

CHAPTER 318, Laws of 1977

AN ACT to repeal 7.32, 23.82 (2) (b), 255.07 and 255.09; to renumber 23.82 (2) (c) and (d); to renumber and amend 255.04 (2) (b) 1 and (c) and 255.25; to amend 21.06, 23.77 (1) (a), 59.28 (20), 60.55 (5), 80.48 (3), 119.12 (1), 213.01 (1), 255.01 (1), 255.03 (2) to (4), 255.031, 255.04 (2) (a), (3) and (6), 255.05, 255.08, 255.24, 345.43 (1) and (3) (a) and (b), 805.08 (3), 805.09 (1), 814.51, 880.33 (2) (a) and 975.06 (1) (b); to repeal and recreate 23.82 (2) (a), 255.02, 255.04 (5), 255.096 and 255.10 (2) and (5); and to create 255.04 (2) (b) and (5m), 255.25 (2) and 255.27 of the statutes, relating to juries and providing penalties.

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

SECTION 1. 7.32 of the statutes is repealed.

SECTION 2. 21.06 of the statutes is amended to read:

21.06 (title) **Exemptions from posse duty.** Every member of the state military forces shall be exempt from ~~jury duty and~~ service on any posse comitatus.

SECTION 3. 23.77 (1) (a) of the statutes is amended to read:

23.77 (1) (a) If a case has been transferred under s. 23.74, or if in county court either party files a written demand for a jury trial within 20 days after the court appearance date and immediately pays the suit tax and jury and clerk's fees specified in s. 23.82, the court shall place the case on the jury calendar of the county court. ~~The demand shall specify whether trial is to be by a jury of 6 or 12. The number of jurors shall be determined under s. 255.096 (3) (b).~~ If no party demands a jury of 12, the right to trial by jury of 12 is waived forever.

SECTION 4. 23.82 (2) (a) of the statutes is repealed and recreated to read:

23.82 (2) (a) Jury fees, \$2 per person on the jury.

SECTION 5. 23.82 (2) (b) of the statutes is repealed.

SECTION 6. 23.82 (2) (c) and (d) of the statutes are renumbered 23.82 (2) (b) and (c).

SECTION 7. 59.28 (20) of the statutes is amended to read:

59.28 (20) Drawing an inventory or other paper, except return upon a summons, or subpoena ~~or venire~~, 50 cents per folio. ~~But whenever~~ If several writs of attachment against the same defendant are delivered to the sheriff for service and execution, ~~such~~ the sheriff is entitled to no more than 20 cents per folio for drawing an inventory on all writs subsequent to the first writ of attachment so executed by the sheriff, of any property included in the first inventory so drawn by the sheriff, and 10 cents per folio for all copies thereof.

SECTION 8. 60.55 (5) of the statutes is amended to read:

60.55 (5) For drawing an inventory or other paper, except return upon a summons, or subpoena ~~or venire~~, 25 cents per folio; except that if several writs of attachment against the same defendant are delivered to the constable for service and execution, ~~such~~ the constable shall be entitled to 10 cents per folio for drawing an inventory on all writs subsequent to the first writ of attachment so executed by ~~him~~ the constable, of any property included in the first inventory so drawn by ~~him~~ or her, and no more; and 5 cents per folio for all copies thereof.

SECTION 9. 80.48 (3) of the statutes is amended to read:

