

IN THE SENATE

SENATE BILL NO. 1134

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO JURIES; AMENDING SECTION 2-206, IDAHO CODE, TO PROVIDE FOR  
2 COUNTY JURY LISTS, TO PROVIDE THAT THE JURY COMMISSION MAY USE CERTAIN  
3 INFORMATION FROM THE SUPREME COURT, TO PROVIDE THAT THE SUPREME COURT  
4 SHALL COMPILE AND MAINTAIN A MASTER JURY LIST, AND TO PROVIDE THAT THE  
5 SUPREME COURT MAY REQUEST CERTAIN INFORMATION; AMENDING SECTION 2-207,  
6 IDAHO CODE, TO REVISE PROVISIONS REGARDING THE MANNER OF UPDATING MAS-  
7 TER AND COUNTY JURY LISTS AND TO PROVIDE FOR THE METHOD AND TIMING OF  
8 UPDATING JURY LISTS; AMENDING SECTION 2-208, IDAHO CODE, TO REVISE A  
9 PROVISION REGARDING NAMES DRAWN FROM THE COUNTY JURY LIST AND TO MAKE  
10 TECHNICAL CORRECTIONS; AMENDING SECTION 2-210, IDAHO CODE, TO REVISE  
11 PROVISIONS REGARDING NAMES IN A JURY PANEL; AMENDING SECTION 2-212,  
12 IDAHO CODE, TO REVISE A PROVISION REGARDING A PERSON EXCUSED FROM JURY  
13 SERVICE; AMENDING SECTION 2-213, IDAHO CODE, TO PROVIDE A CORRECT CODE  
14 REFERENCE; AND DECLARING AN EMERGENCY.  
15

16 Be It Enacted by the Legislature of the State of Idaho:

17 SECTION 1. That Section 2-206, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 2-206. MASTER AND COUNTY JURY LISTS OF REGISTERED VOTERS -- SUPPLE-  
20 MENTATION BY OTHER LISTS DESIGNATED BY SUPREME COURT -- LIST AVAILABLE TO  
21 COMMISSION -- OPEN TO PUBLIC INSPECTION. (1) The jury commission for each  
22 county shall compile and maintain a master county jury list consisting of the  
23 current voter registration list for the county supplemented with names from  
24 other lists of persons resident therein, such as lists of utility customers,  
25 property taxpayers, motor vehicle registrations, drivers' licenses, and  
26 state identification cards, which the supreme court from time to time desig-  
27 brates. The supreme court shall initially designate the other lists within  
28 ninety (90) days following the effective date of this act and exercise the  
29 authority to designate from time to time in order to foster the policy and  
30 protect the rights secured by sections 2-202 and 2-203, Idaho Code. In the  
31 alternative, and upon the consent of the supreme court, a jury commission may  
32 use the supreme court jury platform, including the county jury list derived  
33 therefrom, instead of compiling and maintaining a separate county jury list  
34 of its own.

35 (2) The supreme court shall compile and maintain a master jury list con-  
36 sisting of the current voter registration for the state supplemented with  
37 names from other lists of persons designated under subsection (1) of this  
38 section. The master jury list compiled and maintained by the supreme court  
39 shall be divided into county jury lists for use by the jury commissions au-  
40 thorized to use the supreme court jury platform.

41 (3) In compiling the master and county jury lists, the jury commission  
42 and the supreme court shall avoid duplication of names.

1           (34) Whoever has custody, possession, or control of any of the lists  
 2 used in compiling the master or county jury lists, including those desig-  
 3 nated under subsection (1) of this section by the supreme court as supplemen-  
 4 tary sources of names, shall electronically transfer the list, including any  
 5 changes, deletions and additions, and at the request of the jury commission  
 6 or the supreme court, the custodian shall prepare a hard copy of the list and  
 7 make the custodian's records, from which the list was compiled, available  
 8 for inspection, reproduction, and copying at all reasonable times.

