

SENATE BILL No. 53

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-4-5.5-12; IC 33-4-5.6-20; IC 35-34-2-2;
IC 35-34-2-3.

Synopsis: Grand jury alternate. Provides for the selection of one alternate juror in addition to the six regular jurors to serve on a grand jury.

Effective: July 1, 1998.

Dempsey, Alexa

January 6, 1998, read first time and referred to Committee on Judiciary.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 53

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-4-5.5-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. (a) The jury
3 commissioner shall maintain a qualified jury wheel and shall place in the
4 jury wheel the names or identifying numbers of all prospective jurors
5 drawn from the master list who are not disqualified or excused.

6 (b) A judge of any court or any other state or county official having the
7 authority to conduct a trial or hearing with a jury within the county by
8 order may direct the jury commissioner to draw and assign to that court
9 or official the number of qualified jurors necessary for one (1) or more
10 petit jury panels. Upon receipt of the order and in a manner prescribed in
11 section 14 of this chapter, the jury commissioner shall publicly draw at
12 random from the qualified jury wheel the number of qualified jurors
13 required by the order and assign said qualified jurors so drawn to the
14 court's jury panel.

15 (c) Upon receipt of an order for a grand jury, the jury commissioner
16 shall publicly and in a manner prescribed in section 14 of this chapter,
17 draw at random from the qualified jury wheel twelve (12) qualified jurors

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1 who shall be directed to appear before the chief judge. The chief judge
 2 shall randomly select six (6) jurors **and one (1) alternate juror** after
 3 having explained to the twelve (12) prospective jurors the duties and
 4 responsibilities of a grand jury and having excused jurors as prescribed
 5 in section 15 of this chapter.

6 (d) An alphabetic listing of grand and petit jurors assigned to each
 7 court location shall be maintained by the jury commissioner and a copy
 8 transmitted to the judge for whom the names have been drawn.

9 (e) If a grand, petit, or other jury is ordered to be drawn, the clerk
 10 thereafter shall cause each person drawn for jury service to be served with
 11 a summons either personally or by registered or certified mail, return
 12 receipt requested, addressed to him at his usual residence, business, or
 13 post office address, requiring him to report for jury service at a specified
 14 time and place.

15 (f) Whenever there is an unanticipated shortage of available petit
 16 jurors drawn from a qualified jury wheel, the court may require the jury
 17 commissioner to:

18 (1) draw additional jurors at random from the qualified jury wheel;

19 or

20 (2) send available jurors from another panel to the court location
 21 requiring additional jurors.

22 In no instance may talesmen be solicited from among bystanders or from
 23 any source except from among names drawn from the qualified jury
 24 wheel.

25 (g) The names of qualified jurors drawn from the qualified jury wheel
 26 and the contents of jury qualification forms completed by those jurors
 27 shall not be made available to the public until the period of service of
 28 those jurors shall have expired, except that attorneys in any cases in
 29 which these jurors may serve, shall have access to the information.

30 SECTION 2. IC 33-4-5.6-20, AS ADDED BY P.L.214-1996,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 1998]: Sec. 20. (a) The jury commissioner shall maintain a
 33 qualified jury wheel and shall place in the jury wheel the names or
 34 identifying numbers of all prospective jurors drawn from the master list
 35 who are not disqualified or excused.

36 (b) The judges of the courts shall, by local court rule, specify the
 37 procedure to be used for the selection of qualified prospective jurors under
 38 this section and the procedure for summoning qualified prospective jurors
 39 whose names are drawn from the qualified jury wheel.

40 (c) Upon receipt of an order for a grand jury, the jury commissioner
 41 shall publicly, and in accordance with section 22 of this chapter, draw at
 42 random from the qualified jury wheel twelve (12) qualified jurors and



1 direct them to appear before the supervising judge. The supervising judge
2 shall randomly select six (6) jurors **and one (1) alternate juror** after:

3 (1) explaining to the twelve (12) prospective jurors the duties and
4 responsibilities of a grand jury; and

5 (2) excusing jurors under section 23 of this chapter.

6 (d) Whenever there is an unanticipated shortage of available petit
7 jurors drawn from a qualified jury wheel, the supervising judge may
8 require the jury commissioner to draw additional jurors at random from
9 the qualified jury wheel. Talesmen may not be solicited from among
10 bystanders or from any source except from among names drawn from the
11 qualified jury wheel.

12 (e) The names of qualified jurors drawn from the qualified jury wheel
13 and the contents of jury qualification forms completed by those jurors may
14 not be made available to the public until the period of service of those
15 jurors has expired. However, attorneys in any cases in which these jurors
16 may serve may have access to the information.