80.48 (3) JURORS. At the time and place specified in ~~such the~~ notice the county judge of the county, the municipal judge of the city, the president of the village or the chairman of the town in which the land sought to be taken lies shall issue a precept directed to the sheriff of ~~such the~~ county or to any constable, naming the sheriff or constable, which precept shall direct ~~such the~~ officer to write the names of 36 freeholders of ~~said the~~ county who are qualified to serve as jurors in the circuit court and to return the ~~same list~~. After being sworn to perform the duties required to the best of his or her ability, without partiality, ~~such the~~ officer shall immediately write ~~such the~~ names and deliver the list thereof to the officer who issued the precept; and from ~~such the~~ list each party, in person or by an agent or attorney, commencing with the petitioner, shall strike out alternately, 12 names, and if either party is absent or refuses to strike out, the officer who issued the precept shall appoint some person to strike 12 names for ~~such the~~ absent person. ~~Such The~~ officer shall then ~~issue a venire requiring the officer who served the precept to~~ summon the 12 persons whose names remain on ~~said the list in the manner prescribed under s. 255.08~~ to appear at the time and place mentioned ~~therein in the summons~~ for the purpose of determining the necessity of taking for the public use the land described in the petition; if any of the persons summoned fail to attend others may be drawn in the same mode to fill the vacancy, and for that purpose the proceedings may be adjourned from time to time. When 12 persons are thus secured they shall be sworn by the officer who issued the precept to faithfully and impartially discharge the duties imposed upon them, which oath shall be filed with the city, village or town clerk. The number of persons listed and summoned shall be proportionately reduced if the jury is to consist of a number less than 12.

SECTION 10. 119.12 (1) of the statutes is amended to read:

119.12 (1) Board members are subject to all restrictions, liabilities, punishments and limitations prescribed by law for members of the common council in their city ~~and are exempt from jury duty~~. A majority of the members-elect of the board may dismiss from office for malfeasance any member of the board. The board shall provide by resolution the manner of hearing and disposing of complaints against a board member.

SECTION 11. 213.01 (1) of the statutes is amended to read:

213.01 (1) The Wisconsin State Firemen's Association organized under the laws of this state is ~~hereby~~ continued, with all of its powers and privileges; and any person having served for the term of 7 years in any company belonging to ~~said the~~ association shall ~~forever thereafter~~ be exempt from ~~jury duty and from~~ military duty, except in case of insurrection or invasion.

SECTION 12. 255.01 (1) of the statutes is amended to read:

255.01 (1) Persons who are U.S. citizens of the ~~United States~~, who are electors of the state, who are possessed of their natural faculties, who are not infirm, ~~who are esteemed in their communities as of good character and sound judgment~~, who are able to read and ~~write~~ understand the English language ~~understandingly~~, and who have not been ~~sworn on voir dire as grand or petit jurors in the same county summoned to attend for prospective service as a petit juror for the time period applicable under s. 255.04 (5m) within 2 years of the end of the last term during which such the person was sworn on voir dire summoned~~ as a juror, shall be liable to be drawn as grand or petit jurors.

SECTION 13. 255.02 of the statutes, as affected by chapter 26, laws of 1977, is repealed and recreated to read:

255.02 Exemptions and excuses from jury service. (1) Judges and attorneys who claim an exemption pursuant to this section shall be exempt from jury service. No other qualified juror is exempt from jury service.

(2) (a) Any person or group of persons may be excluded from the jury panel or excused from service as jurors by order of the judge based on a finding that jury service would entail undue hardship, extreme inconvenience or serious obstruction or delay in the fair and impartial administration of justice. The exclusion or excuse shall

continue for a period deemed necessary by the judge, at the conclusion of which the person or group of persons shall reappear for jury service in accordance with the order of the judge.

(b) A state legislator or full-time elected official shall be excused from service as a juror if the official states to the court that jury service would interfere with the performance of his or her official duties.

(c) No citizen may be excluded from service as grand or petit juror in any court of this state on account of race or color or because of a physical condition, except as provided in s. 255.01 (2).

SECTION 14. 255.03 (2) to (4) of the statutes, as affected by chapter 199, laws of 1977, are amended to read:

255.03 (2) Before entering upon the duties of his office each commissioner shall take and subscribe the following oath: "I do solemnly swear that I will honestly and faithfully discharge the duties of a jury commissioner without fear or favor; and that I will not consent to the selection of a person as juror ~~whom I have been solicited to name as a juror, or whom I believe to be unfit for jury duty, or likely to render a partial verdict; and that I will report to the court the names of all persons who seek by request, hint or suggestion~~ to influence me in the selection of jurors". The oath shall be filed in the office of the clerk of the circuit court of the county.

