

SUPREME COURT OF WISCONSIN

NOTICE

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No. 08-01

**In the matter of the Amendment of Rules of
Pleading, Practice and Procedure:
Wis. Stat. Ch. 756, Juries**

FILED**JUL 25, 2008****CORRECTED ORDER**

David R. Schanker
Clerk of Supreme Court
Madison, WI

On January 3, 2008, A. John Voelker, Director of State Courts, petitioned this court on behalf of the Committee of Chief Judges and the Chief Judge Subcommittee on Juror Treatment and Selection, to amend Chapter 756 of the Wisconsin Statutes relating to juries. The petition states that the goal of this rule petition "is to improve and clarify provisions governing the management of jurors in the circuit courts."

A public hearing was held on Monday, April 7, 2008. At its open administrative conference on April 24, 2008, the court voted to grant the petition, with certain amendments. In addition, the court directed the petitioners to report to the court within six months of the date of this order whether petitioners deem it advisable to amend Wis. Stat. § 756.04 (2) (c) to permit the office of the director of state courts to seek the additional lists proposed by interested parties to this

rules proceeding at the open conference on April 7, 2008. The court also directed the petitioners to report to the court within three years of the effective date of this order regarding whether the amendments made pursuant to this petition have advanced the primary goals of improving representation on Wisconsin juries and protecting juror privacy. Therefore,

IT IS ORDERED that effective January 1, 2009:

SECTION 1. 756.01 of the statutes is created to read:

756.01 Definitions. In this chapter:

(1) "Juror" means a person summoned in compliance with this chapter or who has taken an oath or affirmation under s. 756.08 (1).

(2) "Jury" means the jurors and alternates sworn to hear a trial.

(3) "Jury array" means the annual list of prospective jurors in each county qualified as eligible to serve under s. 756.02.

(4) "Jury panel" means the jurors present for voir dire in a specific case.

(5) "Jury venire" means the jurors summoned for a date-specific term of service.

(6) "Jury year" means the calendar year beginning January 1 and ending December 31.

SECTION 2. 756.04 (1) of the statutes is repealed.

SECTION 3. 756.04 (2) of the statutes is renumbered 756.04 (2) (intro.) and amended to read:

756.04 (2) (intro.) Jurors for all circuit courts shall be selected under ss. 756.04 to 756.07, subject to all of the following:

SECTION 4. 756.04 (2) (a) to (f) of the statutes are created to read:

756.04 (2) (a) Each year, the office of the director of state courts shall compile a master list of potential jurors for use by the circuit courts of each county during the coming year. The master list shall be compiled as described in this section.

(b) Each year, on a date agreed upon with the office of the director of state courts, the department of transportation shall compile a list that includes the name, address, county, date of birth, race, gender, identification number and renewal date of each person residing in the state who is licensed as a motor vehicle operator under ch. 343 or who has received an identification card under s. 343.50 or 343.51, and social security number, as permitted by law and any record sharing agreement between the department of transportation and the office of the director of state courts. The office of the director of state courts shall establish the format of the list by agreement with the department of transportation. The department of transportation shall transmit the list to the office of the director of state courts, without charge.

(c) The office of the director of state courts may use any of the following lists in addition to the list provided by the department of transportation under par. (b) in order to create the master list of potential jurors compiled under par. (a). The

director may each year request any of the following information from the custodians of that information:

1. A list of registered voters from the government accountability board.

2. A list of all natural persons that may have filed a state income tax return with the department of revenue.

3. A list of child support payors and payees from the department of workforce development.

4. A list of recipients of unemployment compensation from the department of workforce development.

5. A list of residents of this state issued approvals or licenses from the department of natural resources.

(d) If the records listed in par. (c) are requested, the director of state courts may enter into a record sharing agreement with the custodian of the records. Any record sharing agreement shall be in writing for a prescribed period of time and shall identify data that would allow for a match of personally identifiable information on the list maintained by that custodian with personally identifiable information in the master list of potential jurors to the extent required to identify duplicate names and to determine current addresses of prospective jurors. Any list provided under par. (c) shall contain no data other than the data provided in par. (b). The agreement shall establish the format of the list and date of transmission of the list.

(e) The lists of prospective jurors provided to the clerks of circuit courts shall contain only the name, address, gender,

date of birth, race and county of residence of each prospective juror.

(f) All social security numbers shall be kept secure from unauthorized access and shall not be provided to the clerk of circuit court and shall not be open to the public.