9           (45) The master and county jury lists shall be open to the public for  
 10 examination as provided by supreme court rule.

11           SECTION 2. That Section 2-207, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13           2-207. MASTER AND COUNTY JURY LISTS -- MANNER OF UPDATING. (1) Updated  
 14 information from the lists ~~of voter registration, drivers' licenses, and~~  
 15 ~~state identification cards used to compile the master and county jury lists,~~  
 16 including any changes, deletions and additions, shall be made to the master  
 17 and county jury lists from time to time as determined by the jury commission  
 18 ~~or as ordered by the administrative judge~~ the supreme court, but at a minimum  
 19 not less frequently than December of each odd-numbered year.

20           (2) In the alternative, or in addition to the procedure set forth in  
 21 subsection (1) of this section, ~~and if ordered by the administrative judge,~~  
 22 in December of each odd-numbered year, or more frequently as determined by  
 23 ~~the administrative judge~~ jury commission or the supreme court, the master  
 24 and county jury lists shall be emptied and refilled as prescribed in section  
 25 2-206, Idaho Code.

26           (3) Pursuant to the provisions of subsections (1) and (2) of this sec-  
 27 tion, the supreme court shall determine the method and timing of updating the  
 28 master jury list, and the jury commission shall determine the method and tim-  
 29 ing of updating any county jury list that is separately compiled and main-  
 30 tained by a county.

31           SECTION 3. That Section 2-208, Idaho Code, be, and the same is hereby  
 32 amended to read as follows:

33           2-208. NAMES RANDOMLY DRAWN FROM MASTER COUNTY JURY LIST -- QUALIFI-  
 34 CATION QUESTIONNAIRE FORMS FOR PROSPECTIVE JURORS -- MAILING AND RETURN --  
 35 ORDER TO APPEAR -- CRIMINAL CONTEMPT -- PENALTY FOR MISREPRESENTATION. (1)  
 36 The court or any other state or county official having authority to conduct a  
 37 trial or hearing with a jury within the county may direct the jury commission  
 38 to draw and assign to that court or official the number of qualified jurors  
 39 deemed necessary for one (1) or more jury panels or as required by law for a  
 40 grand jury. Upon receipt of the direction and in a manner prescribed by the  
 41 court, the jury commission shall publicly draw at random, by use of a manual,  
 42 mechanical, or automated system, from the ~~master~~ county jury list the number  
 43 of prospective jurors specified. Neither the names drawn nor the list shall  
 44 be disclosed to any person except upon specific order of the presiding judge.

45           (2) Each person on the prospective jury panel shall be served with a  
 46 summons, issued by the clerk of the court or the jury commissioner. The sum-  
 47 mons shall be served either personally, or by regular mail or certified mail,

1 addressed to the prospective juror at that person's usual residence, busi-  
2 ness or post office address.

3 (3) The clerk or the jury commissioner shall mail a qualification ques-  
4 tionnaire form, accompanied by instructions, addressed to the prospective  
5 jurors at their usual residence, business or post office address. The qual-  
6 ification questionnaire form may be sent together with the summons in a sin-  
7 gle mailing to a prospective juror. The qualification questionnaire form  
8 shall be in a form prescribed by the supreme court. The qualification ques-  
9 tionnaire form must be completed and returned to the clerk or the jury com-  
10 missioner within ten (10) days from the date of mailing. The qualification  
11 questionnaire form shall elicit the name, address of residence, and age of  
12 the prospective juror and whether the prospective juror: (a) is a citizen  
13 of the United States of America and a resident of the county~~ty~~ty; (b) is able  
14 to read, speak and understand the English language~~ty~~ty; (c) has any disabil-  
15 ity impairing his capacity to render satisfactory jury service~~ty~~ty; and (d) has  
16 lost the right to serve on a jury because of a felony criminal conviction  
17 as provided by section 3, article VI, of the constitution of the state of  
18 Idaho, and who has not been restored to the rights of citizenship pursuant  
19 to section 18-310, Idaho Code, or other applicable law. The qualification  
20 questionnaire form shall contain the prospective juror's declaration that  
21 his responses are true to the best of his knowledge and his acknowledgment  
22 that a willful misrepresentation of a material fact may be punished as a mis-  
23 demeanor. Notarization of the completed qualification questionnaire form  
24 shall not be required. If the prospective juror is unable to complete the  
25 form, another person may do so on his or her behalf and shall indicate that  
26 such person has done so and the reason therefor. If it appears there is an  
27 omission, ambiguity, or error in a returned form, the clerk or the jury com-  
28 missioner shall again send the form with instructions to the prospective ju-  
29 ror to make the necessary addition, clarification, or correction and to re-  
30 turn the form to the jury commission within ten (10) days after its second  
31 mailing.