(3) In all counties having a population of less than 500,000 the commissioners shall be paid for each day's service at the same rate as fixed by the county board for the payment of grand and petit jurors under s. 255.25 and 15 cents for each mile traveled in the discharge of their duties. ~~In all counties having a population of more than 100,000 but less than 500,000, the commissioners shall be paid such salary as fixed by the county board, and also an additional \$1 for each meeting of the commission attended in any city or incorporated village in the county, other than the city in which the courthouse is located; but the payments last mentioned shall not exceed \$2 per annum to each commissioner for attendance in any one city or village and shall be made only upon the presentation of an affidavit of the commissioner who is to receive such payment, in which there shall be stated the cities and villages in which the commissioner attended such meetings and the dates of such attendance.~~ Such compensation and mileage shall be paid by the county treasurer upon order of the judge of the court for which the jury commissioners discharged their duties, upon certification of the clerk of the court. In counties having a population of 500,000 ~~of or~~ more, the county board shall fix the salary of the commissioners. The commissioners shall be provided with such articles, books, postage, stationery, office space and assistants as shall be required by them to properly discharge their duties, upon the recommendation of the circuit judge, or circuit judges, of the several counties.

(4) The commissioners shall meet at such times as the discharge of their duties requires and at such times as the appointing judge or judges or any of them shall direct. Two commissioners shall constitute a quorum. They may subpoena any person to appear before them within the town, village or city wherein ~~such~~ the person resides for examination as to any person's qualifications for jury service, and may compel the person to give testimony under oath. The commissioners may investigate by inquiries at any person's place of business, residence, or elsewhere, or by other means, his ~~reputation, character and~~ or her fitness for jury service. All public officers and employes shall furnish the commissioners, upon their request, ~~such~~ the records and assistance as the commissioners deem proper to perform their duties.

SECTION 15. 255.031 of the statutes is amended to read:

255.031 Official malfeasance in preparing jury list. Any person who ~~shall ask or solicit asks or solicits~~ any jury commissioner appointed pursuant to under s. 255.03, or the sheriff or other officer to select him or her or any other person, or place his or her name or the name of any other person on any list as a grand or petit juror in any court, and any such jury commissioner or sheriff or other officer who ~~shall select such~~ selects the person or ~~place~~ places his or her name upon any such list upon such solicitation ~~shall be punished by imprisonment in the county jail may be fined not more than \$100 or imprisoned not more than 6 months or by fine not exceeding \$100.~~

SECTION 16. 255.04 (2) (a) of the statutes is amended to read:

255.04 (2) (a) The commissioners shall annually before the first Monday in April provide for each court covered by sub. (1), unless the judge or judges thereof otherwise order, one countywide list of not less than 300 ~~nor more than 1,000~~ 600 names of persons to be drawn from the county ~~and apportioned as nearly as practicable among towns, villages and wards of cities thereof in proportion to population according to the last national census,~~ to serve as petit jurors. The commissioners ~~may~~ shall revise ~~said~~ the list by striking from it the names of persons found by them to be ineligible for jury service, as provided in s. 255.01, and add ~~thereto~~ to the list the names of additional persons as provided in s. 255.05. ~~Such~~ The list shall be certified by the commissioners as having been prepared in strict conformity with ~~the statutes thereto appertaining~~ statutory requirements. The list shall also include a verified statement describing the manner in which the list was compiled or modified, including an enumeration of all public or private sources from which the names of the prospective jurors on the list were derived.