Comment

SCR 73.01 provides guidance regarding monitoring of the jury system.

SECTION 5. 756.04 (3) to (5) of the statutes are repealed.

SECTION 6. 756.04 (3m) of the statutes is created to read:

756.04 (3m) From the statewide master list of potential jurors created under sub. (2), the office of the director of state courts shall provide each clerk of circuit court with a list of prospective jurors residing in the clerk's county to be used during the following jury year. The list for each county shall be created by randomly selecting from the master list of potential jurors the number of names of residents of the county requested by the clerk of circuit court for that year. The office of the director of state courts shall transmit the list of prospective jurors to each clerk, with a certification that the list was prepared in strict conformity with this chapter.

SECTION 7. 756.04 (6) of the statutes is renumbered 756.04 (6) (am) and 756.04 (6) (am) (intro.), as renumbered, is amended to read:

756.04 (6) (am) (intro.) The Using the list of prospective jurors provided by the office of the director of state courts under sub. (3m), the clerk of circuit court shall mail to every

~~prospective juror to be summoned, separately or together with the summons under s. 756.05, a juror qualification form requesting accompanied by instructions requiring the person to complete and return the form to the clerk within 10 days after receiving it. The form shall request all of the following:~~

SECTION 8. 756.04 (7) of the statutes is renumbered 756.04 (6) (bm) and amended to read:

756.04 (6) (bm) ~~The form under sub. (6) may request other information that the court needs to manage the jury system in an efficient manner, including information ordinarily sought during voir dire examination.~~ The juror qualification form shall be accompanied by instructions requiring the person to complete and return the form to the clerk of circuit court within 10 days of receiving it. The form ~~under sub. (6)~~ shall include a notice that, if the person willfully misrepresents a material fact or willfully fails to return the completed form within 10 days after its receipt, or willfully fails to attend court without being excused by the court, the person may be ~~required to forfeit~~ sanctioned not more than \$500.

SECTION 9. 756.04 (6) (cm) of the statutes is created to read:

756.04 (6) (cm) The juror qualification form mailed to prospective jurors under par. (am) may be supplemented to request other information that the court requires to manage the jury system in an efficient manner, including information that may be sought during voir dire examination.

SECTION 10. 756.04 (8) of the statutes is renumbered 756.04 (6) (dm) and amended to read:

756.04 (6) (dm) If a prospective juror is unable to fill out the juror qualification form ~~under sub. (6)~~ mailed to the prospective juror under par. (am) and (cm), another person may complete the form and shall indicate why the person has done so. If it appears that there is an omission, ambiguity or error in a returned form, the clerk of circuit court shall return the form to the person with instructions to correct and return the form to the clerk of circuit court within 10 days after receiving the form.

SECTION 11. 756.04 (9) of the statutes is renumbered 756.04 (9) (a) and amended to read:

756.04 (9) (a) During each year, the clerk of circuit court shall provide the court with a sufficient number of names of prospective jurors to meet the needs of the court. ~~The clerk shall randomly select names from the department list or master list and strike the name of any person randomly selected whose returned juror qualification form shows that the person is not qualified for jury service under s. 756.02. The clerk shall certify that the names were selected in strict conformity with this chapter. The clerk shall include a verified statement with the list of names describing the manner in which the names were selected, including an identification of all sources used in the preparation of the list. The clerk shall keep a certified copy of the names of prospective jurors, including the address of each prospective juror, for public inspection.~~ To create a jury

array, the clerk of circuit court shall strike from the list provided by the office of the director of state courts under sub. (3m) the name of any person whose returned juror qualification form shows that the person is not qualified for jury service under s. 756.02.

SECTION 12. 756.04 (9) (b) and (c) of the statutes are created to read:

756.04 (9) (b) The clerk of circuit court shall keep for public inspection a certified copy of the jury array under par. (a), indicating the city, village, or town of residence of each prospective qualified juror. Each year, the clerk of circuit court shall certify compliance with all provisions of this chapter that fall under the authority of the clerk of circuit court.

(c) Except for those individual jurors whose service has been deferred or postponed to a time that falls within a new jury year, names of prospective jurors not qualified or not summoned at the end of a jury year shall be discarded.

SECTION 13. 756.04 (10) of the statutes is amended to read:

(10) The clerk of circuit court shall keep computerized juror ~~lists~~ data secure against unauthorized access.

