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H.538

Introduced by Representative Flory of Pittsford

Referred to Committee on *Justice*

Date: *Jan 9, 04*

Subject: Court procedure; conduct of trial; juries

Statement of purpose: This bill proposes to provide the Supreme Court with the authority to: 1) eliminate the jury unanimity requirement for verdicts in favor of a majority of at least 80 percent of jurors to constitute the verdict or finding of the jury, and 2) reduce the number of peremptory challenges allowed in civil and some criminal cases. The bill also eliminates trial by jury for civil violations brought in judicial bureau, limits the number of times a person can be called to appear before the court for voir dire, and permits the court administrator access to the names and addresses of potential jurors contained in various agency and departmental records.

AN ACT RELATING TO TRIAL BY JURY AND JURY SERVICE

It is hereby enacted by the General Assembly of the State of Vermont:

See P. 1a
~~Sec. 1. 4 V.S.A. § 953 is amended to read:~~

§ 953. SOURCES OF NAMES

(a) ~~The jury commission, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest published city,~~

See P. 16

~~Sec. 1. FINDINGS~~

The General Assembly finds that:

(1) The Jury Policy Committee of the Vermont Supreme Court has studied the issue of jury unanimity and recommended that verdicts by 80 percent of the jurors on a jury be permitted in civil cases.

(2) After hearing substantial testimony on the issue, the House Committee on Judiciary found no compelling reason to deviate from the longstanding requirement that jury verdicts be unanimous. It is therefore the Committee's conclusion that the laws governing jury unanimity should not be changed at the present time, either by statute or by rule.

(3) There may be circumstances in the future which would make it prudent to reevaluate the requirement of jury unanimity. If such circumstances arise, it is the Committee's understanding that the Vermont Supreme Court will reconsider the issue and make appropriate recommendations to the General Assembly.

Sec. 2. 4 V.S.A. § 437 is amended to read:

§ 437. CIVIL JURISDICTION OF DISTRICT COURT

The district court shall have jurisdiction of the following actions:

* * *

(11) Municipal parking violation proceedings pursuant to 24 V.S.A. § 1974a(e).

Sec. 3. 4 V.S.A. § 953 is amended to read:

§ 953. SOURCES OF NAMES

(a) The jury commission, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest published city, town, or village telephone or other directory, the listers' records, the elections records, and any other general source of names.

H. 538

Sec. 1. 4 V.S.A. § 437 is amended to read:

§ 437. CIVIL JURISDICTION OF DISTRICT COURT

The district court shall have jurisdiction of the following actions:

* * *

(11) Municipal parking violation proceedings pursuant to 24 V.S.A. § 1974a(e), if the municipality has established an administrative procedure enabling a person to contest the violation, and the person has exhausted the administrative procedure.

Sec. 2. 4 V.S.A. § 953 is amended to read:

§ 953. SOURCES OF NAMES

(a) The jury commission, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest published city, town, or village telephone or other directory, the listers' records, the elections records, and any other general source of names.

(b) Notwithstanding any law to the contrary, the court administrator may obtain the names, addresses, and dates of birth of persons which are contained in the records of the department of motor vehicles, the department of employment and training, the department of taxes, and the department of prevention, assistance, transition, and health access. The court administrator may also obtain the names of voters from the secretary of state. After the names have been obtained, the court administrator shall compile them and provide the names, addresses, and dates of birth to the jury commission in a form that will not reveal the source of the names. The jury commission shall include the names provided by the court administrator in the list of potential jurors.

(c) There shall be continuous research for persons qualified and liable for jury service, in order to obtain as many prospective jurors as necessary and in order to limit as many prospective jurors as necessary and in order to limit as much as possible repetition of jury service.

(d) No person's name shall be placed on venire to serve in any state court of the state of Vermont more than once in any two-year period.

~~(b)~~(e) All public officers shall, on request, furnish the jury commission or the court administrator without charge, any information it may require to enable it to select eligible persons, ascertain their qualifications, or determine the number needed.

