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Stocksdale, Stull, Trueschler, Walkup, and Weldon**

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Trial Jury Improvement Act of 2005**

3 FOR the purpose of requiring the State Court Administrator to assess a certain
4 surcharge on certain civil cases; authorizing the Court of Appeals to designate in
5 the Maryland Rules certain types of civil cases, with certain exceptions, for
6 which a certain surcharge applies; prohibiting a certain employer from
7 requiring an employee summoned for certain jury service to use certain
8 accumulated leave for that service; altering the State per diem payment for
9 certain jurors after a certain date; requiring a circuit court to modify, by a
10 certain date, its juror selection plan to alter the amount of time a juror serves on
11 a certain jury; allowing a circuit court to apply for an exemption to the
12 modification under certain circumstances; authorizing the Court of Appeals to
13 grant a circuit court a certain exemption under certain circumstances; requiring
14 a prospective juror to provide certain additional information on a certain form
15 and certain documentation under certain circumstances; altering, after a
16 certain date, a certain limit on the frequency of petit jury service; establishing
17 procedures for seeking a postponement of certain jury service; requiring a
18 prospective juror to set a date certain with the jury commissioner or clerk of
19 court to complete the postponed service; limiting the reasons a juror may
20 request a subsequent postponement; establishing procedures for a prospective
21 juror requesting a subsequent postponement; requiring a prospective juror to set
22 a date certain to complete the subsequent postponed service; establishing
23 certain penalties for failure to take certain action regarding postponed jury
24 service; requiring a jury commissioner or clerk of court to grant a postponement
25 of jury service to a prospective juror under certain conditions related to
26 employment; altering certain reasons for a prospective juror to be excused from
27 certain jury service; limiting the reasons for seeking an excuse from jury service
28 under certain circumstances; authorizing a jury judge to require certain
29 documentation for excusing certain jury service; defining certain terms; making
30 stylistic changes; making the provisions of this Act severable; providing for the
31 application of this Act; and generally relating to jury selection procedures and

1 payment for service on a jury.

2 BY repealing and reenacting, with amendments,
 3 Article - Courts and Judicial Proceedings
 4 Section 7-202(d), 8-105, 8-106, 8-202(5)(i)1.C., 8-207, 8-209, and 8-210
 5 Annotated Code of Maryland
 6 (2002 Replacement Volume and 2004 Supplement)

7 BY repealing and reenacting, without amendments,
 8 Article - Courts and Judicial Proceedings
 9 Section 8-101, 8-201(a), and 8-401(a), (b), and (c)
 10 Annotated Code of Maryland
 11 (2002 Replacement Volume and 2004 Supplement)

12 BY adding to
 13 Article - Courts and Judicial Proceedings
 14 Section 8-201(d), 8-209.1, and 8-209.2
 15 Annotated Code of Maryland
 16 (2002 Replacement Volume and 2004 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Courts and Judicial Proceedings**

20 7-202.

21 (d) (1) The State Court Administrator, as part of the Administrator's
 22 determination of the amount of court costs and charges in civil cases, shall assess [a
 23 surcharge that] THE FOLLOWING:

24 [(1)] (I) [May] A SURCHARGE THAT:

25 1. MAY not be more than \$25 per case; and

26 [(2)] 2. Shall be deposited into the Maryland Legal Services
 27 Corporation Fund established under § 7-408 of this title; AND

28 (II) A SURCHARGE OF \$ 25 PER CASE.

29 (2) (I) THE COURT OF APPEALS MAY DESIGNATE IN THE MARYLAND
 30 RULES THE TYPES OF CIVIL CASES FOR WHICH THE SURCHARGE AUTHORIZED BY
 31 ITEM (1)(II) OF THIS SUBSECTION APPLIES.

32 (II) IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS
 33 PARAGRAPH, THE COURT MAY NOT DESIGNATE TYPES OF CIVIL CASES THAT

1 INVOLVE THE MINIMAL USE OF COURT RESOURCES AND ARE NOT CUSTOMARILY
2 TRIED BY JURY, INCLUDING:

- 3 1. ACTIONS BROUGHT BY GOVERNMENT ATTORNEYS
4 APPEARING IN THE COURSE OF THEIR OFFICIAL DUTIES;
- 5 2. ACTIONS BROUGHT BY PRO SE LITIGANTS;
- 6 3. ACTIONS BROUGHT IN DISTRICT COURT; AND
- 7 4. CHILD SUPPORT AND CUSTODY CASES.

8 8-101.

9 (a) In this title the following words have the meanings indicated.

