the driver license lists list, from which the various grand and petit jury panels
11 shall be drawn.

12 Section 5. That § 16-13-9.2 be amended to read as follows:

13 16-13-9.2. ~~The board of jury selectors shall choose at random a number not less than one nor~~
14 ~~more than the total number of jurors to be placed upon the master jury list. Using that a random~~
15 ~~number, the board of jury selectors shall then proceed to choose not less than one nor more than~~
16 ~~the total number of jurors to be placed on the master jury list, the state court administrator's~~
17 ~~office shall select from the jury selection list for the each county the name corresponding to that~~
18 ~~random number in sequence. These names shall then be supplemented by names randomly~~
19 ~~selected from the county driver's license list in the same manner. The board of jury selectors may~~
20 ~~use an electronic or mechanical system or device in carrying out its duties under this section. This~~
21 ~~process shall continue until the number of names provided for pursuant to § 16-13-2 is selected.~~

22 Section 6. That § 16-13-9.4 be repealed.

23 ~~16-13-9.4. If an electronic selection process is not used, in order that every person eligible~~
24 ~~for jury duty in the county may have a chance for jury duty, in each odd-numbered year, the~~

1 ~~random selection process determined by § 16-13-9.2 shall commence at the beginning of the jury~~
2 ~~selection lists and then through to the end of the lists. In every even-numbered year, the random~~
3 ~~selection process shall commence at the end of the jury selection lists and then through to the~~
4 ~~beginning of the lists.~~

5 Section 7. That § 16-13-9.5 be repealed.

6 ~~—16-13-9.5. If an electronic selection process is not used, and the board of jury selectors~~
7 ~~exhausts the jury selection list and the driver's license list without obtaining the minimum number~~
8 ~~of names to be selected, the board shall repeat the process until the minimum number of names~~
9 ~~is drawn. In that situation, the board of jury selectors may take the name immediately before or~~
10 ~~after the number that was randomly selected pursuant to § 16-13-9.2 as it appears on the jury~~
11 ~~selection list.~~

12 Section 8. That § 16-13-13 be amended to read as follows:

13 16-13-13. Promptly upon completion receipt of the master juror list from the state court
14 administrator's office, and in any event before October first in each year, the board of jury
15 selectors shall sign the list and shall file it with the clerk of courts. The list shall be kept on file
16 for four years. The clerk of courts shall then prepare separate tickets for each person named in
17 the master juror list furnished by the board of jury selectors, unless a name is stricken pursuant
18 to § 16-13-15. This process may be performed electronically.

19 Section 9. That § 16-13-15 be amended to read as follows:

20 16-13-15. The board of jury selectors shall ascertain whether each of the persons on the
21 master juror list has the qualifications of a juror as provided by § 16-13-10 from the information
22 available to ~~them~~ the board from records of the county or other readily available sources, or has
23 served as a juror within two years. A person has served as a juror if that person has been
24 summoned and appeared for a trial. If, from examination of the master juror lists, it appears that

1 any person listed thereon does not have the qualifications to serve as a juror or has served as a
2 juror within two preceding years, the board of jury selectors shall strike such name from the list
3 and draw another in its place. ~~If the master list is selected electronically, the~~ The board shall
4 adjust the number to be drawn to allow for the elimination of the names of those disqualified.
5 ~~— The clerk of any magistrate court having a separate clerk shall furnish the clerk of the circuit~~
6 ~~court with a list of the names and addresses of all persons who have served as jurors for the~~
7 ~~calendar year when requested by the clerk of the circuit court, who shall preserve the lists for~~
8 ~~two years.~~

9 The board of jury selectors shall record with the list of jurors the reasons for disqualification
10 of any person stricken from the master jury list.

11 Section 10. That § 16-13-31 be amended to read as follows:

12 16-13-31. No irregularity or omission upon the part of the state court administrator's office,
13 the board of jury selectors, or of any officer, in the performance of any duty imposed by this
14 chapter, ~~shall~~ serves to invalidate the panel of grand or petit jurors selected unless it shall be
15 made to appear to the satisfaction of the court for which the panel was drawn that there was such
16 misfeasance or malfeasance as would tend to deprive some litigant or person charged with crime
17 of a substantial right, in which event the court may dismiss any or all members of the panel from
18 the trial of such case or the consideration of such matter or for the term and may make such
19 order respecting the drawing of additional names from the list or a new panel or a special venire
20 as ~~he~~ the court may deem proper.

21 Section 11. That § 16-13-34 be amended to read as follows:

22 16-13-34. ~~After~~ Unless processed electronically, after the panel or panels of jurors have been
23 drawn, the clerk of courts shall mail to each juror, at least sixty days prior to the time the juror
24 is to serve, a notice that ~~he~~ such person has been drawn as a juror.

1 The notice shall state the time and place the juror shall serve; and shall have attached thereto
2 an acceptance of service to be signed by each juror. There shall also be enclosed with the notice
3 a stamped envelope addressed to the clerk of courts for the return of the acceptance of service.
4 ~~It shall be the duty of the jurors to~~ Each juror shall sign the acceptance of service of the notice,
5 ~~to answer any questionnaires enclosed with the acceptance, and to mail it to the clerk of courts~~
6 ~~within ten days after receipt~~ or respond electronically using the court's juror website within ten
7 days after receipt.

8 Section 12. That § 16-13-42 be amended to read as follows:

9 16-13-42. If ~~all persons~~ any person summoned as grand and petit ~~jurors to~~ juror does not
10 appear before the court, or if for any cause the panel of grand or petit jurors is not complete, or
11 if no jury is drawn as provided by § 16-13-27, the court shall order the clerk of courts to
12 summon without delay persons having the qualifications of jurors, whose names appear upon the
13 master jury list, and if the jury list is exhausted then the clerk of courts shall ~~place~~ request from
14 the state court administrator's office additional names on the master list pursuant to § 16-13-9.2.
15 ~~Using a random number the clerk of courts shall choose additional persons to be summoned for~~
16 ~~jury duty from the master jury list.~~ The trial court shall designate the persons authorized to assist
17 the clerk of courts in contacting those summoned. The clerk and authorized assistants shall make
18 and file with the court a memorandum of the manner in which attempts to contact additional
19 jurors were made, responses or lack thereof, and the name of each additional juror contacted.
20 ~~The~~ Each person ~~or persons~~ so summoned shall forthwith appear before the court, and, if
21 competent, shall serve on the grand or petit jury as the case may be unless excused or lawfully
22 challenged.