SECTION 17. 255.04 (2) (b) 1 and (c) of the statutes are renumbered 255.04 (2) (c) and (d) and amended to read:

255.04 (2) (c) A certified copy of ~~such~~ the list, containing the name and the address and occupation of each person named ~~therein in the list,~~ shall be furnished to the clerk of circuit court, to be kept by him or her for the use of the courts and for public inspection. The name of each person listed shall be written by a commissioner on separate cards of like weight, size and color and measuring not more than 1 by 3 inches. All cards shall be placed in separate opaque envelopes of like weight, size and color and only large enough to admit the cards. The commissioners shall provide a master tumbler into which all the cards shall be placed. ~~Such~~ The tumbler shall have ~~but~~ only one opening, and shall be kept locked at all times, except when the list is being revised or when the jury panel is being drawn therefrom. ~~Such~~ The tumbler shall be kept secure by the clerk of circuit court against unauthorized entry therein.

(d) The commissioners shall furnish, upon periodic request of the sheriff, a current list of the names of persons available for jury duty in mental inquiries and reexaminations, inquests of the dead and for such other purposes as the sheriff is required by law to summon or select a jury, which list shall contain not less than 100 ~~nor more than 200~~ names of persons drawn ~~and apportioned~~ under par. (a).

SECTION 18. 255.04 (2) (b) of the statutes is created to read:

255.04 (2) (b) 1. The commissioners shall determine eligibility for jury service by mailing to every prospective juror on the list a juror qualification form accompanied by instructions to fill out and return the form to the commissioners within 10 days after its receipt. The form shall elicit the information specified under s. 255.01 and shall contain a declaration that the responses are true to the best of the person's knowledge and an acknowledgement that upon a wilful misrepresentation of a material fact or failure to return the completed form within 10 days after its receipt the person may forfeit not more than \$500. If the prospective juror is unable to fill out the form, another person may complete it and shall indicate that he or she has done so and the reason therefor. If it appears there is an omission, ambiguity or error in a returned form, the commissioners shall send the incomplete form back to the person with instructions to make the necessary addition, clarification or correction and to return the form to the commissioners within 10 days after its receipt.

2. Whoever wilfully misrepresents any material fact on a juror qualification form or fails to return the completed form within 10 days after its receipt may forfeit not more than \$500.

SECTION 19. 255.04 (3) of the statutes is amended to read:

255.04 (3) At least 15 and not more than 30 days before the sitting of any court at which a jury is required to attend, and for which a panel is not available under sub. (6), the clerk of circuit court shall in the presence of at least 2 of the commissioners draw ~~36~~ a sufficient number of names from ~~such~~ the tumbler. Before each name is

drawn, the tumbler shall be rotated. ~~The clerk shall read each name aloud when drawn and pass the card on which it appears to the commissioners, who shall then cause the name to be written, together with the person's address and occupation, The~~ commissioners shall write the person's name, occupation and address in the order in which it was drawn, upon a panel list provided for that purpose, at the bottom of which the commissioners shall certify that the drawing was in accordance with law. In like manner the clerk shall then draw ~~the~~ a sufficient number of names of 18 additional persons, to be recorded upon a reserve-panel list. They shall be summoned in the order in which their names appear on the reserve-panel list in the event and to the extent that the regular panel is inadequate. When summoned, they shall become a part of the regular panel. ~~Such~~ The regular and reserve-panel lists shall be kept by the commissioners; and a signed duplicate thereof shall be furnished the clerk of circuit court.

SECTION 20. 255.04 (5) of the statutes is repealed and recreated to read:

255.04 (5) The names in the master tumbler shall be discarded each year prior to the introduction of new names under sub. (2) (a).

SECTION 21. 255.04 (5m) of the statutes is created to read:

255.04 (5m) In any 2-year period, no person may serve or attend court for prospective service as a petit juror for a total of more than 5 days of actual court attendance, except when necessary to complete service in a particular case, unless a majority of the judges of courts of record for the county adopt by rule a longer time period, not to exceed 10 days. In any 2-year period, no person may be required to serve both as a grand and petit juror.

