

**IC 33-28-5**

Chapter 5. Circuit and Superior Court Jury Selection and Service

**IC 33-28-5-1**

**"Courts" defined**

Sec. 1. As used in this chapter, "courts" means courts that conduct jury trials.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.2.*

**IC 33-28-5-2**

**"Juror qualification form" defined**

Sec. 2. As used in this chapter, "juror qualification form" means the form prescribed for use by the courts and delivered to each prospective juror.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.3.*

**IC 33-28-5-3**

**"Jury administrator" defined**

Sec. 3. As used in this chapter, "jury administrator" means the court administrator, the county clerk, or other clerical personnel appointed by a supervising judge to administer the jury assembly process.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.4.*

**IC 33-28-5-3.5**

**"Jury pool" defined**

Sec. 3.5. As used in this chapter, "jury pool" means the names or identifying numbers of prospective jurors drawn at random from the master list.

*As added by P.L.118-2007, SEC.5.*

**IC 33-28-5-4**

**Repealed**

*(Repealed by P.L.118-2007, SEC.38.)*

**IC 33-28-5-5**

**"Master list" defined**

Sec. 5. As used in this chapter, "master list" means a form of record that contains the current lists approved by the supreme court that may be used to select prospective jurors.

*As added by P.L.98-2004, SEC.7. Amended by P.L.80-2006, SEC.6; P.L.118-2007, SEC.6.*

**IC 33-28-5-6**

**Repealed**

*(Repealed by P.L.118-2007, SEC.38.)*

**IC 33-28-5-7**

**"Supervising judge" defined**

Sec. 7. As used in this chapter, "supervising judge" means a judge

of the courts designated to supervise the jury assembly process.  
*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.7.*

### **IC 33-28-5-8**

#### **Repealed**

*(Repealed by P.L.80-2006, SEC.17.)*

### **IC 33-28-5-9**

#### **Uniform system of jury selection**

Sec. 9. The jury assembly process must provide a uniform system of jury selection for the courts ensuring that:

- (1) persons selected for jury service are selected at random from a fair cross-section of the population of the area served by the courts; and
- (2) qualified citizens have the opportunity under this chapter to:
  - (A) be considered for jury service in the county; and
  - (B) fulfill their obligation to serve as jurors when summoned for that purpose.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.8.*

### **IC 33-28-5-10**

#### **Computerized jury selection system**

Sec. 10. (a) The supervising judge may authorize use of a computerized jury selection system under this chapter.

(b) A system authorized under subsection (a) must provide for the impartial and random selection of prospective jurors.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.9.*

### **IC 33-28-5-11**

#### **Repealed**

*(Repealed by P.L.118-2007, SEC.38.)*

### **IC 33-28-5-12**

#### **Plan for selection of grand and petit jurors**

Sec. 12. (a) Under the supervision of the supervising judge, the jury administrator shall prepare a written plan for the selection of grand and petit jurors in the county. The plan must be designed to achieve the objectives of this chapter. The plan must specify the following:

- (1) Source of names for the master list.
- (2) Form of the master list.
- (3) Method of selecting names from the master list.
- (4) Methods for maintaining records of names drawn, jurors qualified, and jurors' deferrals and reasons to be deferred, including specifying any necessary forms.
- (5) Method of drawing names of qualified jurors for prospective service.
- (6) Procedures to be followed by prospective jurors in requesting to be deferred from jury service.
- (7) Number of petit jurors that constitutes a panel for civil and

criminal cases or a description of the uniform manner in which this determination is made.

(8) That upon receipt of an order for a grand jury, the jury administrator shall publicly, and in accordance with section 20 of this chapter, draw at random from the jury pool twelve (12) qualified jurors and direct them to appear before the supervising judge. The supervising judge shall randomly select six (6) jurors after:

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

(B) deferring jurors under section 18 of this chapter.

(b) The plan must be submitted by the jury administrator to the judges of the courts. The judges of the courts shall approve or direct modification of the plan not later than sixty (60) days after its receipt. If the plan is found not to comply, the court shall order the jury administrator to make the necessary changes to bring the plan into compliance. The approved plan must go into effect not later than sixty (60) days after the plan is approved by the judges of the courts.

(c) The plan may be modified at any time according to the procedure specified under this chapter.