10 (b) "Court" means a court in which a jury trial may be held.

11 8-105.

12 (A) An employer may not deprive an employee of [his] employment solely
13 because of job time lost by the employee as a result of responding to a summons
14 issued under this title, or as a result of attending court for service or prospective
15 service as a petit or grand juror under the provisions of this title.

16 (B) AN EMPLOYER MAY NOT REQUIRE AN EMPLOYEE TO USE THE
17 EMPLOYEE'S ANNUAL, VACATION, OR SICK LEAVE TO RESPOND TO A SUMMONS
18 ISSUED UNDER THIS TITLE FOR SERVICE ON A PETIT JURY.

19 8-106.

20 (a) In this section, "day" means the length of time in any 24-hour period
21 during which a juror is required to be in attendance at or in proximity to the court in
22 which the juror has been called as a juror.

23 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
24 juror shall receive a State per diem amount of \$15 for each day the juror attends
25 court.

26 (2) ON OR AFTER JULY 1, 2006, A JUROR CALLED TO SERVE AS A PETIT
27 JUROR SHALL RECEIVE A STATE PER DIEM AMOUNT OF \$100 FOR EACH DAY THE
28 JUROR ATTENDS COURT.

29 (c) The government of each county and Baltimore City may supplement the
30 State per diem amount by local ordinance.

31 (d) There shall be included in the State budget for the Judicial Branch
32 [beginning in fiscal year 2002,] an appropriation to the Administrative Office of the
33 Courts in the total amount necessary to pay jurors the State per diem amount.

1 8-201.

2 (a) (1) The circuit court of a county shall maintain in operation a written
3 plan for random selection of grand and petit jurors designed to achieve the objectives
4 of this title.

5 (2) The Court of Appeals from time to time may adopt rules governing
6 the provisions and the operation of plans formulated under this title.

7 (D) (1) (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PLAN
8 SHALL BE MODIFIED TO PROVIDE FOR SUMMONING JURORS, ON OR AFTER JULY 1,
9 2006, TO SERVE ON PETIT JURIES NOT MORE THAN ONE DAY IN ACTUAL
10 ATTENDANCE, UNLESS THE JUROR IS SELECTED TO SERVE IN A TRIAL, OR IS UNDER
11 CONSIDERATION TO SERVE IN A TRIAL AND THE CONSIDERATION LASTS LONGER
12 THAN ONE DAY.

13 (II) ONCE SELECTED, A JUROR SHALL SERVE ON A JURY FOR THE
14 DURATION OF THE TRIAL UNLESS EXCUSED BY THE JUDGE.

15 (2) IF THE POPULATION OF A COUNTY IS INSUFFICIENT TO MEET THE
16 OBJECTIVE OF THIS SUBSECTION, THE CIRCUIT COURT OF THE COUNTY MAY APPLY
17 TO THE COURT OF APPEALS FOR AN EXEMPTION FROM THE PLAN MODIFICATION
18 REQUIRED BY THIS SUBSECTION.

19 (3) THE COURT OF APPEALS MAY GRANT THE CIRCUIT COURT OF A
20 COUNTY AN EXEMPTION FROM THE MODIFICATION REQUIRED UNDER THIS
21 SUBSECTION.

22 8-202.

23 Among other things, the juror selection plan referred to in § 8-201 of this
24 subtitle shall:

25 (5) (i) Provide for a "juror qualification form" which asks each
26 potential juror:

27 1. The potential juror's:

28 C. Occupation, NUMBER OF FULL-TIME EMPLOYEES AT THE
29 JUROR'S EMPLOYMENT, and occupation of spouse;

30 8-207.

31 (a) (1) A person may not be disqualified or excused from jury service except
32 on the basis of information provided by the juror qualification form as it may be
33 supplemented by an interview or other competent evidence OR ON THE BASIS OF
34 DOCUMENTATION AS MAY BE REQUIRED UNDER § 8-210 OF THIS SUBTITLE.

1 (2) The determination of a prospective juror's qualifications shall be
2 made by the jury judge on [his] THE JUDGE'S own initiative, or on the
3 recommendation of the clerk or jury commissioner.

4 (3) The clerk shall enter the determination in the space provided on the
5 juror qualification form and on the alphabetical list of names drawn from the master
6 jury wheel.

7 (4) If a person did not appear in response to a summons, that fact shall
8 be noted on the list.

