



# *ENACTMENT NEWS*

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## House Bill 268

**Jury Service Reform  
Effective May 22, 2012**

House Bill 268 contains the recommendations of the Jury Service Committee of the Judicial Conference. The Jury Service Committee is co-chaired by Judge Reeve Kelsey of the Wood County Common Pleas Court and Judge Jeffery B. Keller of the Oregon Municipal Court.

Judges Kelsey and Keller, along with Jean Atkin, Esq., the previous Court Administrator for Lucas County Common Pleas Court and Tom Shields, the Jury Commissioner of Franklin County Municipal Court, gave testimony in support of this legislation before the Ohio House Judiciary & Ethics Committee and the Ohio Senate Judiciary Committee during the 129<sup>th</sup> General Assembly. The Jury Service Committee's recommendations are embodied in House Bill 268. Those recommendations were endorsed by the Executive Committee of the Ohio Judicial Conference and contained in its 2011-12 Legislative Platform.

House Bill 268 revises, updates, and modernizes relevant sections of the Ohio Revised Code that apply to jury service by eliminating gender-specific references, outdated terminology, and obsolete provisions. The bill also reorganizes sections, clarifies provisions, and replaces outdated practices with current or "best practices" in the field of jury service.

Highlights of House Bill 268 include the following changes:

- Permits municipal courts to set their own fees (1901.25)
- Establishes that a jury commissioner may be a court employee (2313.01)
- Authorizes courts to order the beginning date of the jury year (2313.05)
- Authorizes courts to order the number of jurors to be drawn or leave to commissioners discretion, adds that court can order a additional number of jurors at any time (2313.07)
- Establishes that questionnaires used for voir dire should have a prominent legend advising the juror of the right to request and have an in-camera interview, clarifies that counsel present at the in-camera hearing is that of the parties, not that a juror has counsel present. (2313.11 and 2313.18)
- Requires the court to file an order regarding the retention period for all documents/electronic media filed with commissioners of jurors. (2313.23)
- Authorizes courts in civil cases, where the jury is called but the case is settled, to tax incurred civil jury fees. (2335.28)

- Authorizes courts in criminal cases to assess jury fees as cost if defendant enters a plea of guilty or no contest less than 24 hours before the scheduled trial. (2947.23)

Attached is a comprehensive chart of the major changes enacted in House Bill 268. This chart was prepared by Jean Atkin, a longstanding member of the Ohio Judicial Conference’s Jury Service Committee and former Court Administrator of the Lucas County Common Pleas Court. The chart contains hyperlinks to the appropriate pages of the Act.

#### JURY MODERNIZATION BILL

New Section	Old Section	Section Title	Changes
<a href="#">1901.25</a>	Same	Selection and impaneling of Jury (Municipal Court)	Rather than requiring the same jury fee as set by the county commissioners for the common pleas court, the jury fee may be set by the municipal court
<a href="#">1907.28</a>	Same	Jury Selection (County Court)	Updates process for selection of jury – replaces “jury wheel, data processing storage drawer” with the term “jury list.”
<a href="#">2101.30</a>	Same	Jury drawing (Probate Court)	Specifies that the drawing of jurors is to be from the annual jury list by the jury commissioners. Maintains service of summons by sheriff.
<a href="#">2311.42</a>	Same	Jury from adjoining county	Includes both Clerk and jury commissioners in order by court from an adjoining county to draw jurors and provides for jury compensation to be <u>the greater of the compensation provided in the adjoining county</u> or \$3 for each day or service and mileage. Provides that the commissioners or sheriff may summon jurors.
<a href="#">2313.01</a>	Same	Commissioners of jurors	Clarifies that the appointment of the commissioners of jurors is by the general division of the court of common pleas, that jury commissioners may be court employees and that commissioners may examine under oath persons called for trial as to his/her qualifications to serve as a juror.
<a href="#">2313.02</a>	Same	Compensation and duties of <del>deputies</del> deputy commissioners	Eliminated language re: payment on monthly basis. Expanded duties deputies may perform when given written authorization by the jury commissioners.
<a href="#">2313.03</a>	Same	Oath of office	Changed the wording of the oath to be taken by jury commissioners and deputies. New oath “I do solemnly swear (or affirm) that I will honestly and faithfully discharge the duties of a commissioner of jurors (or deputy commissioner

