



H.B. 256

126th General Assembly
(As Introduced)

Reps. Collier, Gilb, Carano, Kearns, C. Evans, Otterman, Brown, Reidelbach

BILL SUMMARY

- Permits a judge to excuse a person from jury service if the prospective juror is the parent or guardian, has custody, and is the primary caregiver of a child 12 or under, is the parent or guardian, has custody, and is the teacher of a home-schooled child, or is the primary caregiver of an elderly or disabled family member.
- Creates procedures for requesting to be excused from jury service under the grounds listed in the preceding dot point, for the determination of the request, and for notifying the prospective juror of the determination.
- Prohibits as falsification the making of a false statement on a form requesting to be excused from jury service on one of the grounds listed in the first dot point with purpose to mislead the judge.
- Requests the Supreme Court to adopt a rule to prescribe the form used in requesting to be excused from jury service on one of the grounds listed in the first dot point.

CONTENT AND OPERATION

Grounds for excuse from jury service

Except for postponement of jury service by a person who has not previously requested a postponement or who faces an emergency situation, existing law allows a court of common pleas to excuse a person who is called for jury service only if the prospective juror or another person acquainted with the facts shows to the satisfaction of the judge that one or more of the following applies (R.C. 2313.13, not in the bill, and 2313.16(A)):

(1) The interests of the public will be materially injured by the juror's attendance.

(2) The juror's spouse or a near relative of the juror or the juror's spouse has recently died or is dangerously ill.

(3) The juror is a cloistered member of a religious organization.

(4) The prospective juror has a mental or physical condition that causes the prospective juror to be incapable of performing jury service.

(5) Jury service would otherwise cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror.

(6) The juror is over 75 years of age and requests to be excused.

(7) The prospective juror is an active member of a recognized Amish sect and requests to be excused because of the prospective juror's sincere belief that as a result of that membership the prospective juror cannot pass judgment in a judicial matter.

The bill adds the following grounds for excuse from jury service (R.C. 2313.16(A)(8)):

(1) The prospective juror is the parent or guardian of a child 12 years of age or under and has custody of and is the primary caregiver of the child.

(2) The prospective juror is the parent or guardian of a child who is of school age, the child has been excused from compulsory attendance at a school or special education program pursuant to the home-schooling law, and the prospective juror has custody of and is providing instruction to the child.

(3) The prospective juror is the primary caregiver of an elderly or disabled family member of the prospective juror. (See "Definitions," below.)

Ruling on a request to be excused from jury service

Under existing law, a prospective juror who requests to be excused from jury service must take all actions necessary to obtain a ruling on the request by the date on which the prospective juror is scheduled to appear for jury duty. A prospective juror who requests to be excused by reason of age must inform the appropriate court employee of the request in person, in writing, by telephone, or by e-mail no later than the date on which the prospective juror is scheduled to appear for jury duty. (R.C. 2313.16(B).)

Under the bill, a prospective juror who requests to be excused from jury service for any of the reasons added by the bill must inform the appropriate court employee of the request in person, in writing, by telephone, by e-mail, or by any type of electronic notification, including cell phone, pager, or other form of telecommunication, if the commissioners of jurors have established an electronic notification system for jurors. Upon being informed of the request, the court employee must provide a form (see "**Form for requesting to be excused from jury service**," below) to a prospective juror who appears in person or, at the prospective juror's request, must send the form to the prospective juror by regular mail, e-mail, or fax. Upon receipt of the form, the prospective juror must complete and sign the form and submit it to the court employee in person or by regular mail, e-mail, or fax. (R.C. 2313.16(B)(3)(a).)

Before determining whether to grant or deny a request to be excused as indicated in the form, the judge may ask the prospective juror any question about any statement or information given in the form or about any supportive documentation submitted by the prospective juror. If the judge finds that all of the statements and information in the form and any submitted documentation clearly support the prospective juror's request to be excused, the judge must grant the request. If the judge finds that the statements and information in the form and any submitted documentation do not clearly support the prospective juror's request, the judge must deny the request. The judge must enter the grant or denial in the space provided on the form for the judge's determination and cause the immediate notification of the prospective juror of the determination. The notification may be made by telephone, fax, e-mail, or other type of electronic notification used by a juror-notification system established by the commissioners of jurors. (R.C. 2313.16(B)(3)(b), (c), and (d).)