17 SECTION 3. IC 35-34-2-2 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) A grand jury shall
19 consist of six (6) ~~persons~~ **grand jurors and one (1) alternate** and may
20 be impaneled by the circuit court or a superior court with criminal
21 jurisdiction. A grand jury shall hear and examine evidence concerning
22 crimes and shall take action with respect to this evidence as provided by
23 law.

24 (b) The court shall call the grand jury into session at the request of the
25 prosecuting attorney. The court may also convene the grand jury without
26 a request from the prosecuting attorney. The grand jury shall be convened
27 by the judge issuing an order requiring the jury to meet at a time specified.

28 (c) A grand jury may not remain in session for more than six (6)
29 months.

30 (d) **An alternate impaneled under this section shall appear and**
31 **hear all evidence presented to the grand jury but may not comment,**
32 **deliberate, or vote unless there is not a quorum of grand jurors for**
33 **a particular session.**

34 SECTION 4. IC 35-34-2-3 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) **The jurors on a**
36 **grand jury and one (1) alternate** shall be drawn, selected, and impaneled
37 by the procedure set out in IC 33-4-5, ~~or~~ IC 33-4-5.5, **or IC 33-4-5.6.**

38 (b) Whenever the court finds that the original panel was not selected
39 in substantial conformity with the requirements of law for the selection of
40 the panel, the court shall discharge the panel and summon another panel.

41 (c) Whenever the court finds that a grand juror:

42 (1) is disqualified from service under law;



- 1 (2) is incapable of performing the juror's duties because of bias or
 2 prejudice;
 3 (3) is guilty of misconduct in the performance of the juror's duties
 4 that might impair the proper functioning of the grand jury;
 5 (4) is under the age of eighteen (18) years;
 6 (5) is not a resident of the county;
 7 (6) is an alien;
 8 (7) is a mentally incompetent person;
 9 (8) is a witness for the prosecution;
 10 (9) has such a state of mind in reference to a target that the juror
 11 cannot act impartially and without prejudice to the substantial rights
 12 of that person;
 13 (10) holds a juror's place on the grand jury by reason of the
 14 corruption of the officer who selected and impaneled the grand jury;
 15 or
 16 (11) has requested or otherwise caused any officer or an officer's
 17 deputy to place the juror upon the grand jury;

18 the court shall refuse to swear that grand juror or, if the juror has been
 19 sworn, shall discharge that grand juror and swear another grand juror.

20 (d) After a grand jury has been impaneled, the court that called the
 21 grand jury shall appoint one (1) of the grand jurors as foreman and one (1)
 22 as clerk. During any absence of the foreman or clerk, the grand jury shall
 23 select one (1) of their number to act as foreman or clerk. The clerk shall
 24 keep minutes of the grand jury proceedings. The court shall supply a
 25 means for recording the evidence presented before the grand jury and all
 26 of the other proceedings that occur before the grand jury, except for the
 27 deliberations and voting of the grand jury and other discussions when the
 28 members of the grand jury are the only persons present in the grand jury
 29 room. The evidence and proceedings shall be recorded in the same manner
 30 as evidence and proceedings are recorded in the court that impaneled the
 31 grand jury. When ordered by the court, a transcript or a copy of the
 32 recording shall be prepared and supplied to the requesting party. If the
 33 transcript is supplied, it shall be at the cost of the party requesting it. If a
 34 copy of the recording is supplied, the party requesting it is responsible for
 35 the actual cost of reproduction. If a transcript has already been prepared,
 36 the requesting party is responsible for the actual cost of obtaining the
 37 copy. If the court finds the requesting party is an indigent defendant, the
 38 cost of the transcript or copy of the recording supplied to the defendant
 39 shall be paid by the county.

40 (e) The following oath must be administered to the grand jury:

41 "You, and each of you, do solemnly swear or affirm that you will
 42 diligently inquire and make true presentment of all offenses



1 committed or triable within this county, of which you have or can
2 obtain legal evidence; that you will present no person through
3 malice, hatred, ill will, nor leave any unrepresented through fear,
4 favor, or affection, or for any reward, or the promise or hope
5 thereof, but in all your indictments you will present the truth, the
6 whole truth, and nothing but the truth; that you will not disclose any
7 evidence given or proceeding had before the grand jury; that you
8 will keep secret whatever you or any other grand juror may have
9 said or in what manner you or any other grand juror may have voted
10 on a matter before the grand jury."

11 (f) The court shall provide a printed copy of the provisions of this
12 chapter to the grand jury upon the request of any member of the grand
13 jury. In addition, the court shall give the grand jurors any instructions
14 relating to the proper performance of their duties that the court considers
15 necessary.

16 (g) If a member of the grand jury has reason to believe that an offense
17 has been committed which is triable in the county, the member may report
18 this information to fellow jurors, who may then investigate the alleged
19 offense.