			of jurors) without fear or favor; and that I will report to the court the names of any and all persons who, in any manner, seek by request, hint or suggestion to influence me in the selection of jurors, and this I do as I shall answer to God (or “this I shall do under the pains and penalties of perjury”). Language removed from oath included not selecting person solicited to name as a juror or persons believed to be unfit or likely to render a partial verdict.
<a href="#">2313.04</a>	2313.05	Office and supplies	Updates the examples of necessary items for the proper operation of the jury commission, including equipment and computer software, that must be provided by the county commissioners.
<a href="#">2313.05</a>	New	The jury year	The court must issue an order to specify the date for the beginning of the jury year and any division of the jury year into parts. <b>Eliminates the first Monday in August as the statutory beginning of the jury year (subject to change by court order).</b>
<a href="#">2313.06</a>	New	Annual jury source list compilation	Maintains requirement for a new <b>jury source</b> list each jury year but now the Board of Elections must provide a “current” voter list which eliminates the names of any person who has not voted in the last four years. Content of Board of Elections list is also modified. The BMV list includes persons from the county with regular driver licenses, commercial driver licenses and state identification cards. The option to use either the voter list or a combined voter/driver list is unchanged. The jury commissioners must remove the names of persons granted a permanent jury excuse <b>pursuant to §2313.14</b> and those who are disqualified from service under §2313.21. If a merged source list is used, the commissioner of jurors must remove duplicate names. A copy of the annual jury source list, in alphabetic order, must be filed with both the commissioner of jurors and the clerk of courts of the court of common pleas.
<a href="#">2313.07</a>	2313.19	Number of jurors drawn	The number of jurors to be drawn is to be fixed by court order. If the court doesn’t issue an order, the commissioners of jurors must determine the number of jurors to be drawn. <b>Also specifies that the court can order additional number of jurors to be drawn at anytime.</b>

<a href="#">2313.08</a>	2313.20	Notice of drawing	The notice of the drawing must still be published in a newspaper of general circulation in the county at least 6 days before the draw. The clerk ( <b>or clerk's deputy or designated represented</b> ) and at least one judge ( <b>or a designated representative</b> ) must be notified of the draw and attend the draw <b>with the commissioner (or designated deputy commissioner)</b> . The Sheriff no longer needs to be notified or attend the draw.
<a href="#">2313.09</a>	2313.21	Conducting the drawing	Permits use of manual, electronic or automated process for drawing jurors provided that each person on the annual jury source list has an equal, random probability of selection. The process used must be documented. The list drawn is the annual jury list. An alphabetic copy of the annual jury list must be filed with both the commissioners of jurors and the <b>clerk of court of the court of common pleas</b> .
<a href="#">2313.10</a>	2313.251	Service of summons	The commissioner of jurors, the clerk of courts, or the Sheriff may summon jurors. Email has been added to the authorized type of electronic notification. If the Sheriff has an interest in a case to be heard, only the commissioner of Jurors may summon jurors.
<a href="#">2313.11</a>	2313.38	Summoning of talesmen	The court may order the Sheriff or the commissioner of jurors to immediately summon the necessary number of jurors to appear at the time fixed by the court. Summoning a person known to be in or about the courthouse is not permitted without the consent of both parties.
<a href="#">2313.12</a>	Same	Obligation of Ohio citizens to serve as jurors	Retains language regarding the responsibility to serve as a trial juror when summoned, unless properly excused. The remainder of the previous section regarding documentation of jury excuses has been moved to §2313.14
<a href="#">2313.13</a>	2313.47	No unlawful discrimination against jurors	<b>Clarifies that the provision against unlawful discrimination against jurors applies to those compiling the jury source list or the annual jury list.</b>
<a href="#">2313.14</a>	2313.12 2313.16	Juror may be excused	Specifies that the commissioners of jurors, as well as judges, may excuse prospective jurors in accordance with statute. Changes time frame for a

