

HOUSE BILL NO. 5691

April 25, 2024, Introduced by Reps. Tsernoglou, Grant, Neeley, Hope, O'Neal, Dievendorf, Brenda Carter, Rheingans, Wilson, Farhat, MacDonell, Brabec, Rogers, Hood, Price, Andrews, McKinney and Scott and referred to the Committee on Criminal Justice.

A bill to amend 1961 PA 236, entitled
"Revised judiciary act of 1961,"
by amending section 1307a (MCL 600.1307a), as amended by 2023 PA
308, and by adding sections 1307b and 1356.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1307a. (1) To qualify as a juror, an individual must meet
2 all of the following criteria:

3 (a) Be a citizen of the United States, 18 years of age or
4 older, and a resident in the county for which the individual is

1 selected, and in the case of a district court in districts of the
2 second and third class, be a resident of the district.

3 (b) Be able to communicate in the English language.

4 (c) Be physically and mentally able to carry out the functions
5 of a juror. Temporary inability must not be considered a
6 disqualification.

7 (d) Not have served as a petit or grand juror in a court of
8 record during the preceding 12 months.

9 (e) Not ~~have been convicted of a felony.~~ **be currently**
10 **incarcerated or on probation or parole.**

11 (2) An individual more than 70 years of age may claim
12 exemption from jury service and must be ~~exempt~~ **exempted** upon making
13 the request.

14 (3) An individual who is a nursing mother may claim exemption
15 from jury service for the period during which she is nursing her
16 child and must be ~~exempt~~ **exempted** upon making the request if she
17 provides a letter from a physician, a lactation consultant, or a
18 certified nurse midwife verifying that she is a nursing mother.

19 (4) An individual who is a participant in the address
20 confidentiality program created under the address confidentiality
21 program act, 2020 PA 301, MCL 780.851 to 780.873, may claim
22 exemption from jury service for the period during which the
23 individual is a program participant. To obtain an exemption under
24 this subsection, the individual must provide the participation card
25 issued by the department of attorney general upon the individual's
26 certification as a program participant to the court as evidence
27 that the individual is a current participant in the address
28 confidentiality program.

29 (5) An individual who is a service member of the United States

1 Armed Forces may claim exemption from jury service for the period
2 during which the individual is on active duty and must be ~~exempt~~
3 **exempted** upon making the request of the court and providing a copy
4 of the service member's orders.

5 (6) An individual who is the spouse of a service member of the
6 United States Armed Forces may claim exemption from jury service
7 for the period during which the individual resides outside of this
8 state or the United States due to the service member's active duty
9 status. The spouse under this section must be ~~exempt~~**exempted** upon
10 making the request of the court and providing a copy of the service
11 member's orders.

12 (7) For the purposes of this section and sections 1371 to
13 1376, an individual has served as a juror if that individual has
14 been paid for jury service.

15 (8) As used in this section:

16 (a) "Certified nurse midwife" means an individual licensed as
17 a registered professional nurse under article 15 of the public
18 health code, 1978 PA 368, MCL 333.16101 to 333.18838, who has been
19 issued a specialty certification in the practice of nurse midwifery
20 by the board of nursing under section 17210 of the public health
21 code, 1978 PA 368, MCL 333.17210.

22 ~~(b) "Felony" means a violation of a penal law of this state,~~
23 ~~another state, or the United States for which the offender, upon~~
24 ~~conviction, may be punished by death or by imprisonment for more~~
25 ~~than 1 year or an offense expressly designated by law to be a~~
26 ~~felony.~~

27 (b) ~~(e)~~"Lactation consultant" means a lactation consultant
28 certified by the International Board of Lactation Consultant
29 Examiners.

1 (c) ~~(d)~~—"Physician" means an individual licensed by the state
2 to engage in the practice of medicine or osteopathic medicine and
3 surgery under article 15 of the public health code, 1978 PA 368,
4 MCL 333.16101 to 333.18838.

5 Sec. 1307b. The court shall not disqualify a juror for cause
6 based solely on the juror's criminal record.

7 Sec. 1356. (1) A prospective juror must not be excluded from
8 service on a civil or criminal jury based on the prospective
9 juror's protected status.

10 (2) A party or the court may object to a peremptory challenge
11 to raise the issue of improper exclusion of a juror based on a
12 protected status. An objection under this section is made by citing
13 this section and any further discussion of the objection must be
14 conducted outside the presence of the jury panel. The objection
15 must be made before the prospective juror is excused, unless new
16 information is discovered.

17 (3) Upon objection to the exercise of a peremptory challenge
18 under subsection (2), the party exercising the peremptory challenge
19 shall articulate the reasons that the peremptory challenge has been
20 exercised.

21 (4) The court shall consider the totality of the circumstances
22 when evaluating the reasons given by a party under subsection (3).
23 If the court determines that an objective individual would consider
24 protected status to be a factor in the exercise of the peremptory
25 challenge, the peremptory challenge must be denied. The court is
26 not required to find purposeful discrimination to deny the
27 peremptory challenge. The court shall explain its findings for a
28 ruling on the record. As used in this subsection, an "objective
29 individual" means an individual who is aware that implicit,

1 institutional, and unconscious biases, in addition to purposeful
2 discrimination, have resulted in the unfair exclusion of potential
3 jurors in this state.

4 (5) The circumstances the court may consider in making its
5 determination under subsection (4) include, but are not limited to,
6 the following:

7 (a) The number and types of questions posed to the prospective
8 juror, including whether the party exercising the peremptory
9 challenge failed to question the prospective juror about the reason
10 for the peremptory challenge.

11 (b) If the party exercising the peremptory challenge asked
12 significantly more or different questions of the prospective juror
13 against whom the peremptory challenge was used than of other
14 jurors.

15 (c) If other prospective jurors provided similar answers but
16 were not the subject of a peremptory challenge by that party.

17 (d) If a reason might be disproportionately associated with a
18 protected status.

19 (e) If in the present case or in past cases the party has used
20 peremptory challenges disproportionately against a specific
21 protected status.

22 (6) The court shall presume a peremptory challenge is invalid
23 if a party under subsection (3) provides 1 of the following reasons
24 for exercising a peremptory challenge:

25 (a) The juror expressed a distrust of law enforcement or a
26 belief that law enforcement officers engage in racial profiling.

27 (b) The juror or an individual with whom the juror has a close
28 relationship has been stopped, arrested, investigated, or convicted
29 of a crime.

1 (c) The juror lives in a high-crime neighborhood.

2 (d) The juror has a child outside of marriage.

3 (e) The juror receives state benefits.

4 (f) The juror is not a native English speaker.

5 (7) As used in this section, "protected status" means any of
6 the statuses recognized as protected under section 102 of the
7 Elliot-Larsen civil rights act, 1976 PA 453, MCL 37.2102.

8 (8) The purpose of this section is to address historical
9 discrimination in the use of peremptory challenges on potential
10 jurors who are members of a protected status or certain demographic
11 groups or who have certain beliefs.

12 Enacting section 1. This amendatory act takes effect 1 year
13 after the date it is enacted into law.