Sec. 3. 4 V.S.A. § 958 is amended to read:

§ 958. NONAPPEARANCE; PENALTY

A juror who does not appear after being summoned, and does not submit an excuse satisfactory to the court in which ~~he~~ the juror was summoned to appear, shall be ~~fined \$50.00~~ assessed a civil penalty by the presiding judge of not more than \$200.00. The prospective juror may be excused from paying the assessment for good cause shown or in the interests of justice.

Sec. 4. 4 V.S.A. § 963 is amended to read:

§ 963. TERM OF SERVICE

A person summoned to petit jury service shall ~~be summoned to~~ not appear before the court for ~~voir dire ~~no~~ jury selection~~ more than three times in any two-year period of time and shall be required to appear at the courthouse to serve as a juror on the date of trial no more than three times in that two-year period. Persons summoned for voir dire shall serve on any trial for which they were selected.

Sec. 5. 24 V.S.A. § 1974a is amended to read:

§ 1974a. ENFORCEMENT OF CIVIL ORDINANCE VIOLATIONS

* * *

(e)(1) When filed in court as an enforcement action by the municipality, municipal parking violations shall be brought as civil violations. The right to trial by jury shall not apply in such cases.

(2) A person who received a criminal conviction in district court for a municipal parking violation committed before January 1, 2005 may petition the court to seal all records in the matter. The person shall provide a copy of the petition to the state or municipal official who was the prosecuting authority on the matter in district court. The court shall grant the petition if, after providing the prosecuting authority with an opportunity to respond, the court finds that sealing the records would serve the interests of justice.

Sec. 6. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(34) affidavits of income and assets as provided in 15 V.S.A. § 662.

Sec. 7. EFFECTIVE DATE

This act shall take effect on January 1, 2005.

 6/3/04
GOVERNOR Date



WALTER E. FREED
SPEAKER OF THE HOUSE OF REPRESENTATIVES



BRIAN E. DUBIE
PRESIDENT OF THE SENATE

ATTESTED TO:



Donald G. Milne
Clerk, House of Representatives

~~(b) Notwithstanding any law to the contrary, the court administrator may obtain the names and addresses of persons which are contained in the records of the department of motor vehicles, the department of employment and training, the department of taxes, and the department of prevention, assistance, transition, and health access. The court administrator may also obtain the names of voters from the secretary of state. After the names have been obtained, the court administrator shall compile the names and provide them to the jury commission in a form that will not reveal the source of the names. The jury commission shall include the names provided by the court administrator in the list of potential jurors.~~

(c) There shall be continuous research for persons qualified and liable for jury service, in order to obtain as many prospective jurors as necessary and in order to limit as many prospective jurors as necessary and in order to limit as much as possible repetition of jury service.

(d) No person's name shall be placed on venire to serve in any state court of the state of Vermont more than once in any two-year period.

~~(b)(e)~~ All public officers shall, on request, furnish the jury commission or the court administrator without charge, any information it may require to enable it to select eligible persons, ascertain their qualifications or determine the number needed.

Sec. 4. 4 V.S.A. § 958 is amended to read:

§ 958. NONAPPEARANCE; PENALTY

A juror who does not appear after being summoned, and does not submit an excuse satisfactory to the court in which ~~he~~ the juror was summoned to appear, shall be fined \$50.00 not more than \$200.00. The prospective juror may be excused from paying the fine for good cause shown or in the interests of justice.

Sec. 5. 4 V.S.A. § 963 is amended to read:

§ 963. TERM OF SERVICE

~~A person summoned to petit jury service shall be summoned to not appear before the court for voir dire no jury selection more than three times in any two-year period of time~~

~~and shall be required to serve on no more than three juries in that period. Persons summoned for voir dire shall serve on any trial for which they were selected.~~

Sec. 6. 24 V.S.A. § 1974a is amended to read:

§ 1974a. ENFORCEMENT OF CIVIL ORDINANCE VIOLATIONS

(a) A civil penalty of not more than \$500.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.

(b) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is \$500.00 or less, shall be brought before the judicial bureau pursuant to Title 4 and this chapter. If the penalty for all continuing civil ordinance violations is greater than \$500.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in superior court.

(c) The judicial bureau, on application of a municipality, may order that a civil ordinance violation cease.

