



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 1302

2 AMENDMENT NO. _____. Amend Senate Bill 1302 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Fair
5 Jury Act.

6 Section 5. Findings and purposes.

7 (a) Findings. The General Assembly finds as follows:

8 (1) Juries in Illinois frequently do not accurately
9 represent a fair cross-section of the community.

10 (2) Juries are bodies whose deliberative function is
11 enhanced by the inclusion of diverse perspectives and
12 experience.

13 (3) The county-wide at large jury selection process
14 systematically results in the over-representation of some
15 economic communities while low and moderate income
16 communities are under-represented or absent from venires
17 and juries. This under-representation is caused by a number
18 of factors, including but not limited to:

19 (A) Data sources, such as voter registration lists
20 and driver's license registrations, that do not
21 include otherwise qualified persons of low or moderate
22 income.

23 (B) Low rates of response to jury summonses from
24 otherwise qualified persons of low or moderate income.

1 (C) The use of peremptory challenges.

2 (D) The inability to serve jury summonses on those
3 who frequently change residence.

4 (E) Lengthy travel time decreasing the ability of
5 some to serve on juries.

6 (4) Our system of criminal and civil justice:

7 (A) No longer enjoys the full confidence of the
8 entire population, members of which doubt that it is
9 fair and unbiased.

10 (B) At times violates or impairs the right to be
11 charged and tried by a jury that represents a fair
12 cross-section of the community.

13 (C) At times violates or impairs the right to have
14 civil actions and grievances tried by a jury that
15 represents a fair cross-section of the community.

16 (D) At times violates or impairs the right to be
17 charged and tried by a jury selected in a process that
18 does not restrict the possibility that juries comprise
19 a fair cross-section of the community.

20 (E) At times violates or impairs the right to have
21 a civil action or grievance tried by a jury selected in
22 a process that does not restrict the possibility that
23 juries comprise a fair cross-section of the community.

24 (F) Deprives the courts of diverse perspectives,
25 and thereby impairs the capacity of the courts to
26 ascertain the truth and reflect the conscience of the
27 community in administering justice.

28 (G) Impairs the capacity of juries to check any
29 overzealous or mistaken exercise of power by the State.

30 (H) At times violates or impairs the right of all
31 members of our society to fully participate in the
32 governmental function of administering justice.

33 (I) Diminishes the capacity of our court system to
34 promote a respect for the rule of law.

1 (5) The current system burdens over-represented
2 communities with additional jury service obligations.

3 (b) Purposes. The purposes of this Act are to (i) promote
4 the rights of litigants, especially criminal defendants, to be
5 charged and tried by a jury that is selected in a process
6 designed to represent a reasonable and fair cross-section of
7 the community; (ii) ensure that courts and juries benefit from
8 the perspectives of various communities in ascertaining the
9 truth, administering justice, and checking any wrongful or
10 mistaken exercise of power by the State; (iii) restore public
11 confidence in our system of justice; (iv) enhance the capacity
12 of the jury system to promote respect for the rule of law; and
13 (v) safeguard the constitutional guarantee of equal protection
14 in jury selection, including but not limited to the right of
15 members of cognizable groups to be represented in the
16 government administration of justice.

17 Section 10. Counties of more than 100,000 inhabitants.
18 After July 1, 2007, grand and petit juries in every county of
19 this State with more than 100,000 inhabitants shall be
20 constituted as provided in this Act. Except as provided
21 otherwise in this Act, the jury selection process in all
22 counties also shall meet the requirements of the Jury Act, the
23 Jury Commission Act, and any rules established under those
24 Acts.

25 Section 15. Jury districts.

26 (a) On or before July 1, 2006, and every 10 years
27 thereafter, using demographic and economic data as determined
28 by the most recent federal census, the General Assembly shall
29 by law create (i) 12 jury districts in each county other than
30 Cook and (ii) 24 jury districts in Cook County. At the time
31 jury districts are created in Cook County, and thereafter as
32 necessary because of new or relocated courthouses, the General

1 Assembly, by law, shall designate, for each courthouse in Cook
2 County where juries sit, the 12 jury districts assigned to that
3 courthouse; these designations shall be based upon proximity to
4 the courthouse and shall be made in a manner so as to
5 accomplish the purposes of this Act.

6 (b) Jury districts shall be compact, contiguous, and
7 substantially equal in population.

8 (c) To the maximum extent possible, jury districts in each
9 county shall encompass, in their entirety, geographically
10 compact low-income communities. For purposes of this Section, a
11 community shall be considered a "low-income community" if its
12 median per person income is less than 200% of the federal
13 poverty level.

14 (d) Upon fulfillment of the requirements established in
15 subsections (b) and (c) of this Section, jury districts shall
16 encompass other economic and geographic communities of
17 interest.

