

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 461 Excusal from Jury Service  
**SPONSOR(S):** Judiciary Committee, Amesty  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 462

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Civil Justice Subcommittee	18 Y, 0 N	Yeager	Jones
2) Judiciary Committee	21 Y, 0 N, As CS	Yeager	Kramer

**SUMMARY ANALYSIS**

The Florida Constitution provides that “[t]he right of trial by jury shall be secure to all and remain inviolate.” A jury must be comprised of no fewer than six jurors. However, in a capital case the minimum number is twelve jurors. To serve on a jury, a juror must be 18 years of age or older, be a citizen of the United States, and be a legal resident of Florida and his or her respective county.

A person reports for jury service in his or her county of residence. Any person who is summoned as a juror and fails to attend without a sufficient excuse must pay a fine and may be held in contempt of court. Under Florida law, certain persons are disqualified or excusable from jury service based on their position, physical or mental health condition, or personal beliefs.

CS/HB 461 requires that a woman who has given birth within six months before the reporting date on a summons for jury service must be excused from jury service upon request.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Jurors in General

The Florida Constitution provides that “[t]he right of trial by jury shall be secure to all and remain inviolate.”<sup>1</sup> A jury must be comprised of no fewer than six jurors.<sup>2</sup> However, in a capital case, the minimum number is 12 jurors.<sup>3</sup>

To serve on a jury, a juror must be 18 years of age or older, be a citizen of the United States, and be a legal resident of Florida and his or her respective county.<sup>4</sup> A person reports for jury service in his or her county of residence.<sup>5</sup>

##### Selection of Jurors

Each county sets its own procedure for selecting jurors.<sup>6</sup> The clerk of the court for each county is responsible for overseeing the jury selection plan.<sup>7</sup>

The Department of Highway Safety and Motor Vehicles is required to deliver to each clerk of court, on a quarterly basis, a list of names of persons who appear qualified to serve as jurors.<sup>8</sup> A person whose name does not appear on this list may be added to the list of potential jurors if he or she submits an affidavit to the clerk swearing to the fact that he or she is eligible to serve as a juror.<sup>9</sup> From this preliminary list, the clerk randomly draws at least 250 names to create the “final juror candidate list,” which is regularly updated.<sup>10</sup> As the need for jurors arises, the clerk determines the number of jurors required and randomly draws from the final juror candidate list a group of names that becomes the “jury venire.” After a person’s name is added to the jury venire, the clerk must mail a summons to that person at least 14 days before he or she is due to report for jury service at the courthouse.<sup>11</sup> When the person whose name appears on the jury venire reports for jury service, he or she may then be selected for a jury in a particular case.<sup>12</sup>

A juror who receives a summons may postpone the summons for up to six months upon written or oral request;<sup>13</sup> and a person who was summoned and reported as a prospective juror within the past year is exempt from jury service for one year from the last day of service.<sup>14</sup>

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<sup>1</sup> Art. I, s. 22, Fla. Const.; see art. I, s. 16, Fla. Const.; Fla. R. Civ. P. 1.430.

<sup>2</sup> Art. I, s. 22, Fla. Const.

<sup>3</sup> S. 913.10, F.S.

<sup>4</sup> S. 40.01, F.S.

<sup>5</sup> S. 40.011(4), F.S.

<sup>6</sup> S. 40.02(1), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> S. 40.011(2), F.S.

<sup>9</sup> S. 40.011(3), (4), F.S.

<sup>10</sup> S. 40.02, F.S.

<sup>11</sup> S. 40.23(1), F.S.

<sup>12</sup> See Black’s Law Dictionary 1590 (8th ed. 2004); s. 40.221, F.S. (“A clerk of the court . . . shall, in a manner deemed to produce a result by lot and at random, select from the final juror candidate list such number of persons as he or she deems necessary or expedient for a jury venire . . . from which such venire or venires any jury may be organized . . .”); s. 40.23, F.S. (“The clerk of the court shall generate a venire as prescribed in s. 40.221 and shall summon the persons named in such venire to attend court as jurors . . .”); s. 40.02(1), F.S.; s. 40.225(1), F.S.