9 (b) A person is qualified to serve as a juror unless [he] THE PERSON:

10 (1) Is not constitutionally qualified to vote in the county where the court
11 convenes;

12 (2) Is unable to read, write, or understand the English language with a
13 degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

14 (3) Is unable to speak the English language or comprehend spoken
15 English;

16 (4) Is incapable, by reason of physical or mental infirmity, of rendering
17 satisfactory jury service; any person claiming such a disqualification may be required
18 to submit a doctor's certificate as to the nature of the infirmity;

19 (5) Has a charge pending against [him] THE PERSON for a crime
20 punishable by a fine of more than \$500, or by imprisonment for more than six
21 months, or both, or has been convicted of such a crime and has received a sentence of
22 a fine of more than \$500, or of imprisonment for more than six months, or both, and
23 has not been pardoned;

24 (6) Has a charge pending against [him] THE PERSON for, or has been
25 convicted of, an offense punishable under the provision of § 8-401(c) of this title;

26 (7) Is a party in a civil suit, except for those civil actions in which a party
27 is not entitled to a jury trial, pending in the court in which [he] THE PERSON is called
28 to serve;

29 (8) Is under 18 years of age; or

30 (9) Fails to meet any other objective test prescribed by the Court of
31 Appeals.

32 8-209.

33 (a) The only persons exempt from jury service are:

34 (1) A member of the organized militia who is certified by the military
35 department as a member; and

1 (2) A person who is 70 years old or older who has made a written request
2 to the jury commissioner or clerk for an exemption.

3 (b) Except as provided in subsection (c) of this section, in any 3 year period, a
4 person may not be required to:

5 (1) Serve or attend court for prospective service as a petit juror for more
6 than one term of court, except when necessary to complete service in a particular
7 case; or

8 (2) Serve on more than one grand jury; or

9 (3) Serve as both a grand and petit juror.

10 (c) (1) [As] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
11 AS to any juror who has actually served on a petit jury for less than 5 days, the 3 year
12 limitation on frequency of jury service provided by subsection (b) of this section may
13 be reduced to not less than 1 year by appropriate provision in a juror selection plan
14 adopted under § 8-201 of this [article] SUBTITLE.

15 (2) ON OR AFTER JULY 1, 2006, A JUROR SELECTION PLAN FOR SERVING
16 ON A PETIT JURY SHALL:

17 (I) PROVIDE FOR A 2-YEAR LIMITATION ON FREQUENCY OF JURY
18 SERVICE; AND

19 (II) BE MODIFIED IN ACCORDANCE WITH § 8-201(D) OF THIS
20 SUBTITLE.

21 8-209.1.

22 (A) ON OR AFTER JULY 1, 2006, A PERSON SUMMONED TO PETIT JURY SERVICE
23 MAY REQUEST A POSTPONEMENT OF SERVICE FROM THE JURY COMMISSIONER OR
24 THE CLERK OF COURT.

25 (B) WITHIN 5 DAYS OF RECEIVING THE SUMMONS, A PROSPECTIVE JUROR
26 SHALL CONTACT THE JURY COMMISSIONER OR THE CLERK IN PERSON, IN WRITING,
27 BY TELEPHONE, OR BY ELECTRONIC MAIL TO REQUEST THE POSTPONEMENT.

28 (C) (1) THE JURY COMMISSIONER OR THE CLERK SHALL APPROVE A
29 POSTPONEMENT OF PETIT JURY SERVICE FOR A PROSPECTIVE JUROR ONE TIME.

30 (2) AT THE TIME OF THE APPROVAL OF THE POSTPONEMENT, THE JURY
31 COMMISSIONER OR THE CLERK AND THE PROSPECTIVE JUROR SHALL FIX A DATE
32 CERTAIN WHEN COURT IS IN SESSION WITHIN 6 MONTHS FROM THE DATE THE
33 PROSPECTIVE JUROR WAS ORIGINALLY SUMMONED FOR THE JUROR TO COMPLETE
34 PETIT JURY SERVICE.

35 (D) (1) A PERSON SEEKING A SUBSEQUENT POSTPONEMENT OF PETIT JURY
36 SERVICE SHALL CONTACT THE JURY JUDGE.

1 (2) THE JURY JUDGE MAY NOT APPROVE A POSTPONEMENT UNDER THIS
2 SUBSECTION UNLESS THE PROSPECTIVE JUROR HAS A DEATH IN THE FAMILY OR A
3 SUDDEN GRAVE ILLNESS, OR UNLESS THERE IS A NATURAL DISASTER OR NATIONAL
4 EMERGENCY IN WHICH THE PROSPECTIVE JUROR IS INVOLVED.