			jury excuse from “up to 24 months” to “the remainder of the jury year”. This section now contains the language regarding the documentation or all excuses and postponements and the reason for an excuse. The grounds for granting an excuse are unchanged.
<a href="#">2313.15</a>	2313.13 2313.18	Juror may have service postponed or excused	Jurors retain ability to obtain postponement of service if contact is made with the court at least 2 business days prior to scheduled service. The postponement is to be to a date certain within the jury year. Under the previous statute, it was unclear whether or not jury service could be postponed to a date certain during the next jury year. The language regarding the temporary excuse of a juror for up to 3 days due to exigencies of the juror’s business and the provision for postponing the service of a juror who works for a small employer if another employee of that same employer has served within the last 30 days was moved to this section.
<a href="#">2313.16</a>	2313.41	Array may be set aside	The entire array, for either a petit or grand jury, may be set aside, if a challenge is made by any party, that Chapter 2313 was not followed or that a protected group has been systematically excluded from the jury selection process. No indictment is to be quashed or verdict set aside for irregularity in the selection of jurors if the jurors who heard the matter possessed the requisite qualifications to serve as jurors.
<a href="#">2313.17</a>	2313.42 2313.43	Causes for challenge of persons called as jurors	Makes language gender neutral and clarifies qualification to be a juror as a person who is 18 years of age or older, a resident of the county, and is “an elector or would be an elector” if registered to vote. Retains language regarding reasons a juror may be challenged.
<a href="#">2313.18</a>	2313.11	Failure to testify – juror privacy	Adds that questionnaires used for voir dire should contain a prominent legend advising the juror of the right to request and have an in-camera hearing on the record, in the presence of counsel for the parties, regarding any legitimate privacy interest of the prospective juror. Clarifies that the counsel present at the in-camera hearing is that of the parties, not that a juror has counsel present.
<a href="#">2313.19</a>	2313.18	Employer may not penalize	Retains same prohibition against employer penalizing employee for jury duty and restrictions

		employee for being called to jury duty	on type of leave time employee may be required to use. Still does not require employer to pay employee during jury service. Moved the section regarding the postponement of a juror working for a small employer to §2313.15. Moved penalty for employer who violates this section to §2313.99.
<a href="#">2313.20</a>	2313.29	Failure of juror to attend	Continues to state that no prospective juror is to fail to appear for jury service as notified. Moved penalty section to §2313.99
<a href="#">2313.21</a>	2313.34	Discharge of juror	Minimal, non-substantive language change. Maintains that juror who has served more than 2 consecutive weeks must be discharged at conclusion of the current trial until the second jury year after the end of service [and in accordance with §2313.06 be removed from the annual jury source list for the applicable time period]. Continues to allow courts in counties of less than 100,000 population to make a different rule.
<a href="#">2313.22</a>	2313.34	Compensation of juror	Minimal, non-substantive language change. Note that under revised §1901.25, municipal courts have been given the authority to set jury fees for that court. Previously, municipal courts were to pay the same fee as set by the county commissioners.
<a href="#">2313.23</a>	New	Maintenance of records	New section addressing record retention. Court required to file an order regarding the retention period for all documents and electronic media filed with the commissioners of jurors. Must comply with the Rules of Superintendence for the Courts of Ohio.
<a href="#">2313.24</a>	2313.46	Jurors in inferior courts not affected	Minimal, non-substantive language change.
<a href="#">2313.99</a>	Same	Penalty	Updates the section code references. Contempt under Chapter 2705 is penalty for juror failure to testify, employer penalizing employee for jury service and failure of juror to appear as notified. A violation of §2313.13 (No unlawful discrimination against jurors) may result in a fine of \$50 - \$500, jail of 30 – 90 days, or both. Language was added that fines assessed against jurors are to be paid to the county treasury and distributed as other fines.

<a href="#">2335.28</a>	Same	Jury fees in civil actions to be taxed as costs	In civil cases where the jury is sworn and a verdict is returned, the court shall tax the jury fees as costs unless the court determines that such action would not be in the interest of justice. Financial hardship is no longer a valid reason to waive jury fees as a cost. Adds the ability of the court to tax incurred civil jury fees when a jury is called but the case is settled or does not go forward.
<a href="#">2938.05</a>	Same	Withdrawal of jury demand	Allows the court to assess the cost of the summoned jury.
<a href="#">2939.02</a>	Same	Grand jury selection and composition	Updates language to reflect provisions of revised Chapter 2313. Requires random draw of grand jurors from the annual jury list.
<a href="#">2939.03</a>	Same	Grand juror drawing, notifications, exemptions	Updates language to reflect provisions of revised Chapter 2313.
<a href="#">2947.23</a>	Same	Costs and jury fees – community service to pay judgment	Continues to permit courts, in criminal cases, to assess jury fee cost if the defendant fails to appear. Adds the ability of the court to assess jury fees as a cost if a defendant enters a plea of guilty or no contest less than 24 hours before the scheduled commencement of the trial.