(d) The plan is a public document on file in the office of the jury administrator and must be available for inspection at all reasonable times.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.10.*

### **IC 33-28-5-13**

#### **Master lists of prospective jurors**

Sec. 13. (a) The jury administrator shall compile and maintain a master list consisting of lists approved by the supreme court that may be used to select prospective jurors. In compiling the master list, the jury administrator shall make a reasonable effort to avoid duplication of names.

(b) A person who has custody, possession, or control of any of the lists making up or used in compiling the master list shall furnish the master list to the jury administrator for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination as a public record. However, all other information other than the names contained in the master list is confidential.

*As added by P.L.98-2004, SEC.7. Amended by P.L.80-2006, SEC.7; P.L.118-2007, SEC.11.*

### **IC 33-28-5-14**

#### **Drawing of names; time; filing**

Sec. 14. (a) Names must be drawn for the jury pool at least one (1) time each year based on a calendar year commencing in January.

Drawing of names for the first jury pool for a calendar year must be held during the last quarter of the calendar year preceding the calendar year for which names are being drawn, at a time and place prescribed by the jury administrator.

(b) The number of names required to be drawn from the jury pool for jury service must be determined by the jury administrator after consultation with all judges of the courts who may conduct jury trials, taking into consideration the number of jurors required for the grand jury.

(c) The frequency of the drawing of names to be summoned for jury service may be increased by the jury administrator if the jury administrator determines it necessary for purposes of fairness, efficiency, or to ensure compliance with this chapter.

(d) Names to be summoned for jury service must be drawn randomly under section 20 of this chapter.

(e) Except by order of the supervising judge, names drawn from the jury pool to be summoned for jury service may not be returned to the jury pool until all nonexempt persons in the jury pool have been called.

(f) This section shall be construed liberally, to the effect that:

- (1) an indictment may not be quashed; and
- (2) a trial, a judgment, an order, or a proceeding may not be reversed or held invalid;

on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.12.*

### **IC 33-28-5-15**

#### **Repealed**

*(Repealed by P.L.118-2007, SEC.38.)*

### **IC 33-28-5-16**

#### **Juror qualification form; mailing; contents**

Sec. 16. (a) Not later than seven (7) days after the date of the drawing of names of persons to be notified of jury service from the jury pool, the jury administrator shall provide a juror qualification form to each person who is notified to appear for jury service. The qualification form must be accompanied by instructions to fill out and return the qualification form to the jury administrator within a specified period. The instructions must advise prospective jurors of the procedure for requesting a deferral from jury service.

(b) The juror qualification form must elicit whether the prospective juror:

- (1) is a citizen of the United States;
- (2) is at least eighteen (18) years of age;
- (3) is a resident of the summoning county;
- (4) is able to read, speak, and understand the English language;

- (5) is not suffering from any physical or mental disability that prevents the person from rendering satisfactory jury service;
- (6) is not under a guardianship because of mental incapacity;
- (7) has not had the right to vote revoked by reason of a felony conviction, unless the right to vote has been restored; or
- (8) is a law enforcement officer.

The juror qualification form must contain the prospective juror's declaration, under oath or affirmation, that the responses are true to the best of the prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury administrator shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury administrator within a specified period.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.13.*

#### **IC 33-28-5-17**

##### **Failure to appear; misrepresentation**

Sec. 17. (a) If a prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury administrator, the prospective juror is subject to criminal contempt.

(b) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.14.*

#### **IC 33-28-5-18**

##### **Disqualification or excuse from jury service**

Sec. 18. (a) The supervising judge or the jury administrator shall determine whether a prospective juror is qualified to serve or, if disabled but otherwise qualified, whether the prospective juror could serve with reasonable accommodation. A person who is not eligible for jury service may not serve. The facts supporting juror disqualification or exemption must be recorded under oath or affirmation. A disqualification or exemption is not authorized unless supported by the facts. The jury administrator shall make a record of all disqualifications.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

- (1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.
- (2) The person is unable to read, speak, and understand the

English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(5) The person has had the right to vote revoked by reason of a felony conviction and the right has not been restored.

(c) A person scheduled to appear for jury service has the right to defer the date of the person's initial appearance for jury service one (1) time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if the following conditions are met:

(1) The prospective juror has not previously been granted a deferral.

(2) The prospective juror requests a deferral by contacting the jury administrator:

(A) by telephone;

(B) by electronic mail;

(C) in writing; or

(D) in person.