5 (3) BEFORE APPROVING THE POSTPONEMENT UNDER THIS
6 SUBSECTION, THE JURY JUDGE AND THE PROSPECTIVE JUROR SHALL FIX A DATE
7 CERTAIN WHEN COURT IS IN SESSION WITHIN 6 MONTHS OF THE DATE OF THE
8 POSTPONEMENT FOR THE JUROR TO COMPLETE PETIT JURY SERVICE.

9 (E) A PROSPECTIVE JUROR WHO FAILS TO APPEAR WHEN SUMMONED AND
10 FAILS TO OBTAIN A POSTPONEMENT OR APPEAR ON THE DATE CERTAIN TO
11 COMPLETE PETIT JURY SERVICE IS SUBJECT TO THE PROVISIONS OF § 8-401 OF THIS
12 TITLE.

13 8-209.2.

14 (A) ON OR AFTER JULY 1, 2006, ON NOTIFICATION BY THE PROSPECTIVE
15 JUROR OR THE JUROR'S EMPLOYER, THE JURY COMMISSIONER OR THE CLERK SHALL
16 GRANT A POSTPONEMENT TO A PERSON SUMMONED TO PETIT JURY SERVICE IF:

17 (1) THE PERSON'S EMPLOYER HAS NOT MORE THAN 10 FULL-TIME
18 EMPLOYEES; AND

19 (2) ANOTHER EMPLOYEE OF THE SAME EMPLOYER HAS BEEN
20 SUMMONED TO APPEAR FOR GRAND JURY OR PETIT JURY SERVICE FOR THE SAME
21 PERIOD.

22 (B) THE JURY COMMISSIONER OR THE CLERK MAY REQUIRE
23 DOCUMENTATION OF THE EMPLOYER'S NUMBER OF FULL-TIME EMPLOYEES AND
24 THE ISSUANCE OF A PETIT JURY SUMMONS TO THE OTHER EMPLOYEE.

25 (C) A POSTPONEMENT GRANTED UNDER THIS SECTION MAY NOT AFFECT A
26 PERSON'S RIGHTS UNDER § 8-209.1 OF THIS SUBTITLE.

27 8-210.

28 (a) (1) Any person summoned for jury service ON A GRAND JURY may be
29 excused by the jury judge if the person shows that undue hardship, extreme
30 inconvenience, or public necessity require [his] THE excuse, but only for the period
31 the jury judge deems necessary.

32 (2) At the conclusion of this period the person shall be summoned again
33 for jury service under the provisions of § 8-208 of this [title] SUBTITLE.

34 (B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
35 MEANINGS INDICATED.

36 (II) "UNDUE OR EXTREME FINANCIAL HARDSHIP" MEANS THE
37 PROSPECTIVE JUROR, BY SERVING AS A JUROR, WOULD BE:

1 1. ABANDONING A PERSON UNDER THE PERSONAL
2 SUPERVISION OR CARE OF THE PROSPECTIVE JUROR BECAUSE OF THE
3 IMPOSSIBILITY OF FINDING A SUBSTITUTE CAREGIVER FOR THE PERIOD OF THE
4 JURY SERVICE; OR

5 2. INCURRING COSTS THAT WOULD HAVE A SUBSTANTIAL
6 ADVERSE EFFECT ON THE PAYMENT OF THE PROSPECTIVE JUROR'S DAILY LIVING
7 EXPENSES OR ON AT LEAST ONE INDIVIDUAL FOR WHOM THE PROSPECTIVE JUROR
8 PROVIDES THE PRINCIPAL MEANS OF SUPPORT.

9 (III) "UNDUE OR EXTREME PHYSICAL HARDSHIP" MEANS A MENTAL
10 OR PHYSICAL CONDITION OF A PROSPECTIVE JUROR OR A PERSON UNDER THE
11 PERSONAL SUPERVISION OR CARE OF THE PROSPECTIVE JUROR THAT CAUSES THE
12 PROSPECTIVE JUROR TO BE INCAPABLE OF PERFORMING JURY SERVICE BECAUSE
13 SERVICE WOULD RESULT IN ILLNESS OR DEATH TO THE PROSPECTIVE JUROR OR TO
14 THE PERSON UNDER THE PERSONAL SUPERVISION OR CARE OF THE PROSPECTIVE
15 JUROR.

16 (2) (I) AFTER JULY 1, 2006, ANY PERSON SUMMONED FOR JURY
17 SERVICE FOR A PETIT JURY MAY BE EXCUSED BY THE JURY JUDGE IF THE PERSON
18 SHOWS THAT UNDUE OR EXTREME PHYSICAL OR FINANCIAL HARDSHIP REQUIRE
19 THE PERSON'S EXCUSE, BUT ONLY FOR THE PERIOD THE JURY JUDGE DEEMS
20 NECESSARY.