32 (4) Any prospective juror who fails to return a completed qualifica-  
33 tion questionnaire form as instructed shall be directed by the jury commis-  
34 sion to appear forthwith before the clerk or the jury commissioner to com-  
35 plete the qualification questionnaire form. At the time of his appearance  
36 for jury service, or at the time of interview before the court, clerk, or the  
37 jury commissioner, any prospective juror may be required to complete another  
38 qualification questionnaire form in the presence of the court, clerk, or the  
39 jury commissioner, at which time the prospective juror may be questioned,  
40 but only with regard to his responses to questions contained on the form and  
41 grounds for his excuse or disqualification. Any information thus acquired  
42 by the court, clerk, or the jury commissioner shall be noted on the qualifi-  
43 cation questionnaire form.

44 (5) A prospective juror who fails to appear as directed by the com-  
45 mission, pursuant to subsection (4) of this section, shall be ordered by  
46 the court to appear and show cause for his failure to appear as directed. A  
47 prospective juror who fails to appear pursuant to the court's order may be  
48 subject to contempt proceedings under chapter 6, title 7, Idaho Code, and ap-  
49 plicable rules of the supreme court, and the prospective juror's service may  
50 be postponed to a new prospective jury panel as set by the presiding judge.

1 (6) Any person who willfully misrepresents a material fact on a quali-  
2 fication questionnaire form for the purpose of avoiding or securing service  
3 as a juror is guilty of a misdemeanor.

4 (7) The contents of the juror qualification questionnaire form shall be  
5 confidential to the extent provided by rules of the Idaho supreme court.

6 (8) The clerk or the jury commissioner may provide an opportunity to a  
7 prospective juror to complete and return the qualification questionnaire  
8 form through electronic mail, facsimile transmission, or other reliable  
9 means of communication prior to mailing the qualification questionnaire  
10 form to the prospective juror. If the prospective juror completes and  
11 returns the qualification questionnaire form in such manner, the qualifica-  
12 tion questionnaire form need not be mailed to the prospective juror.

13 SECTION 4. That Section 2-210, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 2-210. NAMES PLACED IN PROSPECTIVE JURY PANEL -- SUMMONING ADDITIONAL  
16 TRIAL JURORS -- ~~NAMES DRAWN TO BE PUBLIC~~ -- EXCEPTION. (1) The jury commis-  
17 sion shall maintain a prospective jury panel and shall place therein the  
18 names or identifying numbers of all prospective jurors drawn from the ~~master~~  
19 county jury list who are not disqualified under section 2-209, Idaho Code.

20 (2) If there is an unanticipated shortage of available trial jurors  
21 drawn from a prospective jury panel, the court may require the sheriff to  
22 summon a sufficient number of trial jurors selected at random by the clerk  
23 from the ~~master~~ county jury list in a manner prescribed by the court. The  
24 jurors whose names are drawn from the ~~master~~ county jury list shall be served  
25 with a summons and shall complete the qualification questionnaire form in  
26 the manner prescribed in section 2-208, Idaho Code.

