

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1171

Introduced by Sanders, 45.

Read first time January 19, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Jury Selection Act; to amend sections
- 2 25-1647, 25-1648, and 25-1678, Revised Statutes Cumulative
- 3 Supplement, 2020; to make the clerk of the district court ex officio
- 4 jury commissioner in all counties; to change provisions relating to
- 5 compensation of the jury commissioner in certain counties; to
- 6 harmonize provisions; to provide an operative date; and to repeal
- 7 the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-1647, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 25-1647 (1) In each county of the State of Nebraska, the clerk of
4 the district court shall serve as the ~~there shall be a~~ jury commissioner.

5 ~~(2) In counties having a population of not more than seventy five~~
6 ~~thousand inhabitants, the clerk of the district court shall be jury~~
7 ~~commissioner ex officio.~~

8 ~~(3) In counties having a population of more than seventy five~~
9 ~~thousand and not more than two hundred thousand inhabitants, the jury~~
10 ~~commissioner shall be a separate office in the county government or the~~
11 ~~duties may be performed, when authorized by the judges of the district~~
12 ~~court within such counties, by the election commissioner. The jury~~
13 ~~commissioner shall receive an annual salary of not less than one thousand~~
14 ~~two hundred dollars.~~

15 ~~(2) (4) In counties having a population in excess of one ~~two~~ hundred~~
16 ~~seventy-five thousand inhabitants, the judges of the district court~~
17 ~~within such counties shall determine whether the clerk of the district~~
18 ~~court will receive additional compensation to perform the duties of jury~~
19 ~~commissioner. The ~~without additional compensation or the election~~
20 ~~commissioner will be jury commissioner ex officio. If the jury~~
21 ~~commissioner is to receive a salary, the amount of any such additional~~
22 ~~compensation the salary shall be fixed by the judges of the district~~
23 ~~court in an amount not to exceed three thousand dollars per annum.~~~~

24 ~~(3) (5) In all counties the necessary expenses incurred in the~~
25 ~~performance of the duties of jury commissioner shall be paid by the~~
26 ~~county board of the county out of the general fund, upon proper claims~~
27 ~~approved by one of the district judges in the judicial district and duly~~
28 ~~filed with the county board.~~

29 ~~(4) (6) In all counties the jury commissioner shall prepare and file~~
30 ~~the annual inventory statement with the county board of the county of all~~
31 ~~county personal property in his or her custody or possession, as provided~~

1 in sections 23-346 to 23-350.

2 (5) ~~(7)~~ This section shall be so interpreted as to effectuate its
3 general purpose, to provide, in the public interest, adequate
4 compensation for the jury commissioner and to permit a change in such
5 salary as soon as the change may become operative under the Constitution
6 of Nebraska.

7 Sec. 2. Section 25-1648, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 25-1648 ~~(1) A majority of the judges of the district court may by~~
10 ~~order direct the clerk of the court to furnish such assistance to the~~
11 ~~jury commissioner as the judges may find necessary.~~

12 (1) ~~(2)~~ The jury commissioner shall appoint a deputy jury
13 commissioner from the regular employees of his or her office who shall
14 serve ex officio and who shall hold office during the pleasure of the
15 jury commissioner. The deputy jury commissioner shall be approved by the
16 judge or judges of the district court before taking office. The deputy
17 jury commissioner, during the absence of the jury commissioner from the
18 county or during the sickness or disability of the jury commissioner,
19 with the consent of such judge or judges, may perform any or all of the
20 duties of the jury commissioner.

21 (2) ~~(3)~~ If there are no regular employees of the office of jury
22 commissioner, he or she may appoint some other county officer or employee
23 thereof as deputy jury commissioner.

24 Sec. 3. Section 25-1678, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 25-1678 (1) A party may move to stay the proceedings, to quash the
27 entire jury panel or jury list, or for other appropriate relief on the
28 ground of substantial failure to comply with the Jury Selection Act in
29 selecting the grand or petit jury. Such motion shall be made within seven
30 days after the moving party discovered or by the exercise of diligence
31 could have discovered the grounds for such motion, and in any event

1 before the petit jury is sworn to try the case.

2 (2) Upon a motion filed under subsection (1) of this section
3 containing a sworn statement of facts which, if true, would constitute a
4 substantial failure to comply with the Jury Selection Act, the moving
5 party is entitled to present, in support of the motion, the testimony of
6 the jury commissioner ~~or the clerk~~, any relevant records and papers not
7 public or otherwise available which were used by the jury commissioner ~~or~~
8 ~~the clerk~~, and any other relevant evidence. If the court determines that
9 in selecting either a grand jury or a petit jury there has been a
10 substantial failure to comply with the Jury Selection Act, the court
11 shall stay the proceedings pending the selection of the jury in
12 conformity with the act, quash an entire jury panel or jury list, or
13 grant other appropriate relief.

14 (3) The procedures prescribed by this section are the exclusive
15 means by which the state, a person accused of a crime, or a party in a
16 civil case may challenge a jury on the ground that the jury was not
17 selected in conformity with the Jury Selection Act.

18 (4) The contents of any records or papers used by the jury
19 commissioner ~~or the clerk~~ in connection with the selection process and
20 not made public under the Jury Selection Act shall not be disclosed,
21 except in connection with the preparation or presentation of a motion
22 under subsection (1) of this section, until after all persons on the jury
23 list have been discharged. The parties in a case may inspect, reproduce,
24 and copy the records or papers at all reasonable times during the
25 preparation and pendency of a motion under subsection (1) of this
26 section.

27 (5) Whenever the entire jury list is quashed, the court shall make
28 an order directing the jury commissioner to draw a new key number in the
29 manner provided in section 25-1653 and prepare a new master key list in
30 the manner provided in section 25-1654. The jury commissioner shall
31 qualify and summon jurors from the new master key list as provided in the

1 Jury Selection Act.

2 Sec. 4. This act becomes operative on January 1, 2023.

3 Sec. 5. Original sections 25-1647, 25-1648, and 25-1678, Revised

4 Statutes Cumulative Supplement, 2020, are repealed.