

ACT 92

H.B. NO. 2304

A Bill for an Act Relating to Juror Privacy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that individuals have a constitutional right to privacy which includes the right to informational privacy. Government agencies collect a great deal of personal information that individuals would not wish to be made publicly accessible.

The legislature further finds that citizens summoned for jury duty are required to divulge highly personal information. The information collected by the courts from prospective jurors serves multifaceted purposes. Some information is used administratively making it possible for court staff to communicate with jurors, and to provide juror compensation. Other information is used to determine whether an individual is disqualified or exempted from jury service. Finally, other information is used to facilitate the jury selection process by giving the parties access to general information regarding prospective jurors. Although the information gathered serves legitimate purposes, not all information may be relevant to the fairness or impartiality of prospective jury panels, nor should such mandated information be publicly accessible.

The purpose of this Act is to balance the legitimate privacy expectations of citizens summoned for jury service, with the right of litigants to a fair and impartial jury, while not diminishing the right of the public and the press to open court proceedings.

SECTION 2. Section 612-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Whoever has custody, possession, or control of any of the lists [~~which are to be~~] used in compiling the master list, shall make the list available to the clerk for inspection, reproduction, and copying at all reasonable times.”

SECTION 3. Section 612-13, Hawaii Revised Statutes, is amended to read as follows:

“**§612-13 Juror qualification form.** (a) The clerk shall prepare an alphabetical list of the names in the master jury wheel, which shall not be disclosed to any person other than pursuant to this chapter or specific order of the court. The clerk shall mail to every name on [~~sueh~~] the list a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The form shall be subject to approval by the court as to matters of form and shall elicit the name, address of resident, age of the prospective juror, other information pertinent to disqualification or exemption from jury service, and [~~sueh~~] any other matters as may be ordered by the court. The form [~~shall~~] also shall contain the prospective juror’s declaration that the prospective juror’s responses are true to the best of the prospective juror’s knowledge and the prospective juror’s acknowledgment that a wilful misrepresentation of a material fact may be punished by a fine of not more than \$500 or imprisonment for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for the prospective juror and shall indicate that the person has done so and the reason therefor. Upon failure or refusal of any person duly receiving the juror qualification form to complete and return it as required, or in case of an omission, ambiguity, or error in a returned form,

the court, after first summoning the person to appear before the clerk to complete or correct the form, may punish the person for contempt.

(b) At the time of the prospective juror's appearance for jury service, or at the time of any interview before the court or clerk, any prospective juror may be required or permitted to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to the prospective juror's responses to questions contained on the form and grounds for the prospective juror's exemption, excuse, or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

(c) Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a petty misdemeanor.

(d) Juror qualification forms shall not be deemed a public record, nor shall they become part of the court record unless the court so orders and places under the seal of the court; provided that a redacted form may be disclosed:

- (1) To the litigants pursuant to section 612-17(c); or
- (2) When permitted in accordance with section 612-23."

SECTION 4. Section 612-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every year the clerk of each circuit shall make and file, not later than January 5, one or more certified lists of the names and addresses of fifty citizens, or [sueh] a greater number as the court may order, subject to serve as grand jurors during the ensuing year from and after January 15. Every year the clerk of each circuit shall likewise make and file, not later than December 20, a separate certified list of the names and addresses of citizens subject to serve as trial jurors during the ensuing year, from and after January 1, the number for each circuit [tø] shall be [sueh] as the clerk considers necessary. The certified lists of grand jurors and trial jurors shall be compiled from names drawn at random from the qualified jury wheel, and shall be prepared in alphabetical sequence. Upon the order of the court, from time to time, additional lists of persons subject to serve as grand jurors shall be compiled and filed, and additional names shall be added to a grand or trial jury list; provided that all [sueh] additions shall be made by drawing from the qualified jury wheel for the appropriate year. When more than one grand jury list has been compiled, the sequence in which the lists are to be used shall be designated by the clerk according to the sequence of drawing. The names on the certified lists shall be open to public inspection, after redaction of addresses and other personal information and identifiers, subject to orders of the court."

SECTION 5. Section 612-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Whenever a judge requires the services of a trial jury for use in proceedings before the judge or any other judge of the circuit, the judge may order the required number of jurors from the clerk. Upon receipt by the judge of the envelopes containing the juror qualification forms, they shall be made available to the litigants concerned[-]; provided that the jurors' social security number, driver's license number and home and business telephone numbers are first redacted. Litigants and their attorneys shall not further divulge the forms or the contents of the forms except when questioning prospective jurors in conjunction with the juror selection process."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 31, 2002.)