18 (e) Jury district maps shall not unreasonably restrict the
19 possibility that grand and petit juries will comprise a fair
20 cross-section of the economic and geographic communities of
21 interest in the county.

22 (f) Jury district maps shall not bridge, impair, or
23 infringe upon the right of equal protection guaranteed by the
24 constitutions of the State of Illinois and the United States.

25 Section 20. General jury district lists. On or before
26 October 1, 2006, and at any time thereafter when necessary for
27 the purposes of this Act, the persons otherwise required to
28 prepare general jury lists under the Jury Act or Jury
29 Commission Act shall make a list for each of the jury districts
30 in each county, identifying all legal voters and all Illinois
31 driver's license, Illinois Identification Card, and Illinois
32 Disabled Person Identification Card holders of each jury
33 district, and giving their respective place of residence, to be

1 known as the general jury district lists. The manner of
2 preparation for the general jury district lists may be further
3 prescribed as provided in the Jury Act and the Jury Commission
4 Act. In compiling the general jury district lists, duplication
5 of names shall be avoided to the extent practical. The general
6 jury district lists may be revised and amended annually in the
7 discretion of the persons otherwise required by law to prepare
8 general jury lists. The name of each person on the general jury
9 district lists shall be entered in a record kept for that
10 purpose and, opposite the name, shall be entered his or her age
11 and place of residence, giving street and number, if any.

12 Section 25. Active and period jury district lists. In the
13 manner provided by the Jury Act or the Jury Commission Act and
14 any rules adopted under the applicable Act, the persons
15 otherwise required to prepare active jury lists shall:

16 (1) From time to time prepare secondary lists for each
17 jury district, to be known as active jury district lists,
18 containing the required number of names taken from the
19 general jury district lists, and other lists, to be known
20 as period jury district lists, for each jury district. The
21 period jury district lists shall contain the names of
22 prospective jurors who shall have indicated, either before
23 or after being summoned for jury duty, at what time of the
24 year they could most conveniently serve. The active jury
25 district lists and, except as to the names of persons
26 certified by the clerk of the court as provided in the Jury
27 Act and the Jury Commission Act, the period jury district
28 lists shall be prepared by selecting every twentieth name,
29 or such other whole number rate necessary to obtain the
30 necessary number of active district jurors from the general
31 jury district lists, as established by the persons
32 otherwise authorized by law to establish the number of
33 active jurors required.

1 (2) Make the active jury district lists and, except as
2 to the names of persons certified by the clerk of the court
3 as provided in the Jury Act or the Jury Commission Act, the
4 period jury district lists available for the clerks of the
5 circuit court to draw therefrom by lot, as required in this
6 Act, providing for the purpose such devices or mechanisms
7 as the rules prescribe.

8 (3) Provide for the manner of selection of jurors to be
9 provided to coroners pursuant to Section 3-3013 of the
10 Counties Code. The manner of selection, however, shall be,
11 to the extent practical, similar to the manner in which
12 petit and grand jurors are selected.

13 (4) Perform such other duties in relation to the
14 selection of persons for jury service and their appearance
15 for that service as are prescribed by this Act or as may be
16 prescribed by the Jury Act or Jury Commission Act, and the
17 rules established under the applicable Act.

18 Section 30. Certification of need and notification to
19 active district jurors. In the time and manner provided by the
20 Jury Act or the Jury Commission Act, the chief judge of the
21 circuit court or such other persons authorized to do so shall
22 certify to the clerk of the court the number of petit and grand
23 jurors required each month. In the time, place, and manner
24 otherwise required by the Jury Act or the Jury Commission Act,
25 the clerk of the court shall then proceed to draw by a random
26 process a sufficient number of names from the 12 active jury
27 district lists and 12 period jury district lists so as to
28 fulfill the requirements of this Act. The number of names drawn
29 from each jury district, however, shall be equal. The clerk of
30 the court shall thereupon certify the persons whose names are
31 so drawn and summon them as otherwise required by the Jury Act
32 or the Jury Commission Act. If more jurors are needed during
33 the month, a judge of the court shall so certify; their names

1 shall be drawn and certified forthwith, and they shall be
2 served in the manner provided in this Section. When a grand
3 jury is required by law or by order of the court, it shall be
4 drawn and certified and served in like manner. Each time an
5 active jury district list or period jury district list is
6 exhausted, another such list shall be furnished as provided in
7 this Act, the Jury Act, and the Jury Commission Act.