(d) Civil enforcement of municipal zoning violations may be brought as a civil ordinance violation pursuant to this section or in an enforcement action pursuant to the requirements of chapter 117 of this title.

(e)(1) When filed in court, municipal parking violations shall be brought as civil violations. The right to trial by jury shall not apply in such cases.

(2) A person who received a criminal conviction in district court for a municipal parking violation before July 1, 2004 may petition the court to seal all records in the matter. The person shall provide a copy of the petition to the state or municipal official who was the prosecuting authority on the matter in district court. The court shall grant the petition if, after providing the prosecuting authority with an opportunity to respond, the court finds that sealing the records would serve the interests of justice.

1 ~~town or village telephone or other directory, the listers' records, the elections~~
2 records and any other general source of names.

3 (b) Notwithstanding any law to the contrary, the court administrator may
4 obtain the names and addresses of persons which are contained in the records
5 of the department of motor vehicles, the department of employment and
6 training, the department of taxes, and the department of prevention, assistance,
7 transition, and health access. The court administrator may also obtain the
8 names of voters from the secretary of state. The court administrator shall
9 compile the names and provide them to the jury commission in a form that will
10 not reveal the source of the names. The jury commission shall include the
11 names provided by the court administrator in the list of potential jurors.

12 (c) There shall be continuous research for persons qualified and liable for
13 jury service, in order to obtain as many prospective jurors as necessary and in
14 order to limit as many prospective jurors as necessary and in order to limit as
15 much as possible repetition of jury service.

16 (d) No person's name shall be placed on venire to serve in any state court
17 of the state of Vermont more than once in any two-year period.

18 ~~(b)~~(e) All public officers shall, on request, furnish the jury commission or
19 the court administrator without charge, any information it may require to
20 enable it to select eligible persons, ascertain their qualifications or determine
21 ~~the number needed.~~

1 ~~Sec. 2. 4 V.S.A. § 963 is amended to read:~~

2 § 963. TERM OF SERVICE

3 A person summoned to petit jury service shall be summoned to appear
4 before the court for voir dire no more than ~~three~~ two times in any two-year
5 period of time and shall be required to serve on no more than three juries in
6 that period. ~~Persons summoned for voir dire shall serve on any trial for which~~
7 ~~they were selected.~~

8 Sec. 3. 4 V.S.A. § 1107 is amended to read:

9 § 1107. APPEALS

10 (a) A decision of the hearing officer may be appealed to the district court.
11 The proceeding before the district court shall be on the record, or at the option
12 of the defendant, de novo. ~~The defendant shall have the right to trial by jury.~~
13 An appeal shall stay payment of a penalty but not the imposition of points.

14 (b) If a decision is appealed, the state's attorney of the county, the grand
15 juror, or municipal attorney of the municipality in which the violation occurred
16 shall represent the state ~~and the state's attorney, grand juror or municipal~~
17 ~~attorney shall represent~~ or the municipality.

18 (c) ~~No~~ appeal as of right exists to the supreme court. On motion made to
19 the supreme court by a party, the supreme court may allow an appeal to be
20 ~~taken to it from the district court.~~

1 ~~Sec. 4. 12 V.S.A. § 1940 is added to read:~~

2 § 1940. JURY NUMBER AND PERCENTAGE REQUIRED FOR VERDICT

3 The supreme court may provide by rule that in civil actions the verdict or
4 finding of a number of jurors equal to at least 80 percent of the jurors serving
5 on a jury shall constitute the verdict of finding of the jury.

6 Sec. 5. 12 V.S.A. § 1941 is amended to read:

7 § 1941. JURY CHALLENGES; PEREMPTORY AND FOR CAUSE

8 (a) Upon the trial of a cause in any court In a civil action, each party,
9 including the state, may peremptorily challenge six three jurors unless the
10 supreme court permits by rule a greater number and may challenge any further
11 number for cause.

12 (b) In a criminal proceeding, each party may peremptorily challenge three
13 jurors if the offense is a misdemeanor or a felony punishable by less than
14 15 years of imprisonment and six jurors if the offense is punishable by
15 15 years or more of imprisonment, unless the supreme court permits by rule a
16 greater number. Each party may challenge any further number for cause.

