

JAN 9 2019

STATE OF NORTH DAKOTA

JURY SELECTION PLAN

1. Purpose

The purpose of the jury selection plan is to incorporate, to the greatest degree possible, the North Dakota Standards Relating to Jury Use and Management that are incorporated as an Appendix to Supreme Court Administrative Rule 9. Implementation of this plan will provide for a uniform method of jury selection and for the efficient management of jurors.

2. Authority

The jury selection plan is issued in accordance with Administrative Rule 9. This plan is filed with the Clerk of the North Dakota Supreme Court and the Clerk of District Court in each county and is open to inspection during normal business hours.

3. Effective Date

This plan becomes effective on the date it is filed with the Clerk of the North Dakota Supreme Court and remains in effect until amended or withdrawn by the State Court Administrator.

4. Delegation of Duties and Maintenance of Juror Records

The judge of the court may delegate routine decisions relating to qualifications, exemptions, excuses, and deferrals to the clerk of court, court administrator, or other qualified staff. The extent of the delegation and guidelines to be followed shall be in writing and filed with the jury selection plan in each county, along with the local jury management plan required under Administrative Rule 9 Appendix Part C(c).

The determination concerning qualification must be made as of the date the qualification form is signed by the prospective juror. The determination on a request for exemption, excuse or deferral must be made within 5 days of the request or the receipt of any additional information the court has asked the prospective juror to provide.

The clerk shall ensure that the status of a prospective juror is current at all times and shall note any disqualification, exemption, excuse or deferral of service on the juror's record in the automated jury management system.

5. Selection of Master Jury List

A. Creation of Master List

The master jury list consists of the combined non-duplicated names taken from the list of voters in the most recent general election provided by the Secretary of State and a list of persons issued a state driver's license or identification card that has been provided to the court by the Department of Transportation.

B. Procedures.

On or about the third working day of January in each odd-numbered year, the state court administrator's office shall obtain an alphabetical list of persons issued a state driver's license or identification card from the Department of Transportation and an alphabetical list of all actual voters from the Secretary of State. These lists will be entered into the automated jury management program and combined to form a statewide master source list no later than February 15th.

The lists from the Secretary of State and Department of Transportation will be updated every two weeks through an electronic data exchange for the purpose of identifying and removing the names of the deceased from the master list.

6. Qualifications and Summons

A. Process to Summons Jurors

As needed, the clerk shall qualify for later summoning (the two-step method) or qualify and summon (the one-step method) the appropriate number of jurors needed for the next trial or term of service by mailing the uniform juror qualification form developed in accordance with Administrative Rule 9, Standard 11.

In general, a qualification form should be sent by first class mail to each person in the jury pool. However, if it is known to the clerk that a person is deceased, it should be documented in the automated jury management system as a permanent disqualification and the form should not be sent. An obituary or other form of verification of death must be attached to the unsent qualification form.

The list may contain names of persons whose mailing address is out of county and the names of prospective jurors who are not eighteen. While it may appear from the source list that a juror will not be qualified, the law provides that determination of qualification is based on "information provided on a juror qualification form or interview". Therefore, all qualification forms should be mailed.

B. Contents of Qualification and Questionnaire.

The questions on the uniform juror qualification form must be limited to those questions to which the answers may disqualify a person from jury service. The contents of the qualification form are governed by NDCC 27-09.1-07.

Questions that do not directly address the determination of qualifications must not appear on the qualification form, but may be part of a supplemental juror questionnaire. A supplemental juror questionnaire is a questionnaire developed for the purpose of voir dire and must be approved by the judge assigned to the case. Any information obtained through a supplemental questionnaire is subject to Administrative Rule 41 with respect to access and confidentiality.

7. Determination of Qualifications

Disqualified means that the individual is prohibited from serving as a juror because they do not meet one or more of the qualifications for service.

Reasons for disqualification include:

- (a) Not a citizen of the United States or Is a citizen of the United States but not a citizen of the county in which he or she has been summoned;
- (b) Less than 18 years old;
- (c) Not able, with reasonable accommodations, to communicate and understand the English language;
- (d) Not capable, by reason of physical or mental disability, and with reasonable accommodation, to render satisfactory service;
- (e) Does not have the right to vote because of current imprisonment in the penitentiary or conviction of a criminal offense which by special provision of law disqualifies the individual from jury service.