8 Section 35. Petit jurors; examination as to qualification;
9 panels. The judge shall examine the jurors who appear, and if
10 more than 6 petit jurors from a jury district who are qualified
11 and not subject to any of the disqualifications provided in
12 this Act, the Jury Act, or the Jury Commission Act appear and
13 remain after all excuses are allowed, the court may discharge
14 by lot the number of jurors from that jury district in excess
15 of 4. If for any reason the panel of petit jurors is not full at
16 any time, the clerk of the court may again draw, in the same
17 manner as at the first drawing, such number of jurors as the
18 court shall direct to fill the panel under this Act, who shall
19 be summoned in the same manner as the others and, if necessary,
20 jurors may continue to be so drawn and summoned from time to
21 time until the panel is filled. In case a jury is required in
22 the court for trial of any cause, before the panel is filled in
23 the manner provided in this Section, the court shall direct the
24 sheriff to summon from the bystanders, or from the body of the
25 county, a sufficient number of persons from each juror district
26 having the qualifications of jurors, as provided in this Act,
27 to fill the panel in order that a jury to try the cause may be
28 drawn therefrom, and when that jury is drawn, the persons
29 selected from the bystanders or from the body of the county to
30 fill the panel and not chosen on the jury shall be discharged
31 from the panel and those who are chosen to serve on that jury
32 shall also be discharged from the panel at the conclusion of
33 the trial. Persons selected from the bystanders, as provided in

1 this Section, shall not thereby be disqualified or exempt from
2 service as jurors when regularly drawn by the clerk for that
3 purpose, in the manner provided in this Act.

4 Section 40. Petit jurors: exhaustion of panels. If by
5 reason of challenge in the selection of a jury for the trial of
6 any cause, or by reason of the sudden sickness or absence of
7 any juror for any cause, the regular panel is exhausted, the
8 court may direct the sheriff to summon a sufficient number of
9 persons from each juror district having the qualifications of
10 jurors to fill the panel for the pending trial, but upon
11 objection by either party to the cause to the sheriff summoning
12 a sufficient number of persons to fill the panel, the court
13 shall appoint a special bailiff to summon such person, provided
14 the same person shall not be appointed special bailiff more
15 than once in 60 days.

16 Section 45. Petit juries: constitution and selection.
17 Notwithstanding any other provision of law, including but not
18 limited to Sections 2-1105.1 and 2-1106 of the Code of Civil
19 Procedure and Section 115-4 of the Code of Criminal Procedure,
20 in any cause that is to be tried by a 12-member jury, petit
21 juries shall be constituted of one juror from each jury
22 district. In any cause that is to be tried by a 6-member jury,
23 petit juries shall be constituted of one juror from each of 6
24 jury districts selected by chance. When alternate jurors are
25 required, one juror from each of the required number of jury
26 districts shall be selected by chance. As often as a jury is
27 necessary, one name from each jury district or districts (and,
28 when alternate jurors are required, one name from each of the
29 required number of jury districts selected by chance) shall be
30 selected from the panel assembled as provided in this Act, and
31 that person shall be sworn on the jury in such manner as
32 ordered and directed by the court. The attorney for any party

1 litigant in any cause assigned to jury trial shall have the
2 right to be present in person at the time and place when the
3 selection of jurors for trial of the cause is made and for voir
4 dire examination and challenges as otherwise provided by law. A
5 party litigant whose attorney is present at the selection
6 process waives any objection to the selection procedure unless
7 the objection is asserted prior to the time any prospective
8 juror is called for voir dire examination.

9 Section 50. Grand jurors. If a grand jury is required by
10 law or by the order of the judge for any court, the persons
11 otherwise required to select grand jurors under the Jury Act or
12 the Jury Commission Act shall:

13 (1) select, in the time and manner otherwise required
14 under the Jury Act or the Jury Commission Act, one person
15 who is otherwise qualified to serve as a grand juror from
16 each jury district, and one person who is otherwise
17 qualified to serve as a grand juror from each of 4 jury
18 districts selected by chance, to serve as grand jurors, to
19 be known as the regular jury district panel;

20 (2) select, at the same time and in like manner, a like
21 number of persons otherwise qualified to serve as a grand
22 jury, the panel of the additional persons so selected to be
23 known as the supplemental jury district panel; and

24 (3) cause the clerk within 5 days thereafter to certify
25 the 2 panels properly identified as the regular jury
26 district panel and supplemental jury district panel,
27 respectively, to the clerk of the court for which they are
28 selected, who shall issue a summons to each of the 16
29 persons so selected for the regular panel, in the time and
30 manner otherwise required under the Jury Act or the Jury
31 Commission Act, to constitute a grand jury.

