



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3510/2
EVM&PJH:eev&wlj:rs

2013 SENATE BILL 425

December 10, 2013 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Judiciary and Labor.

1 AN ACT *to repeal* 756.06 (2) (am); and *to amend* 59.40 (2) (j), 756.06 (2) (a),
2 972.02 (2) and 972.04 (1) of the statutes; **relating to:** juries in criminal cases
3 and contents of registers of officials.

Analysis by the Legislative Reference Bureau

In *State v. Hansford*, 219 Wis. 2d 226, 580 N.W.2d 171 (1998), the Wisconsin Supreme Court held that the Wisconsin Constitution requires a twelve-person jury in all criminal cases and that the law providing for a six-person jury in misdemeanor cases was unconstitutional.

This bill eliminates an inconsistency in current law governing the number of jurors in a criminal case. The bill eliminates a provision that allows a six-person jury in misdemeanor cases and provides that a jury in any criminal case shall consist of 12 persons, unless the parties agree to a smaller number and the court approves the agreement.

Under current law, the clerk of circuit court for each county must keep a record called "registers of officials" containing the names of circuit and supplemental court commissioners, deputy sheriffs, notaries public, and municipal judges. Under this bill, the clerk of circuit court is not required to keep the names of notaries public in the registers of officials.

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For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the Law Revision Committee under s. 13.83 (1) (c) 1. and 5., stats., as a result of the Legislative Reference Bureau's case and opinion review under s. 13.92 (2) (j), stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 59.40 (2) (j) of the statutes is amended to read:

2 59.40 (2) (j) Keep a record called registers of officials and write or copy in the
3 record in tabular form the names of circuit and supplemental court commissioners,
4 deputy sheriffs, notaries public and municipal judges. The clerk shall list the
5 officers' names, the dates of their qualification, and the commencement and
6 termination, if any, of their terms. The names shall be in alphabetical order or there
7 shall be an index in alphabetical order to the names.

NOTE: SECTION 1 eliminates the requirement that the clerk of circuit court maintain the names of notaries public in the registers of officials.

8 **SECTION 2.** 756.06 (2) (a) of the statutes is amended to read:

9 756.06 (2) (a) A jury in a felony criminal case shall consist of 12 persons unless
10 both parties agree on a lesser number as provided in s. 972.02.

11 **SECTION 3.** 756.06 (2) (am) of the statutes is repealed.

12 **SECTION 4.** 972.02 (2) of the statutes is amended to read:

13 972.02 (2) At any time before the verdict in a felony case, the parties may
14 stipulate in writing or by statement in open court, on the record, with the approval
15 of the court, that the jury shall consist of any number less than 12. ~~If the case is a~~
16 ~~misdemeanor case, the jury shall consist of 6 persons.~~

17 **SECTION 5.** 972.04 (1) of the statutes is amended to read:

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1 972.04 (1) The number of jurors selected shall be prescribed in s. 756.06 (2) (a)
2 or ~~(am), whichever is applicable~~, unless a lesser number has been stipulated and
3 approved under s. 972.02 (2) or the court orders that additional jurors be selected.
4 That number, plus the number of peremptory challenges available to all the parties,
5 shall be called initially and maintained in the jury box by calling others to replace
6 jurors excused for cause until all jurors have been examined. The parties shall
7 thereupon exercise in their order, the state beginning, the peremptory challenges
8 available to them, and if any party declines to challenge, the challenge shall be made
9 by the clerk by lot.

NOTE: SECTIONS 2 to 5 eliminate a provision in current law that allows a six-person jury in misdemeanor cases and modify provisions relating to twelve-person juries so that they apply to all criminal cases. The Wisconsin Supreme Court has held that the Wisconsin Constitution requires a twelve-person jury in all criminal cases and that the law providing for a six-person jury in misdemeanor cases is unconstitutional.

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(END)