Form for requesting to be excused from jury service

The bill requires the administrative judge of each court of common pleas to provide each court of record in the county with a form, prescribed and approved by the Supreme Court pursuant to the Supreme Court's rules, on which a prospective juror may request to be excused on the grounds added by the bill. The form must include at least the following (R.C. 2313.16(E)):

- (1) A space for the prospective juror's name and address and, if any, the telephone number, fax number, and e-mail address at which the prospective juror may be contacted;
- (2) A statement that R.C. 2313.16(A)(8)(a), (b), or (c) (the grounds for excuse created by the bill), whichever is applicable, applies to the prospective juror;

(3) A request that the prospective juror be excused from jury service for the applicable reason;

(4) A space for any other relevant information that the prospective juror may provide;

(5) A statement that the statements and information in the form and any supportive documentation that the prospective juror provided are true to the best of the prospective juror's knowledge;

(6) A statement acknowledging that knowingly making a false statement on the form with the purpose to mislead a judge in making a determination on the request may be punished as falsification under R.C. 2921.13 (see "**Prohibition of falsification**," below);

(7) A space for the judge to indicate the judge's determination on the request.

The bill includes a request by the General Assembly that the Supreme Court adopt a rule to prescribe and approve a form for use by a prospective juror to request to be excused from jury duty on one of the grounds added by the bill (Section 3 of the bill).

Overlapping grounds for being excused from jury service

Existing law allows a court to excuse a prospective juror if jury service would cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror. The prospective juror must provide the judge with documentation that clearly supports the request to be excused; otherwise, the judge may deny the request. The judge, or an appropriate court employee to whom the judge delegates the task, must make determinations regarding undue or extreme physical or financial hardship. Undue or extreme physical or financial hardship does not exist solely because a prospective juror will be required to be absent from the prospective juror's place of employment. Such hardship is limited to circumstances in which any of the following apply:

(1) The prospective juror would be required to abandon a person under the prospective juror's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury.

(2) The prospective juror would incur costs that would have a substantial adverse impact on the payment of the prospective juror's necessary daily living

expenses or on those for whom the prospective juror provides the principal means of support.

(3) The prospective juror would suffer physical hardship that would result in illness or disease. (R.C. 2313.16(A)(5), (C), and (D).)

The bill provides that if the circumstances that could cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror under existing law (R.C. 2313.15(A)(5)) are the same circumstances underlying a prospective juror's request to be excused from jury service under the grounds added by the bill (R.C. 2313.16(A)(8)), the prospective juror may request to be excused under division (A)(5) or division (A)(8), but not both. (R.C. 2313.16(F).)

Prohibition of falsification

The bill prohibits a person from knowingly making a false statement on a form submitted to request to be excused from jury duty with the purpose to mislead a judge in making a determination on the request. A violation of the prohibition is falsification under R.C. 2921.13. (See **COMMENT.**) (R.C. 2313.16(H).)

Definitions

As used in the bill, "elderly family member" means a member of a prospective juror's family who is 65 years of age or older (R.C. 2313.16(I)(1)).

"Disabled family member" means either of the following (R.C. 2313.16(I)(2)):

(1) A member of a prospective juror's family who has some impairment of body or mind that has continued, or that will with reasonable probability continue, for a period of at least 12 months without any present indication of recovery from the impairment and that causes the family member to need special care, treatment, or provision of services for an extended period of time;

(2) A member of a prospective juror's family who has been certified as permanently and totally disabled by an agency of this state, another state, or the United States that has the function of so classifying persons.

COMMENT

R.C. 2921.13 prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made,

in a variety of situations. The circumstance most likely to be relevant to falsification on a form requesting to be excused from jury duty is that the statement is made with purpose to mislead a public official in performing the public official's official function. The following might also apply:

(1) The statement is made in an official proceeding.

(2) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.

(3) The statement is in writing on or in connection with a report or return that is required or authorized by law.

(4) The statement is made on an account, form, record, stamp, label, or other writing that is required by law.

Falsification is a misdemeanor of the first degree.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-17-05	p. 803

h0256-i-126.doc/kl