<sup>13</sup> S. 40.23(2), F.S.

<sup>14</sup> S. 40.013(7), F.S.

Any person who is summoned as a juror and fails to attend without a sufficient excuse must pay a fine not to exceed \$100 and may be held in contempt of court.<sup>15</sup> Jurors serve for one day unless assigned to a trial that will not complete its work in one day.<sup>16</sup>

### Persons Disqualified or Otherwise Excusable from Jury Service

Under Florida law, certain persons are disqualified or otherwise excusable from jury service based on their position, physical or mental health condition, or personal beliefs.

The following persons are disqualified from serving on a jury:

- A person convicted of a felony;<sup>17</sup>
- A person under prosecution for any crime;<sup>18</sup>
- The Governor, Lieutenant Governor, Cabinet officer, clerk of court, or judge;<sup>19</sup>
- A person interested in the issue being tried;<sup>20</sup> or
- In a capital case, a person who holds beliefs that would preclude him or her from finding a defendant guilty of an offense punishable by death.<sup>21</sup>

The following persons must be excused from jury service upon request:

- An expectant mother and parent who is not employed full time and has custody of a child under 6 years of age;<sup>22</sup>
- A person 70 years of age or older;<sup>23</sup>
- A person who is responsible for the care of a person who, because of mental illness, intellectual disability, senility, or other physical or mental incapacity, is incapable of caring for himself or herself;<sup>24</sup>
- A full-time student between 18 and 21 years of age, who is attending high school or any state university, private postsecondary educational institution, Florida College System Institution, or career center; or<sup>25</sup>
- A full-time federal, state, or local law enforcement officer, unless such person chooses to serve.<sup>26</sup>

The following persons may be excused from jury service upon request:

- A practicing attorney, physician, or person who is physically infirm;<sup>27</sup>
- A person who shows hardship, extreme inconvenience, or public necessity;<sup>28</sup> or
- A person, who because of mental illness, intellectual disability, senility, or other physical or mental capacity, is permanently incapable of caring for himself or herself.<sup>29</sup>

In a criminal case, if upon examination, the court determines that a juror is not qualified to serve, the court may choose to excuse the juror.<sup>30</sup>

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<sup>15</sup> S. 40.23(3), F.S.

<sup>16</sup> S. 40.41, F.S.

<sup>17</sup> S. 40.013(1), F.S. However, a person convicted of a felony but who has had his or her civil rights restored may serve as a juror.

<sup>18</sup> *Id.*

<sup>19</sup> S. 40.013(2)(a), F.S.

<sup>20</sup> S. 40.013(3), F.S.

<sup>21</sup> S. 913.13, F.S.

<sup>22</sup> S. 40.013(4), F.S.

<sup>23</sup> S. 40.013(8), F.S.

<sup>24</sup> S. 40.013(10), F.S.

<sup>25</sup> S. 40.013(11), F.S.

<sup>26</sup> S. 40.013(2)(b), F.S.

<sup>27</sup> S. 40.013(5), F.S.

<sup>28</sup> S. 40.013(6), F.S.

<sup>29</sup> S. 40.013(9), F.S.

<sup>30</sup> Fla. R. Crim. P. 3.330.

## Effect of Proposed Changes

CS/HB 461 requires that a woman who has given birth within six months before the reporting date on a summons for jury service must be excused from jury service upon request. The bill clarifies that such excusal applies only to the specific summons for which the excusal is requested. The bill does not affect a woman's ability to choose to report for jury service if she has given birth less than six months before being summoned for jury service.

The bill provides an effective date of July 1, 2024.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 40.013, F.S., relating to persons disqualified or excused from jury service.

**Section 2:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 8, 2023, the Judiciary Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the requirements that a request for excusal from jury service be made in writing and accompanied by a birth certificate.