Medical Disqualification: A note from a medical provider is required whenever a prospective juror requests a disqualification under section (d) above.

8. Exemption, Excuse, and Deferral

A. Exemptions

Exemption means that a prospective juror is qualified to serve as a juror but is not required to do so. There have been no automatic exemptions from jury service since 1971.

An exemption must be given to a prospective juror who is 72 years of age or older on the date of the summons, if the individual requests the exemption.

B. Excuses

Excuse means that a prospective juror is qualified to serve as a juror but the court has given the individual either a permanent pass on performing jury service or a temporary pass on reporting for jury service during the current 2-year jury cycle.

Temporary excuse: The court may grant temporary excuses from jury service upon a showing of:

- (a) undue hardship;
- (b) extreme inconvenience; or
- (c) public necessity

Medical Excuse: A note from a medical provider is required whenever a prospective juror requests an excuse or deferral based on medical needs.

Previous Service: A prospective juror may request to be excused from jury service if he or she has previously served on a jury or has been summoned and appeared twice within the two years preceding their current summons. The request for excuse may be granted or denied as determined by the judge or other person authorized to make this determination.

Permanent excuse: The court may grant a permanent excuse from jury service upon a showing by the prospective juror that the individual is not currently able to perform jury service, and circumstances are such that it is extremely unlikely that they will be able to perform jury service at a future date. Granting a permanent excuse removes the prospective juror from the current jury pool and all future jury pools.

C. Deferrals

Deferral means the prospective juror is qualified to serve as a juror but the court has allowed the individual to postpone their service for a specified period of time during the current 2-year jury cycle.

Part-time residents: Individuals such as students or retired persons who are temporarily residing away from their county of residence and for whom it is determined by the court that, because of inconvenience or because the cost of reimbursement to return to their home county for jury service is impractical, should be granted a deferment. A large number of any recognizable group temporarily excused for the same period may result in a biased sample of prospective jurors during that period. The clerk of court should be aware of the number of deferrals being granted and alert the court if there is a reason to be concerned about them.

9. Availability for Service and Term of Service

To minimize the inconvenience of jury service the length of availability for any juror should be as short as practical for the efficient operation of the court.

Whenever possible, a juror should not have to maintain an availability status longer than 30 days, except in areas with very few trials. In counties with few trials, jurors should not have to maintain an availability status beyond 6 months.

The term of actual service for a juror should not exceed two days or one trial, whichever is longer.

10. Number of Jurors Summoned

The clerk should use the following formulas as a general guideline for determining the number of jurors to be summoned for each trial.

For felony-level criminal cases alleging Gross Sexual Imposition, Murder, Assault, Theft, Controlled Substance or Driving Under the Influence

Number of jurors summoned = the number of jurors needed + the number of alternates needed + the total number of peremptories allowed + 8

For all other criminal and civil cases

Number of jurors summoned = the number of jurors needed + the number of alternates needed + the total number of peremptories allowed + 4

11. Failure of Prospective Juror to Return Qualification Form

If a prospective juror has failed to return a completed juror qualification form within 5 days, the clerk shall send, by first class mail, a notice directing the prospective juror to appear before the clerk to fill out the juror qualification form.

If after an additional 15 days the person has not appeared, the clerk shall notify the court and the state's attorney of the failure and request action pursuant to NDCC 27-09.1-07 (3).

Persons summoned for jury service must report at the time and place indicated on the summons. The prospective jurors will report to the clerk, the bailiff, or other officer as directed by the court. The officer will report to the court the names of persons who fail to appear as summoned.

12. Failure of Prospective Juror to Report for Jury Service

If a prospective juror fails to report for jury service as directed, the clerk shall, immediately upon being notified of the failure, attempt to reach the juror by telephone and request the juror to report to the courthouse without further delay.

If the clerk is unable to reach the juror by telephone, the clerk shall within 5 days of the failure to report contact the prospective juror by first class mail and request that within 15 days the juror explain in writing their failure to appear. If the prospective juror does not provide an explanation, or the explanation provided is inadequate, the clerk shall inform the court and the state's attorney of the failure and request action pursuant and request the court issue an order to show cause.