

In the Matter of the Amendment of**Rules of Pleading, Practice and Procedure:****PETITION****Wis. Stats. Ch. 756, Juries**

The Director of State Courts hereby petitions the Supreme Court to amend Wis. Stats. ch. 756, Juries, pursuant to the court's rulemaking authority under Wis. Stats. s. 751.12. This petition is submitted on behalf of the Committee of Chief Judges and the Chief Judge Subcommittee on Juror Treatment and Selection. The goal of this rule change is to improve and clarify provisions governing the management of jurors in the circuit courts.

Background

In 1994, the Supreme Court requested the Judicial Council to identify what changes in rule or statute would be required to implement the American Bar Association Standards Relating to Juror Use and Management and to bring Wisconsin practice into compliance with current theories of best practices. Three petitions were submitted to the Supreme Court, all of which were adopted, effective July 1, 1997, (Orders 95-11, 96-05, 96-08). The petitions significantly re-worked ch. 756 and created SCR 73. The new rule set forth a requirement that each court annually evaluate the jury system using five measures. The amendments to ch. 756 focused on modernizing the terminology and structure, changing the period jurors are eligible to serve and the length of service, preparing prospective juror lists, selecting jurors, and renumbering and revising the provisions for grand jury and inquest jury selection and service.

In 1998, on the recommendation of the Wisconsin Records Management Committee, the Director of State Courts presented another petition to the Supreme Court. This petition would have provided for increased confidentiality of juror personal identifying information by referring to jurors by number alone and no longer permitting counsel to elicit personal identifying information from jurors during voir dire. Although the petition was denied, Order 98-08 contained the following language: "...the court stated that while it decided to deny the petition as filed, it would consider alternatives to address issues of confidentiality of personal identifying information of jurors..."

In 2000, a delegation from Wisconsin attended the National Association for Court Management conference in Kansas City, returning with a number of jury-related topics of concern. Included was the problem of how address errors in the source list provided by the state Department of Transportation might result in the potential for bias in the selection process. The Chief Judge Subcommittee on Juror Treatment and Selection was formed and its action plan was approved by the Judicial Conference on September 8, 2000; to assist judges and clerks through education and guidance to implement reforms and improve administration, to work with CCAP and the Records Management Committee to improve automation support and forms, and to monitor innovations in other states to suggest application in Wisconsin where appropriate.

The Subcommittee reported back to the Committee of Chief Judges in June, 2006. The report again reviewed current practices and measured them against ABA Standards and reforms being implemented in courts across the country. It recommended: 1) implementing means and methods of increasing minority representation in those jurisdictions where it may be a concern, either through rule, policy or legislation; and 2) developing a plan for improved juror privacy.

The Subcommittee researched existing Wisconsin law on these topics and relevant laws in selected other states, conferred with jury management experts in the National Center for State Courts and solicited feedback from clerks and judges about areas where current law is not clear. The resulting changes were adopted by the Committee of Chief Judges on November 30, 2007 and are now presented in this petition.

Highlight of Changes

For the revised chapter to read in a comprehensible, logical manner, many provisions were re-ordered into a new sequence. A definitions section has been added for the first time and the new definitions used throughout the chapter.

The petition does not request substantive changes in:

- State policy on the obligation and opportunity to serve;
- Juror qualifications;
- Excuse and deferral provisions;
- Insufficient jurors;
- Oaths and affirmations;
- Juror fees and mileage reimbursements;
- Juror leaves of absence from work;
- Length of service and periods of eligibility; or
- Summons, when and how issued.

The petition does request substantive changes to:

- Penalties;
- Jury selection;
- Juror lists, how compiled and maintained; and

- Juror privacy.

Penalties: In the penalties section (Wis. Stats. s. 756.30), the fine of \$40 for failure to appear when summoned (unchanged since at least 1969) has been increased to match the existing \$500 forfeiture for failure to return a questionnaire or willfully misrepresent information on the questionnaire. The section on fraud, s. 756.30(2), has not been changed but merely moved into a separate section. The new language clarifies how the forfeiture is to be imposed (by the court) and to where payments are directed (to the clerk of court to offset juror fees). Over the years there has been much discussion among judges and clerks as to who had, or did not have, the authority to apply these sanctions. Some judges felt a District Attorney or Corporation Counsel must initiate action to prosecute before the penalties could be applied, while others felt this was within the authority of the court. The purpose of this change is to provide courts clear direction on this process to maintain the integrity of the jury summoning process and treat citizens consistently across counties.