32 Section 55. Constitution of grand jury. Notwithstanding

1 any other provision of law, grand juries shall consist of one
2 juror from each jury district and one juror from each of 4 jury
3 districts selected by chance, selected as provided in this Act,
4 of whom 12, one from each jury district, shall be sufficient to
5 constitute a grand jury. If for any reason the jury district
6 panel is not full at the opening of court, the judge shall
7 direct the sheriff to summon persons named in the supplemental
8 jury district panel, so as to fill the jury district panel of
9 grand jurors as required in this Act, and if the supplemental
10 panel is exhausted without filling the grand jury panel, the
11 judge shall select by lot names from the various jury district
12 lists and direct the sheriff to summon a sufficient number of
13 persons having the qualifications of jurors, as provided by
14 this Act, to fill the panel as required in this Act.

15 Section 60. Applicability. The provisions of this Act apply
16 to proceedings in both civil and criminal cases.

17 Section 65. Remedies.

18 (a) The courts shall sustain an objection, exception, or
19 challenge to any petit juror or grand juror, any panel of petit
20 or grand jurors, and any petit or grand jury because of any
21 failure to comply with Section 45 or Section 55 of this Act if
22 the party urging the objection shows to the court, by a
23 preponderance of evidence, that he or she is a party to the
24 action and the requirements of Section 45 or 55 of this Act
25 have not been met.

26 (b) The courts shall sustain an objection, exception, or
27 challenge to any jury district map established under Section 15
28 of this Act if the party urging the objection shows to the
29 court, by a preponderance of evidence, that he or she is a
30 resident of the county and a member of a low-income community,
31 as that term is defined in subsection (c) of Section 15 of this
32 Act, whose right to a reasonable and consistent opportunity to

1 be represented on a jury has likely been or will likely be
2 impaired because the requirements of subsection (c) of Section
3 15 of this Act have not been met.

4 (c) If a court does not sustain an objection raised by a
5 criminal defendant under subsection (a) of this Section, the
6 criminal defendant may appeal the court's decision through an
7 interlocutory process.

8 (d) Nothing in this Act confers on any individual person a
9 right to serve on a petit or grand jury.

10 (e) Nothing in this Act limits, abridges, or impairs the
11 rights or remedies available to any person under any other
12 provision of State or federal law.

13 Section 70. Planning and implementation. No later than one
14 year after the effective date of this Act, the clerk of the
15 court in each county of this State shall, after conducting open
16 hearings or meetings with the county's chief executive, chief
17 judge, public defender, State's attorney, and other interested
18 persons, file with the President of the Senate and the Speaker
19 of the House of Representatives a plan that identifies (i) the
20 manner in which this Act will be implemented in that county;
21 (ii) foreseeable administrative or procedural hindrances to
22 the successful implementation of this Act in that County; and
23 (iii) solutions to those hindrances. Within available
24 appropriations, the Attorney General shall confer with any
25 public or private associations of clerks of the court and
26 provide technical assistance to those clerks in the preparation
27 and production of the plans required under this Section.

28 Section 75. Constitutional and legal rights. Nothing in
29 this Act abridges or affects the rights and remedies otherwise
30 available to criminal defendants, parties in civil actions, or
31 other persons under the constitution and laws of this State and
32 the United States.

1 Section 90. Home rule. A home rule unit may not regulate
2 jury selection in a manner inconsistent with the regulation of
3 jury selection by the State under this Act. This Section is a
4 limitation under subsection (i) of Section 6 of Article VII of
5 the Illinois Constitution on the concurrent exercise by home
6 rule units of powers and functions exercised by the State.

7 Section 95. Inseverability. The provisions of this Act are
8 mutually dependent and inseverable. If any provision is held
9 invalid other than as applied to a particular person or
10 circumstance, then this entire Act is invalid.

11 Section 97. Mandate exemption. Notwithstanding Sections 6
12 and 8 of the State Mandates Act, no reimbursement by the State
13 is required for the implementation of any mandate created by
14 this Act.

15 Section 900. The State Mandates Act is amended by adding
16 Section 8.29 as follows:

17 (30 ILCS 805/8.29 new)

18 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8
19 of this Act, no reimbursement by the State is required for the
20 implementation of any mandate created by this amendatory Act of
21 the 94th General Assembly.

22 Section 905. The Jury Act is amended by adding Section 23.5
23 as follows:

24 (705 ILCS 305/23.5 new)

25 Sec. 23.5. Fair Jury Act controls. The provisions of this
26 Act are subject to the provisions of the Fair Jury Act. To the
27 extent that any provision of this Act is inconsistent with any

1 provision of the Fair Jury Act, the Fair Jury Act controls.

2 Section 910. The Jury Commission Act is amended by adding
3 Section 12.5 as follows:

4 (705 ILCS 310/12.5 new)

5 Sec. 12.5. Fair Jury Act controls. The provisions of this
6 Act are subject to the provisions of the Fair Jury Act. To the
7 extent that any provision of this Act is inconsistent with any
8 provision of the Fair Jury Act, the Fair Jury Act controls.

9 Section 999. Effective date. This Act takes effect upon
10 becoming law.".