(3) The prospective juror selects another date on which the prospective juror will appear for jury service that is:

(A) not more than one (1) year after the date upon which the prospective juror was originally scheduled to appear; and

(B) a date when the court will be in session.

(4) The court determines that the prospective juror has demonstrated that a deferral is necessary due to:

(A) hardship;

(B) extreme inconvenience; or

(C) necessity.

(d) A prospective juror who is at least seventy-five (75) years of age may be exempted from jury service if the prospective juror notifies the jury administrator that the prospective juror is at least seventy-five (75) years of age and wishes to be exempted from jury service.

(e) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days in a case that resulted in a verdict. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(f) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(g) The same petit jurors may be used in civil cases and in

criminal cases.

(h) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

*As added by P.L.98-2004, SEC.7. Amended by P.L.4-2006, SEC.4; P.L.118-2007, SEC.15; P.L.157-2009, SEC.1.*

### **IC 33-28-5-19**

#### **Repealed**

*(Repealed by P.L.118-2007, SEC.38.)*

### **IC 33-28-5-20**

#### **Drawing of names to establish jury panels**

Sec. 20. The jury administrator shall randomly draw names from the jury pool as needed to establish jury panels for jury selection. Prospective jurors may not be drawn from bystanders or from any source other than the jury pool.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.16.*

### **IC 33-28-5-21**

#### **Motion to stay proceedings or dismiss indictment for failure to comply with chapter**

Sec. 21. (a) Not later than seven (7) days after a moving party discovers or by the exercise of diligence could have discovered grounds, but before a petit jury is sworn to try a case, a party may:

- (1) in a civil case move to stay the proceedings; and
- (2) in a criminal case move:
  - (A) to dismiss the indictment (if the case has been brought by indictment);
  - (B) to stay the proceedings; or
  - (C) for other appropriate relief;

on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon a motion filed under subsection (a) containing a sworn statement of facts that, if true, would constitute a substantial failure to comply with this chapter, the moving party may present evidence in support of the motion.

(c) If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court:

- (1) shall stay the proceedings pending the selection of the jury in conformity with this chapter; and
- (2) may dismiss an indictment (if the case was brought by indictment) or grant other appropriate relief.

(d) The procedures required by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(e) The parties to the case may inspect, reproduce, and copy the records or papers of the jury administrator at all reasonable times

during the preparation and pendency of a motion under subsection (a).

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.17.*

### **IC 33-28-5-22**

#### **Preservation of records; public inspection**

Sec. 22. After the period of service for which names were drawn from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury administrator or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the supreme court. The records and papers must be available for public inspection at all reasonable times and in accordance with this chapter and applicable supreme court rules.

*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.18.*

### **IC 33-28-5-23**

#### **Completion of jury service**

Sec. 23. (a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service when jury selection is complete.

(b) Except by order of the supervising judge, a person who:

- (1) serves as a juror under this chapter; or
- (2) serves until jury selection is complete but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons in the jury pool have been called for jury duty.

*As added by P.L.98-2004, SEC.7. Amended by P.L.80-2006, SEC.8; P.L.118-2007, SEC.19.*

### **IC 33-28-5-24**

#### **Failure to comply with summons; criminal contempt**

Sec. 24. A person summoned for jury service who fails to appear or complete jury service as directed is subject to criminal contempt.  
*As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.20.*

### **IC 33-28-5-24.3**

#### **Adverse employment action as the result of jury service; small employer exception**

Sec. 24.3. (a) If a person:

- (1) is summoned to serve as a juror; and
- (2) notifies the person's employer of the jury summons within a reasonable period:

(A) after receiving the jury summons; and

(B) before the person appears for jury service; the person's employer may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:

- (1) responding to a summons for jury service;
- (2) participating in the jury selection process; or
- (3) serving on a jury.

This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.

(c) If:

- (1) a prospective juror works for an employer with not more than ten (10) full-time employees (or their equivalent);
- (2) another employee of the employer described in subdivision (1) is performing jury service; and
- (3) the prospective juror or the person performing jury service notifies the court that they both work for the same employer;

the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the other employee.

*As added by P.L.4-2006, SEC.5. Amended by P.L.118-2007, SEC.21.*

### **IC 33-28-5-25**

#### **Adoption of rules**

Sec. 25. The supreme court may adopt rules, not inconsistent with this chapter, regulating the selection and service of jurors.

*As added by P.L.98-2004, SEC.7.*