AN ACT RELATING TO TRIAL BY JURY AND JURY SERVICE.

PROOFREAD House Passage Final Passage

SENATE CHAMBER 4/9 2004 Entered on the Calendar for Notice. Assistant Secretary

HOUSE OF REPRESENTATIVES 4/20 2004 SEN. PROP OF AMENDMENT CONSIDERED & PDG QUESTION WILL THE HOUSE CONCUR WITH SEN. PROP. OF AMENDMENT? REP Flory OF Pittsford MOVED THE H. REFUSE CONCUR & ASK FOR C. OF CONF., WHICH WAS AGREED TO. THEREUPON, SPEAKER APPTD. AS MEMBERS OF COMM. OF CONF. ON PART OF H. REP Flory OF Pittsford REP Bailey OF Mad Rte REP Gervais OF Enosburg ASST. CLERK

HOUSE OF REPRESENTATIVES 2/6 2004 ENTERED ON THE CALENDAR FOR NOTICE. ASST. CLERK

SENATE CHAMBER 4/14 2004 Reported favorably with recommendations/proposals of amendment. Read second time, recommendations/proposals of amendment agreed to and third reading ordered. Thereupon, Sen Maynard raised a pt of order that Sec 4 of the proposal was not germane, which was ruled well taken; Thereupon, Sen Sears called the appeal and the ruling of the chair, which appeal was decided in the affirmative, overruling the pt of order. Thereupon, the prop of amend. was agreed to and 3rd reading ordered. Assistant Secretary

HOUSE OF REPRESENTATIVES 2/10 2004 RPT FAV. W/REC. OF AMEND. BY C. ON Judiciary RPT FAV. W/REC. OF AMEND. BY C. ON RD. 2ND T., REC. OF AMEND OF C. ON Judiciary AGREED TO, REC. OF G. ON AGREED TO AND 3RD RDG. ORDERED ASST. CLERK

SENATE CHAMBER 4/22 2004 Pursuant to request of House, President announced appointment as Conference Committee members on part of Senate: Senator Campbell Senator Sears Senator Pluzer Assistant Secretary

HOUSE OF REPRESENTATIVES 2/11 2004 READ THIRD TIME AND PASSED ASST. CLERK

SENATE CHAMBER 4/15 2004 Read third time and passed in concurrence with proposals of amendment. Assistant Secretary

SENATE CHAMBER 2/13 2004 Read and referred to Committee on Judiciary Assistant Secretary

HOUSE OF REPRESENTATIVES 4/16 2004 ENTERED ON THE CALENDAR FOR NOTICE. ASST. CLERK

SENATE CHAMBER 5/20 2004 Appearing (pending entry) on the Calendar for Notice, on motion of Senator Welch, the rules were suspended and the bill was taken up for immediate consideration. Assistant Secretary

HOUSE OF REPRESENTATIVES

January 9, 2004

Introduced by Representative Flory of Pittsford.

Read the first time and referred to Committee on Judiciary

Clerk

Donald Ambrose

SENATE CHAMBER

5/20, 2004

Taken up; pending questions, Shall Senate accept and adopt report of Conference Committee? was decided in affirmative

Assistant Secretary

5/20/2004
UPON MOTION OF
REP. Smith OF Texas
THE RULES WERE SUSP. & THE ACTION
OF HOUSE ON THE BILL WAS ORDERED
MESSAGED TO SEN. FORTHWITH & THE
BILL DELVD. TO GOV. FORTHWITH.

ASST. CLERK

SENATE CHAMBER

5/20, 2004

On motion of Sen. Wells rules were suspended and bill was ordered messaged to House forthwith

Assistant Secretary

HOUSE OF REPRESENTATIVES

5/20, 2004

PENDING ENTRY OF THE BILL ON THE CALENDAR FOR NOTICE, THE RULES WERE SUSPENDED, ON MOTION OF REP. Smith OF Texas AND THE BILL WAS TAKEN UP FOR IMMEDIATE CONSIDERATION

ASST. CLERK

HOUSE OF REPRESENTATIVES

5/20, 2004

REPORT OF C. OF CONF. CONSIDERED & ADOPTED. ON PART OF HOUSE.

ASST. CLERK