Jury selection: The jury selection section (Wis. Stats. s. 756.06) has been modified to reflect the decision of the court in *State v Hansford*, 219 Wis. 2d 226 (1998) which held that a six-person jury in a misdemeanor case was unconstitutional. Therefore 756.06(2)(am) is changed to a 12-person jury.

Juror lists: Much of the Subcommittee's discussion has revolved around meeting the mandate of SCR 73.01(1), to ensure that the juror list used is representative and inclusive of the population of each circuit. This petition proposes to address this issue by improving the accuracy of the addresses of potential jurors to decrease undeliverable returns and thereby increase the level of representation for each cognizable group. A comparison of demographic characteristics between

the United State's Census and the list of potential jurors, as provided by the Department of Transportation to each circuit court under current rules, demonstrates that the current source list adequately reflects the population in each county. But after the qualification and summoning process, counties with a measurable percentage of racial minority groups show a drop in the level of those groups. This does not appear to be wholly due to disproportionate disqualification pursuant to eligibility requirements, nor did the Subcommittee find any deliberate policy decisions or operational mechanisms resulting in bias. The reduced representation occurs primarily through return of undeliverable mail and failures to appear.

To correct this, two approaches were considered. The first is stratified, or targeted, summoning. This process identifies geographic areas believed to have a higher concentration of the under-represented minority group. A proportionate increase in mailings is then sent to that area to obtain the appropriate number of responses. This process has been used in some jurisdictions across the country, where allowed by law, including the Eastern District of Wisconsin federal court. It has been criticized for violating the tenets of maintaining an equal opportunity to be selected and randomness in selection. It is also lacking in exactness, as zip code identifiers needed to target mailing do not precisely track with the boundaries of minority neighborhoods. A second method, proposed in the petition, is to improve the currency of the addresses used on the original mailings. Improving the currency of the source list was recommended by the National Center for State Courts, rather than the use of stratified or targeted summoning.

The Department of Transportation (DOT) list is inherently inclusive; it has more names across social and economic lines than any other list the Subcommittee could identify. To improve the currency of addresses, this petition proposes that the court supplement the DOT list with other

state lists having better currency. A number of lists have more current addresses because they require more frequent renewal or provide some incentive for keeping in touch with the agency.

The suggested lists are:

1. a list of registered voters provided by the State Elections Board.
2. a list of all natural persons filing a state tax form provided by the Department of Revenue.
3. a list of child support payors and payees provided by the Department of Workforce Development.
4. a list of recipients of unemployment compensation provided by the Department of Workforce Development.
5. a list of persons residing in Wisconsin approved or licensed by the Department of Natural Resources.

Under the proposed rule, the DOT list will be used as the base list. If a potential juror does not appear on the DOT list the name will be added. If a potential juror appears on the DOT list and a supplemental list, the address from the list with better currency will be used. Duplicate names will be screened out. The merger will be implemented by decision of the Director of State Courts, done at the state level, and performed by the Consolidated Court Automation Program (CCAP).

Because formatting differences between potential additional source lists makes accurate matching of names difficult based on currently available data fields of address, name and birth date, a unique piece of identifying information is needed for each potential juror to make sure they are not used more than once. The social security number has been selected as being

common to multiple lists, but authorization to use the social security number is required. Protection of the confidentiality of the social security number is included in the proposal.

Juror privacy: There are increasing concerns in society concerning the use and release of personal identifying information such as home address, phone numbers, employers and information on family members. A court must obtain the information necessary to legally qualify a potential juror for service. Some courts in Wisconsin, although not all, have developed the tradition of requesting supplemental information such as noted above for use by attorneys during voir dire. The petition allows for the collection of this information and its use by attorneys during voir dire, but protects the privacy of jurors by returning the information to the court at the conclusion of voir dire. Once voir dire is complete, all qualification forms and any supplemental information a court requests of potential jurors shall be confidential and released only upon the order of the court upon a showing of good cause. This is in compliance with Principle 7.A.8 of the *ABA Principles Relating to Juries and Jury Trials* (2005).

Unlike elected officials and other government employees who choose a career in public service, jurors are private citizens summoned to participate in public service. In its report on *The State of the States Survey of Jury Improvement Efforts*, the National Center for State Courts, Center for Jury Studies says, “They (jurors) do not, therefore, automatically surrender expectations of privacy. In particular, they have a right to expect that personal information will be disclosed only to those individuals with a legitimate need for it. To meet those expectations, courts have increasingly placed restrictions on the information that prospective jurors are required to disclose and to whom that information may be subsequently released.” The Center for Jury Studies states that more than one-third of courts report they do not even provide attorneys with a full street

address. More than one-quarter report they provide no address information on jurors at all. This petition provides attorneys in voir dire full information, but joins the trend to increased privacy by limiting the public list of jurors to name, and village, town or city of residence.