21 (II) AT THE CONCLUSION OF THIS PERIOD THE PERSON SHALL BE
22 SUMMONED AGAIN FOR JURY SERVICE UNDER THE PROVISIONS OF § 8-208 OF THIS
23 SUBTITLE.

24 (III) A PERSON MAY NOT BE EXCUSED UNDER THIS SUBSECTION
25 SOLELY BECAUSE THE PROSPECTIVE JUROR WOULD BE REQUIRED TO BE ABSENT
26 FROM THE PROSPECTIVE JUROR'S EMPLOYMENT FOR THE PERIOD OF SERVICE.

27 (3) A JURY JUDGE MAY REQUIRE DOCUMENTATION UNDER THIS
28 SUBSECTION THAT INCLUDES:

29 (I) FEDERAL AND STATE INCOME TAX RETURNS;

30 (II) A STATEMENT FROM A LICENSED PHYSICIAN;

31 (III) PROOF OF DEPENDENCY OR GUARDIANSHIP; AND

32 (IV) OTHER DOCUMENTS ESTABLISHED BY THE MARYLAND RULES
33 AS BEING SATISFACTORY DOCUMENTATION.

34 [(b)] (C) Any person summoned for jury service may be excused from a
35 particular jury:

36 (1) In accordance with rule or law if more jurors are summoned than are
37 required to be impaneled in a particular case;

1 (2) By the court after a determination that the person may be unable to
2 render impartial jury service or that [his] THE PERSON'S service would be likely to
3 disrupt the proceedings;

4 (3) By the court after a determination that the juror's service may
5 threaten the secrecy of the proceedings or otherwise adversely affect the integrity of
6 the jury deliberations; but a person may not be excused on this ground unless the
7 court states on the record its reasons for the excuse and its determination that the
8 excuse is warranted and will not be inconsistent with §§ 8-102 and 8-103 of this title;

9 (4) By a party upon peremptory challenge as provided by rule or law; or

10 (5) By the court upon a challenge by a party for good cause shown.

11 [(c)] (D) A person may not be disqualified, excused, or excluded from service
12 in a particular case as a juror of the State by reason of [his] THE PERSON'S beliefs
13 against capital punishment unless such belief would prevent [his] THE PERSON
14 returning an impartial verdict according to law.

15 [(d)] (E) No person or class of person may be disqualified, GRANTED A
16 POSTPONEMENT IN THE CASE OF PETIT JURY SERVICE, excused, or exempted from
17 service as a juror except under this section [or], § 8-209, § 8-209.1, OR § 8-209.2 of this
18 [title] SUBTITLE.

19 [(e)] (F) Any person excused from jury service or from a particular jury under
20 subsection (a), (b), [or] (c), OR (D) of this section is eligible to sit on another jury if the
21 basis for [his] THE PERSON'S excuse is not relevant to [his] THE PERSON'S ability to
22 serve on the other jury.

23 [(f)] (G) When a person is disqualified or excused from jury service, the jury
24 commissioner or clerk shall note the specific reason in the space provided on [his]
25 THE PERSON'S juror qualification form or on the juror's card drawn from the qualified
26 jury wheel.

27 8-401.

28 (a) An employer who violates the provisions of § 8-105 of this title may be
29 fined not more than \$1,000.

30 (b) A person summoned to fill out a juror qualification form, or a person
31 summoned for jury service who fails to appear or complete jury service as directed,
32 shall be ordered by the court to appear forthwith and show cause for his failure to
33 comply with the summons. A person who fails to show good cause for his
34 noncompliance with the summons is subject to a fine of not more than \$100 or
35 imprisonment for not more than three days, or both for each infraction.

36 (c) A person who willfully misrepresents a material fact on a juror
37 qualification form for the purpose of avoiding or securing service as a juror is subject
38 to a fine of not more than \$500 or imprisonment for not more than 30 days.

1 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
2 Act or the application thereof to any person or circumstance is held invalid for any
3 reason in a court of competent jurisdiction, the invalidity does not affect other
4 provisions or any other application of this Act which can be given effect without the
5 invalid provision or application, and for this purpose the provisions of this Act are
6 declared severable.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
8 construed to apply only prospectively and may not be applied or interpreted to have
9 any effect on or application to service on any petit jury before July 1, 2006.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2005.