27 SECTION 5. That Section 2-212, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 2-212. EXCUSING OR POSTPONING JURY SERVICE -- INQUIRY BY COURT --  
30 GROUNDS FOR EXCUSING OR POSTPONING. (1) The court, or a member of the jury  
31 commission designated by the court, upon request of a prospective juror or  
32 on its own initiative, shall determine on the basis of information provided  
33 on the qualification questionnaire form or interview with the prospective  
34 juror or other competent evidence whether the prospective juror should be  
35 excused from jury service or have their jury service postponed. The clerk or  
36 the jury commissioner shall keep a record of this determination.

37 (2) A person who is seventy (70) years of age or older shall be perma-  
38 nently excused if the person indicates on the qualification questionnaire  
39 form that he or she wishes to be excused. A person who requests to be excused  
40 on this basis shall be reinstated to the ~~master~~ county jury list by submit-  
41 ting a written request asking to be reinstated for jury service.

42 (3) A person who is not disqualified for jury service under section  
43 2-209, Idaho Code, may have jury service postponed by the court or the jury  
44 commissioner only upon a showing of undue hardship, extreme inconvenience,  
45 or public necessity, or upon a showing that the juror is a mother breastfeed-  
46 ing her child.

1 (a) Any person requesting a postponement shall provide a written state-  
2 ment setting forth the reason for the request and the anticipated date  
3 that the reason will no longer exist.

4 (b) The court or the jury commissioner may require a person requesting a  
5 postponement for any medical reason to provide a statement from a medi-  
6 cal provider supporting the request.

7 (c) The postponement, if granted, shall be for a period of time as the  
8 court or the jury commissioner deems necessary, at the conclusion of  
9 which the person shall reappear for jury service in accordance with the  
10 direction of the court or the jury commissioner.

11 SECTION 6. That Section 2-213, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 2-213. STAY OF PROCEEDINGS OR QUASHING INDICTMENT FOR IRREGULARITY IN  
14 SELECTING JURY -- EVIDENCE IN SUPPORT OF MOTION -- REMEDIES EXCLUSIVE -- CON-  
15 TENTS OF RECORDS NOT TO BE DISCLOSED. (1) Within seven (7) days after the mov-  
16 ing party discovered or by the exercise of diligence could have discovered  
17 the grounds therefor, and in any event before the trial jury is sworn to try  
18 the case, a party may move to stay the proceedings, and in a criminal case to  
19 quash the indictment, or for other appropriate relief, on the ground of sub-  
20 stantial failure to comply with this chapter in selecting the grand or trial  
21 jury.

22 (2) Upon motion filed under subsection (1) of this section containing  
23 a sworn statement of facts which, if true, would constitute a substantial  
24 failure to comply with this chapter, the moving party is entitled to present  
25 in support of the motion the testimony of the jury commissioner or the clerk,  
26 any relevant records and papers not public or otherwise available used by  
27 the jury commissioner or the clerk, and any other relevant evidence. If the  
28 court determines that in selecting either a grand jury or a trial jury there  
29 has been a substantial failure to comply with this chapter, the court shall  
30 stay the proceedings pending the selection of the jury in conformity with  
31 this chapter, quash an indictment, or grant other appropriate relief.

32 (3) The procedures prescribed by this section are the exclusive means  
33 by which a person accused of a crime, the state, or a party in a civil case may  
34 challenge a jury on the ground that the jury was not selected in conformity  
35 with this chapter.

36 (4) The contents of any records or papers used by the jury commissioner  
37 or the clerk in connection with the selection process and not made public un-  
38 der section 2-206(45), Idaho Code, shall not be disclosed, except in con-  
39 nection with the preparation or presentation of a motion under subsection  
40 (1) of this section. The parties in a case may inspect, reproduce, and copy  
41 the records or papers at all reasonable times during the preparation and pen-  
42 dency of a motion under subsection (1) of this section.

43 SECTION 7. An emergency existing therefor, which emergency is hereby  
44 declared to exist, this act shall be in full force and effect on and after its  
45 passage and approval.