SECTION 14. 756.04 (11) of the statutes is created to read:

756.04 (11) (a) All completed juror qualification forms mailed to prospective jurors under sub. (6) (am) and supplemental information obtained under sub. (6) (cm) shall be confidential and shall be released only upon order of the court upon a showing of good cause. However, the completed juror

qualification forms and supplemental information of jurors in the jury venire or jury panel when the trial is scheduled shall be made available to counsel and parties to the litigation upon request without a circuit court order. This information shall remain confidential and shall be used only for the purpose of the trial or any appeal. Counsel and parties may not retain copies of the qualification forms or supplemental information obtained under sub. (6) (am) and sub. (6) (cm).

(b) A list of the names and city, village, or town of residence of each juror sworn to hear a trial shall be retained in the court file.

SECTION 15. 756.05 of the statutes is amended to read:

756.05 Jury summons, when and how issued. At least 12 days before the first day on which a jury is required to be present, to create the jury venire, the clerk of circuit court shall ~~summon~~ randomly select a sufficient number of prospective jurors from the jury array created under s. 756.04 (9) who shall be summoned to appear before the court at an appropriate time for jury service. The summons may be served by 1st class mail or another method.

SECTION 16. 756.06 (1) and (2) (am) of the statutes are amended to read:

756.06 Jury selection. (1) Whenever an issue is to be tried before a jury, the clerk of circuit court shall randomly select names from the ~~prospective juror list until the desired number is obtained.~~ jury venire until the desired number is obtained to create the jury panel. The random selection of names may include

the provision that jurors reporting for service who have not been considered for assignment to a panel be considered before other jurors are considered for a second panel.

(2) (am) A jury in a misdemeanor case shall consist of ~~6~~ 12 persons.

SECTION 17. 756.07 of the statutes is amended to read:

756.07 Insufficient jurors. When a sufficient number of jurors cannot be obtained for a trial from the ~~list~~ jury venire supplied by the clerk of circuit court, the court may order the sheriff to bring before the court persons in the vicinity for determination by the court of their qualification and ability to serve as jurors for the particular trial.

SECTION 18. 756.30 (1m) (intro.) of the statutes is created to read:

756.30 (1m) JUROR CONTEMPT PROCEDURE. Whoever does any of the following is subject to sanctions for contempt of court:

SECTION 19. 756.30 (1) is renumbered 756.30 (1m) (am) and amended to read:

756.30 (1m) (am) ~~Whoever willfully~~ Willfully misrepresents any material fact on a juror qualification form under s. 756.04 (6) ~~or whoever fails to return the completed qualification form within 10 days after receipt of the form may be required to forfeit not more than \$500.~~

SECTION 20. 756.30 (1m) (bm) and (cm) of the statutes are created to read:

756.30 (1m) (bm) Fails to return the completed juror qualification form within 10 days after receipt of the form.

(cm) Fails to attend court after being lawfully summoned without being excused by the court.

SECTION 21. 756.30 (2m) of the statute is created to read:

756.30 (2m) SANCTIONS. A circuit court may impose a sanction for violation of sub. (1m) in an amount not to exceed \$500. The sanction may be imposed by the court after hearing on an order to show cause why the prospective juror should not be held in contempt for failure to comply with the obligation of jury service. No costs, fees, or surcharges shall be imposed and the sanction shall be retained by the clerk of circuit court to offset juror costs.

SECTION 22. 756.30 (2) (title) of the statutes is created to read:

756.30 (2) CLERK OF CIRCUIT COURT; FRAUD.

SECTION 23. 756.30 (3) of the statutes is repealed.

IT IS FURTHER ORDERED that within six months of the date of this order the petitioners shall advise the court, in writing, whether petitioners deem it advisable to amend s. 756.04 (2) (c) to permit the office of the director of state courts to seek the additional lists proposed by interested parties to this rules proceeding at the open conference on April 7, 2008.

IT IS FURTHER ORDERED that within three years of the effective date of this order the petitioners shall advise the court, in writing, whether the amendments made pursuant to this petition have advanced the primary goals of improving representation on Wisconsin juries and protecting juror privacy.

IT IS FURTHER ORDERED that the Comments are not adopted, but will be published and may be consulted for guidance in interpreting and applying Wis. Stat. Ch. 756.

IT IS FURTHER ORDERED that notice of this amendment of Chapter 756 of the Wisconsin Statutes be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 25th day of July, 2008.

BY THE COURT:

David R. Schanker
Clerk of Supreme Court