SECTION 22. 255.04 (6) of the statutes is amended to read:

255.04 (6) The judges of the circuit and county courts (or the senior judges ~~thereof of those courts~~ in the case of courts having more than one judge) may by joint order direct that the jury lists, panel lists, and reserve-panel lists of their respective courts, or any one or more of such lists, be combined into one or more lists, and that the number of names on the combined list be as specified in the order. The order shall designate such modifications of the time of issuance of venires under s. 255.08 and time of appearance as are suitable to the needs of the respective courts. The order may also provide the length of service, within the limits of sub. (5m), and the number for each court, or if there is more than one branch of a court, for each branch of that court. The order may be modified from time to time or revoked by the same authority by which it was promulgated.

SECTION 23. 255.05 of the statutes is amended to read:

255.05 Insufficient number of jurors. Whenever after the expiration of the time prescribed for the drawing of petit jurors for the next regular term or during any term of court there is a partial or entire absence of jurors of the regular or reserve-panel or both, from any cause whatever, or whenever it becomes apparent to the court or the trial judge that the regular panel and the reserve-panel as drawn will not be sufficient to provide a jury for a particular cause to be tried at the current or next term of court, the court or judge may order the clerk, in his or her presence, to draw immediately from the tumbler a sufficient number of names, specifying the number, to fill the regular panel or a less or larger number as the public interest and the condition and character of the business shall require. Whenever the list of names furnished any such court has been depleted the commissioners shall supply other names so that there will not be less than 150 ~~nor more than 1,000~~ names in the tumbler at the time any drawing of jurors takes place. ~~Such~~ The names shall be written placed on cards ~~which shall be placed in envelopes and put into the tumbler as hereinbefore provided as prescribed in s. 255.04 (2) (c) and placed in the master tumbler.~~

SECTION 24. 255.07 of the statutes is repealed.

SECTION 25. 255.08 of the statutes is amended to read:

255.08 (title) Jury summons, when and how issued. ~~The clerk shall, at~~ At least 12 days before the first day of the term or at least 12 days before the first day on which a jury is required to be present, ~~issue and deliver to the sheriff of said county a venire for the petit jury, under the seal of the court, commanding him to summon~~ the clerk shall summon the persons so drawn as jurors to appear before the said court at 10 o'clock in ~~the forenoon a.m.~~ on the first day of the term thereof or at such other time as has been fixed by the presiding judge of said the court, to serve as petit jurors. ~~And when~~ The summons may be served by mail or another method chosen by the clerk. ~~When ordered to draw a grand jury, as provided by law, he shall in like manner issue and deliver a venire commanding the sheriff to~~ the clerk shall summon the persons so drawn as grand jurors to appear before the said court at the time specified in the order. The summons may be served by mail or another method chosen by the clerk.

SECTION 26. 255.09 of the statutes is repealed.

SECTION 27. 255.096 of the statutes is repealed and recreated to read:

255.096 Drawing of petit jury. (1) At every term of any court for which jurors are drawn as provided in s. 255.04 the clerk shall place in a tumbler only the names of the petit jurors who have been drawn and summoned according to law for service at such term. The names shall be written upon separate cards and enclosed in opaque envelopes as required by s. 255.04 (2) (c).

(2) (a) Except as provided in par. (b), if a jury issue is to be tried the clerk shall, in the presence and under the direction of the court, openly draw out of the tumbler, one at a time, as many envelopes containing cards as are necessary to secure a jury. Before drawing each card the clerk shall close the tumbler and rotate it.

(b) If automated systems are being used under s. 255.27, the names shall be selected in a random manner until the desired number is obtained.

(3) (a) A jury in criminal cases shall consist of 12 persons unless both parties agree on a lesser number as provided in s. 972.02.

(b) A jury in civil and traffic cases 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) This subsection does not apply to juries under ch. 979.

(4) Any person who is excused or whose name has been set aside regarding service with a jury shall be eligible for other jury service as soon as the jury is sworn.

(5) If a jury issue is brought to trial while a jury is trying another cause, the court may order a jury for the trial of the former to be drawn out of the tumbler under subs. (1) and (2). In any other case all the cards containing the names of the petit jurors, returned at and attending the term, shall be placed in the tumbler before a jury is drawn.

