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JURY SELECTION & BENCH WARRANTS

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RIGHT TO TRIAL BY JURY IN MUNICIPAL COURT

- Federal Constitution: no right to jury trial for "petty offenses" that carry six months or fewer in jail – *Blanton v. City of North Las Vegas* *Baldwin v. New York*
- However, South Carolina, via statute, gives persons the right to jury trial on **any** offense in municipal court. § 14-25-125

RIGHT TO JURY TRIAL IN MUNICIPAL COURT

- Any person to be tried in a municipal court may, prior to trial, demand a jury trial, and such jury when demanded, shall be composed of six persons drawn from the qualified electors of the municipality and drivers license and ID card holders in the manner prescribed herein. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial. § 14-25-125
- Only one appellate case interpreting this statute – *State v. Black*, 319 S.C. 515 (1995), and it deals with a somewhat technical federal constitutional issue

WHO CAN SERVE ON A MUNICIPAL JURY?

- "Qualified electors" of the municipality – that is, people who are registered to vote in your municipality's elections
- Plus, SCDL and ID card holders whose addresses are within your municipality and are eligible to vote (i.e., convicted felons are excluded)
- List is furnished by the Election Commission to the municipality in October of each year § 14-25-130

PREPARATION OF JURY BOX

- City Council shall appoint not less than three nor more than five persons to serve as jury commissioners; however, council may act as commissioners in lieu of appointments
- Commissioners shall, within the first 30 days of each year prepare a jury box
- However, instead of this process, municipalities may draw juries by computer as provided in § 14-25-170

TIMING AND NUMBER OF JURORS TO SUMMON

- Single trial – must draw at least 30, but no more than 100 names to summon for jury service for a single trial. § 14-25-165
- Term of court – not less than 10, but not more than 45 days before term of court, must draw at least 40, but not more than 100 names to summon for jury duty. § 14-25-165
- However, for both of the above, court may request permission from Court Administration to draw more than 100 names. § 14-25-165

SUMMONS / PROVISIONS OF JURY LIST

- Once names are drawn, judge must issue writ of *venire facias* (summons) commanding attendance by the drawn jurors. § 14-25-165
- List of names drawn must be provided to each party or to the attorney for each party. § 14-25-165
- Nothing requiring list to be provided to public, media, etc.

SELECTION OF JURY

- Names are randomly selected from jurors who responded to summons until there are 6 jurors and 4 alternates. § 14-25-165
- Each party has 6 preemptory challenges for the primary jurors and 4 preemptory challenges for the alternate jurors. These may be exercised for any, or no reason. § 14-25-165 (subject to Constitutional limitations such as *Batson*).
- Statute does allow court to draw names from "Compartment A" if, after exercising strikes and challenges, unable to seat a jury from those who were summoned and appeared. § 14-25-165

EXEMPTION

- Exemption: persons over 65 may choose not to serve on a jury. They may be excused upon telephone confirmation of date of birth and age to the clerk or judge. § 14-7-840.
- This is the **ONLY** exemption from jury service, it is at the option of the juror summoned, and does not require them to come to court as long as they request excuse beforehand
- Person still has to be drawn / included in jury summonses. Clerk must maintain list of people who exercise exemption.

DISQUALIFICATIONS - § 14-7-810

- Conviction in state or federal court of crime punishable by imprisonment > 1 year, and has not had rights restored via pardon or amnesty (would presumably include expungements, conditional discharge, etc.)
- Unable to read, write, speak, or understand the English language
- Incapable due to mental or physical infirmities to render service (statute specifically excludes blindness from this)
- Has less than a sixth grade education or its equivalent

DISQUALIFICATIONS

- County officers and court employees. § 14-7-820

POSTPONEMENT / EXCUSE

- Students may request to have service postponed until such time as school is not in session. Must provide evidence of enrollment. § 14-7-845
- Essential business personnel may be excused upon furnishing affidavit to the clerk. § 14-25-180
- Person who is primary caretaker of person > 65 or a severely disabled person may be excused by the presiding judge. § 14-25-180.
- Person who is primary caretaker of child less than seven years of age. § 14-7-180

EXCUSE

- Presiding judge may excuse juror upon good and sufficient cause where one of the other provided statutory reasons for excuse does not apply. Person must submit an affidavit to the court and the court must keep such affidavit on file. Person is placed on panel for next term of court. § 14-7-870.

CHALLENGES FOR CAUSE

- Made by party to the presiding judge. Example would be relation to a party or witness to the case. List of jurors so excused must be maintained by the clerk. § 14-7-1010.
- Such objections must be made before the jury is empaneled. § 14-7-1030

BENCH WARRANTS

- If issued in open court, is likely a court record that should be provided to any person requesting a copy.
- However, if issued at chambers, would not be disclosed until after service upon the individual

SURETY REQUESTS TO BE REMOVED

- Bondsman files motion. Clerk serves motion upon defendant, attorney, and Solicitor's office. § 38-53-50.
- If Bondsman surrenders the defendant to jail, must file with the court within three days an affidavit showing good cause why defendant was surrendered. § 38-53-50.
- If defendant is incarcerated as a result of a bench warrant, surety must file affidavit with court and serve upon defendant. Once done, surety is relieved of liability and bond is dissolved. § 38-53-50.

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- When bench warrant is issued for defendant, court must provide written or electronic notice of issuance of the bench warrant within 30 days to every party bound in the recognizance (note this has changed!). § 38-53-70.
 - If defendant is not surrendered within 90 days, bond is forfeited and potentially estreated by the judge. If bond is estreated and bondsman is given 6 months to repay, a four percent handling charge is added. § 38-53-70.