Conclusion

The proposed provisions changing Chapter 756 will give the courts the tools to improve the administration of the jury system and better serve the citizens called to serve. The authorization permitting better, merged source lists can decrease undeliverable returns, increasing participation by minority groups. Clarifying the penalties for failure to comply will make the sanctions consistent and protects the integrity of the summoning process. The plan for protecting the privacy of jurors' personal information will enhance the likelihood of honest participation, without hindering the voir dire process.

Respectfully submitted this _____ day of January, 2008.

A. John Voelker
Director of State Courts

CHAPTER 756

JURIES

756.001 State policy on jury service; opportunity and obligation to serve as juror.

756.01 Definitions.

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756.001 State policy on jury service; opportunity and obligation to serve as juror. (1) Trial by jury is a cherished constitutional right.

(2) Jury service is a civic duty.

(3) No person who is qualified and able to serve as a juror may be excluded from that service in any court of this state on the basis of sex, race, color, sexual orientation as defined in s. 111.32

(13m), disability, religion, national origin, marital status, family status, lawful source of income, age or ancestry or because of a physical condition.

(4) All persons selected for jury service shall be selected at random from the population of the area served by the circuit court. All qualified persons shall have an equal opportunity to be considered for jury service in this state and the obligation to serve as jurors when summoned under this chapter for that purpose. Any manual or automated method of selection that provides each qualified person with an equal probability of selection for jury service or that provides each prospective juror with an equal opportunity for assignment to a particular trial may be used.

(5) The presiding judge of each circuit court, or, if there is none, the circuit judge designated by the chief judge to supervise the jury system, shall be responsible for administering the jury system in that court and shall discharge that duty in an efficient, equitable and cost-effective manner, in accordance with this chapter. The clerk of circuit court, if delegated by and under the supervision of the judge responsible for administering the jury system, may select and manage juries under policies and rules established by the judges in that circuit court.

756.01 Definitions.

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

(2) “Jury venire” means the jurors summoned for a date-specific term of service.

(3) “Jury panel” means the jurors present for voir dire in a specific case.

(4) “Jury” means the jurors and alternates sworn to hear a trial.

756.02 Juror qualifications. Every resident of the area served by a circuit court who is at least 18 years of age, a U.S. citizen and able to understand the English language is qualified to serve as a juror in that circuit unless that resident has been convicted of a felony and has not had his or her civil rights restored.

756.03 Excuse; deferral. (1) EXCUSE. The court to which a person is summoned for jury service may excuse the person from jury service if the court determines that the person cannot fulfill the responsibilities of a juror. The court shall not consider any structural limitations of a facility when making that determination.

(2) DEFERRAL. The court to which a person is summoned for jury service may, upon request of that person, defer to a later date set by the court the period in which the person must serve if the court determines that service as a juror would entail undue hardship, extreme inconvenience or serious obstruction or delay in the fair and impartial administration of justice.

(3) CLERK AUTHORIZED TO GRANT. The judge responsible for administering the jury system in the circuit court may authorize the clerk of circuit court to grant excuses or deferrals under this section. The authorization may limit the grounds on which the clerk of circuit court may grant the excuse or deferral and may require persons seeking an excuse or deferral to document the basis for any excuse or deferral.

756.04 Prospective juror lists; number; how compiled.

(1) In this section:

~~(a) "Department" means the department of transportation.~~

~~(b) "Department list" means a compilation of information prepared by the department that includes the name, address, date of birth, race and gender of each person 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.~~

~~(c) "Race" means African American, American Indian or Alaskan Native, Asian or Pacific Islander, Caucasian, Hispanic, or other racial category.~~

~~(2)~~ (1) Jurors for all circuit courts shall be selected under ss. 756.04 to 756.07.

(2) (a) Each year, the Director of State Courts Office 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 and in a manner designed to meet the goals set forth in Supreme Court Rule 73.01.

(b) Each year, on a date agreed upon with the Director of State Courts Office, the Department of Transportation shall compile a list that includes the name, address, county, date of birth, race, gender, social security number, license 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. The Director of State Courts Office shall establish the format of the list by agreement with the department. The Department of Transportation shall transmit the list to the Director of State Courts Office, without charge.

(c) The Director of State Courts Office may use any of the following lists in addition to the Department of Transportation list in order to create the master list of potential jurors. The Director may request the following lists from their custodians each year:

1. a list of registered voters provided by the State Elections Board.

2. a list of all natural persons filing a state tax form provided by the Department of Revenue.

3. a list of child support payors and payees provided by the Department of Workforce Development.

4. a list of recipients of unemployment compensation provided by the Department of Workforce Development.

5. a list of persons residing in Wisconsin approved or licensed by the Department of Natural Resources.

(d) If the records listed in (c) are requested, the Director of State Courts shall 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. The agreement shall establish the format of the list and date of transmission of the list.⁸⁹

(e) The Director of State Courts shall enter into an agreement with the custodian of the records listed in (b) and (c) to match 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.

(f) No social security number shall be included in the lists of prospective jurors provided to the clerks of circuit court. All social security numbers shall be kept secure from unauthorized access and shall not be open to the public.

~~(3) Annually, on a date established by the secretary of transportation, the department shall transmit, without charge, to each clerk of circuit court a department list of persons residing in the area served by that circuit court. The department shall establish, by rule, uniform specifications regarding the size, format and content of computer tapes or other media used to prepare the department list.~~

~~(4) The clerk of circuit court shall compile the list of prospective jurors by selecting names at random from the department list or from a master list created under this subsection and sub. (5).~~

~~(5) (a) The clerk of circuit court may create a master list using the department list and any of the following:~~

- ~~1. Voter registration lists.~~
- ~~2. Telephone and municipal directories.~~

~~3. Utility company lists.~~

~~4. Lists of payers of real property taxes.~~

~~5. Lists of high school graduates who are 18 years of age or older.~~

~~6. Lists of persons who are receiving aid to families with dependent children under subch. III of ch. 49.~~

~~(b) To create a master list, the clerk of circuit court shall select randomly a sample of names from each source used. The same percentage of names shall be selected from each source used. The department list shall be the primary source, and the names selected from the department list shall be compared with the names from the 2nd source. Duplicate names shall be removed from the 2nd source sample and the remaining names shall be combined with the names selected from the department list to create the master list. If more than 2 source lists are used, this process shall be repeated, using the previously compiled master list for comparison with any additional source list.~~

(3) From the statewide master list created under sub. (2), the Director of State Courts Office shall provide each clerk of circuit court with a list of prospective jurors residing in the county to be used during the following year. The county lists shall be created by randomly selecting from the master list the number of names requested by the clerk of circuit court for that year. The Director of State Courts Office shall transmit the list of prospective jurors to each clerk, with a certification that the list was prepared in strict conformity with this chapter, including an identification of all sources used in the preparation of the list.

~~(6) (4) (a) Using the list of prospective jurors provided by the Director of State Courts Office,~~
~~The clerk of circuit court shall mail to every 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:

~~(a)~~ 1. Information necessary to determine if the person is qualified to serve as a juror in that circuit court.

~~(b)~~ 2. The race of the prospective juror.

~~(c)~~ 3. The prospective juror's declaration that the responses are true to the best of his or her knowledge.

~~(7)~~ (b) The juror qualification form shall be accompanied by instructions requiring the person to complete and return the form to the clerk within 10 days after receiving it. ~~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 form under ~~sub-~~(6) shall include a notice that, if the person willfully misrepresents a material fact, ~~or~~ fails to return the completed form within 10 days after its receipt, or fails to attend court without being excused by the court, the person may be required to forfeit not more than \$500.

(c) The form may be supplemented to request other information that the court needs to manage the jury system in an efficient manner, including information ordinarily sought during voir dire examination.

~~(8)~~ (d) If a prospective juror is unable to fill out the form ~~under sub-~~(6), 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 within 10 days after receiving the form.

~~(9)~~ (5)(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 shall strike from the list provided by the Director of State Courts the name of any person whose returned juror qualification form shows that the person is not qualified for jury service under s. 756.02.~~

(b) The clerk shall keep a certified copy of the array, indicating the city, village, or township of residence of each prospective qualified juror, for public inspection. Each year, the clerk 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.

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

(6)(a) The qualification form under (4)(a) and supplemental information under (4)(c) shall be made available to counsel and parties during voir dire. Once voir dire is complete and a jury has been selected for the trial, these records shall be returned to the court.

(b) A list of the names and city, village or township of residence of each juror sworn to a trial shall be retained in the court file. All qualification forms and supplemental information shall be confidential and released only upon order of the court upon a showing of good cause.

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 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.

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 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 ~~from the prospective juror list until the desired number is obtained.~~

(2) (a) A jury in a felony case shall consist of 12 persons unless both parties agree on a lesser number as provided in s. 972.02.

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

(b) Except as provided in par. (c) and ss. 980.05 (2) and (2m) (c), 980.09 (3), and 980.095 (1), a jury in a civil case shall consist of 6 persons unless a party requests a greater number, not to exceed 12. The court, on its own motion, may require a greater number, not to exceed 12.

(c) A jury in a case involving an offense for which a forfeiture may be imposed or in an inquest under s. 979.05 shall consist of 6 persons.

(d) This subsection does not apply to cases under ch. 938.

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.

756.08 Oaths and affirmations. (1) The jurors selected to try the issues in the action or proceeding shall take an oath or affirmation to try the issues submitted to them and, unless discharged by the court, to give a verdict according to the law and the evidence given in court.

(2) When the issues have been submitted to the jury, a proper officer, subject to the direction of the court, shall swear or affirm that the officer will keep all jurors together in some private and convenient place until they have agreed on and rendered their verdict, are permitted to separate or are discharged by the court. While the jurors are under the supervision of the officer, he or she may not permit them to communicate with any person regarding their deliberations or the verdict that they have agreed upon, except as authorized by the court.

756.25 Juror fees and mileage. (1) Every grand and petit juror summoned shall receive an amount, not less than \$16, as fixed by the county board, for each day of attendance, and an amount equal to the mileage rate set under s. 20.916 (8) for each mile traveled each day in going and returning by the most usual route. A juror may not be paid for a day when the court is not in session unless payment is ordered by the court.

(2) The county board may pay jurors by the half-day. The payment shall be for 50% of the established daily pay under sub. (1) and may not affect the payment for mileage.

(3) Notwithstanding subs. (1) and (2), if the judges in any circuit have established a system under s. 756.28 in which jurors are summoned to serve for only one day or one trial, the county board may determine the amount to be paid jurors for the first day of attendance and the amount to be paid jurors for traveling to and from the court for the first day of attendance.

(4) When a juror has completed his or her service, the clerk of circuit court shall promptly initiate the procedure for payment of the juror's fees and mileage under s. 59.64 (1) (g) 1.

756.255 Leave of absence. An employer shall grant an employee a leave of absence without loss of time in service for the period of jury service. For the purpose of determining seniority or pay advancement, the status of the employee shall be considered uninterrupted by the jury service. No employer may use absence due to jury service as a basis for discharging an employee or for any disciplinary action against the employee. An employer who discharges or disciplines an employee in violation of this section may be fined not more than \$200 and may be required to make full restitution to the aggrieved employee, including reinstatement and back pay. Except as otherwise provided in this section, restitution shall be in accordance with s. 973.20.

756.28 Length of juror service; periods of required availability. (1) ONE DAY OR ONE TRIAL. The judges in any circuit may establish a system in which a person summoned under s. 756.05 may not be required to serve or attend court for prospective service as a petit juror for more than one day in a specified period, unless more days are necessary to complete service in a particular case. The specified period may not be less than 2 nor more than 4 years. In circuits where judges have established such a system, a petit juror whose deliberation ends with a verdict may not be required to participate in a 2nd trial even though the juror may not have completed the first day of juror service at the time of commencement of the 2nd trial.

(2) GENERAL 4-YEAR ELIGIBILITY. In a county where a system has not been established under sub. (1), a person may be required to be available for service as a grand or petit juror only once in any 4-year period. The period for which any person may be required to be available for service may not exceed 31 consecutive days. No person may be required to serve, or attend court for prospective service, as a juror for a total of more than 5 days unless more days are necessary to complete service in a particular case.

756.30 Penalties. (1) Whoever does any of the following may be required to forfeit not more than \$500, which shall be imposed by the court, and be retained by the Clerk of Court to off-set juror fees:

(a) ~~Whoever~~ willfully misrepresents any material fact on a juror qualification form under s. 756.04 (6) 756.06(8) 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.~~

(b) Fails to return the completed qualification form within 10 days after receipt of the form.

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

756.31 Clerk of circuit court fraud.

~~(2) If the clerk of circuit court commits any fraud in the selection of jurors or prospective jurors, the clerk shall forfeit not more than \$500 for each offense.~~

~~(3) Any person lawfully summoned to attend as a juror who fails to attend without any sufficient excuse shall pay a fine not exceeding \$40, which shall be imposed by the court to which the person was summoned and shall be paid into the county treasury.~~