SECTION 28. 255.10 (2) and (5) of the statutes are repealed and recreated to read:

255.10 (2) SELECTION OF GRAND JURY PANEL. The grand jury panel shall be selected in the manner prescribed for drawing the petit jury panel in s. 255.04.

(5) DRAWING GRAND JURORS FROM PANEL. The jurors for a grand jury shall be drawn in the manner prescribed for drawing petit jurors in s. 255.096. Seventeen names shall be drawn.

SECTION 29. 255.24 of the statutes is amended to read:

255.24 Jurors, how paid. ~~The~~ Within 30 days of the day that a juror has completed the service specified in s. 255.04 (5m), the clerk of the court whenever a juror shall be discharged, or at the end of each term of court, or within 10 days thereafter, shall make out a certificate to each juror attending the court, shall prepare a voucher certifying the number of days' attendance, the number of miles traveled, and the amount of compensation due him, and every such juror shall make affidavit thereto and receipt for same, before it shall be delivered to him the juror, and thereupon the

county treasurer shall pay the amount thereof out of the county treasury. ~~In counties having a population of 500,000 or more and containing an entire judicial circuit, for which more than one judge is provided by law, such affidavit may be executed and sworn to before the calendar clerk or one of his assistants.~~

SECTION 30. 255.25 of the statutes is renumbered 255.25 (1) and amended to read:

255.25 (1) Every grand and petit juror summoned ~~upon any venire~~ shall receive an amount, not less than \$4 \$16, as fixed by the county board, for each day's actual attendance upon any circuit or county court, and an amount, ~~not less than 10 cents per mile~~, determined by the county board for each mile actually traveled each day in going and returning by the most usual route; ~~but shall be paid for no. A juror shall not be paid for a day when the court is not in session unless payment is specially ordered by the presiding judge. An employer shall grant an employe 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 employe shall be considered uninterrupted by the service.~~

SECTION 31. 255.25 (2) of the statutes is created to read:

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

SECTION 32. 255.27 of the statutes is created to read:

255.27 Automation of jury selection. The procedures for selection of jurors and juries under ss. 255.04 to 255.10 may be accomplished by electronic automated systems, wherever appropriate.

SECTION 33. 345.43 (1) and (3) (a) and (b) of the statutes are amended to read:

345.43 (1) (a) If a case has been transferred under s. 345.425, or if in county court either party files a written demand for a jury trial within 10 days after the defendant enters a plea of not guilty under s. 345.34 and immediately pays the fees specified in par. (b), the court shall place the case on the jury calendar of the county court or shall forthwith transfer the case to circuit court for trial. ~~The demand shall specify whether trial is to be by a jury of 6 or 12. The number of jurors shall be determined under s. 255.096 (3) (b).~~ If no party demands a trial by a jury of 12, the right to trial by a jury of 12 is waived forever.

(b) The fee for a ~~12-man jury~~ is \$24 \$2 per person on the jury, plus the applicable suit tax and clerk's fee. ~~The fee for a 6-man jury is \$12, plus the applicable suit tax and clerk's fee.~~

(3) (a) If a ~~6-man jury of less than 12 persons~~ is demanded, in counties having a population of 500,000 or more, the jury shall be drawn from the circuit court jury panel and selected as set forth under Title XLIIA. In all other counties, such juries shall be selected as provided in pars. (b) and (c), except that any party may demand trial by a countywide jury and that the clerk shall select, by lot, the names of sufficient persons qualified to serve as jurors as will provide to each party entitled to peremptory challenges the number of challenges specified in par. (b).

(b) If a timely ~~6-man demand for a jury~~ demand of less than 12 persons is made, the judge shall direct the clerk of the court to select by lot from the current jury panel the names of ~~12~~ a sufficient number of residents of the county qualified to serve as jurors in courts of record, from which lists either party may strike 5 names. If either party neglects to strike out names, the clerk shall strike out names for ~~him~~ the party. Except in counties having a population of 500,000 or more, no voir dire examination or challenge for cause shall be permitted. The clerk shall ~~issue a venire to the sheriff or constable to summon any 6~~ a sufficient number of persons whose names are not struck out, to appear at the time and place named in the ~~venire~~ summons.

SECTION 34. 805.08 (3) of the statutes is amended to read:

805.08 (3) NUMBER OF JURORS DRAWN; PEREMPTORY CHALLENGES. A sufficient number of jurors shall be called in the action so that ~~12 the number applicable under s. 255.096 (3) (b)~~ shall remain after the exercise of all peremptory challenges to which the parties are entitled as ~~hereinafter~~ hereinafter provided in this subsection. Each party shall be entitled to 3 such challenges which shall be exercised alternately, the plaintiff beginning; and when any party declines to challenge in his turn, ~~such~~ the challenge shall be made by the clerk by lot. The parties to the action shall be deemed 2, all plaintiffs being one party and all defendants being the other party, except that in case where 2 or more defendants have adverse interests, the court, if satisfied that the due protection of their interests so requires, in its discretion, may allow peremptory challenges to the defendant or defendants on each side of ~~said~~ the adverse interests, not to exceed 3. Each side shall be entitled to one peremptory challenge in addition to those otherwise allowed by law if alternate jurors are to be impaneled.

SECTION 35. 805.09 (1) of the statutes is amended to read:

805.09 (1) JURY. ~~The parties may stipulate that the jury shall consist of any a number less than 12 of persons determined under s. 255.096 (3) (b).~~

SECTION 36. 814.51 of the statutes is amended to read:

814.51 Jury fees; discretion of court. The court shall have discretionary authority in any civil or criminal action or proceeding triable by jury to assess the entire cost of one day's juror fees for a jury of ~~6 or 12, whichever is demanded~~, including all mileage costs, against either the plaintiff or defendant or to divide the cost and assess ~~same~~ the cost against both plaintiff and defendant, or additional parties plaintiff or defendant, if a jury demand has been made in any case and ~~in the event~~ if a jury demand is later withdrawn within ~~48 hours~~ 2 business days prior to the time set by the court for the commencement of the trial. The party assessed shall be required to make payment to the clerk of circuit court within a prescribed period and the payment thereof shall be enforced by contempt proceedings.

SECTION 37. 880.33 (2) (a) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

880.33 (2) (a) The proposed ward has the right to counsel whether or not present at the hearing on determination of competency. The court shall in all cases require the appointment of a guardian ad litem and may in addition require representation by full legal counsel if the guardian ad litem or the proposed incompetent requests or if the interests of justice so require. If the person requests but is unable to obtain counsel, the court shall refer the person to the state public defender for an indigency determination and appointment of counsel under ch. ~~997~~ 977. If the person is indigent, the county of legal settlement shall be liable for guardian ad litem fees, if any. The proposed ward shall have the right to a trial by a jury of ~~6 persons~~, if demanded by the person, attorney or guardian ad litem. The number of jurors shall be determined under s. 255.096 (3) (b). The proposed ward, attorney or guardian ad litem shall have the right to present and cross-examine witnesses, including the physician or psychologist reporting to the court under sub. (1). The attorney or guardian ad litem for the proposed ward shall be provided with a copy of the report of the physician or psychologist at least 96 hours in advance of the hearing. Any final decision of the court is subject to the right of appeal to the supreme court on proper application.

SECTION 38. 975.06 (1) (b) of the statutes is amended to read:

975.06 (1) (b) The hearing shall be to a ~~12-person~~ jury, unless the defendant ~~requests a 6-person jury or~~ waives a jury. The number of jurors shall be determined under s. 255.096 (3) (b). The procedure shall be substantially like a jury trial in a civil action. The judge may instruct the jurors in the law. No verdict ~~shall be~~ is valid or received unless agreed to and signed by five-sixths of the jurors. At the time of ordering a jury to be summoned, the court shall fix the date of hearing, which date shall be not less than 30 days nor more than 40 days after the demand for the jury was made. The court shall submit to the jury the following form of verdict:

