

(S. B. 397)

(Conference)

(Reconsidered)

(No. 281)

(Approved September 27, 2003)

AN ACT

To create the “Puerto Rico Jury Service Administration Act,” for the purpose of establishing the Office of the Administration of Jury Service, determining the jury selection procedures for criminal cases to be held in our jurisdiction, providing the pertinent regulation, and to repeal Rules 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107 and 108 of Criminal Procedure, as amended.

STATEMENT OF MOTIVES

Article II, Section 11 of the Constitution of the Commonwealth of Puerto Rico provides that in any felony proceeding, the accused shall have the right to be tried before an impartial jury formed by twelve residents of the district, who may issue a verdict by a majority of votes in which not less than nine must concur.

At present, district attorneys as well as defense attorneys face serious problems when selecting the jury, since the sample chosen for the “selection procedure” is not representative of the residents of the district of the accused person. Our present rule of law limits the selection process, since it excludes a large number of citizens who could render a good judgment in the judicial proceedings of the country.

Another of the most frequent problems is the policy adopted by some enterprises that refuse to compensate employees who are called for jury duty. The financial compensation received by jurors is minimal, therefore those citizens who are called for jury duty do so reluctantly, feeling that they are imposed upon by the Commonwealth. Today, being a juror, instead of being a privilege, seems to represent an interruption of the citizen’s life style, since it affects his/her economic stability and, consequently, his/her emotional stability.

Often, this dissatisfaction does not allow the citizen to serve as a juror under optimum or favorable conditions to render a judgment on specific situations. On other occasions, the same person has been bound to serve as a juror several times during the same year. This could affect the impartiality and ability to do justice in the process of cases, thus harming the accused as well as the people of Puerto Rico represented by the Department of Justice.

This Legislature, recognizing the serious problems faced by the current jury selection procedure and the consequences derived there-from, hereby creates

the “Puerto Rico Jury Service Administration Act.” Thus, the pool of people eligible for jury duty is enlarged, the possibility that a person can be a juror more than once in one year is limited, and certain problems facing the present procedure are addressed.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Title

This Act shall be known as the “Puerto Rico Jury Service Administration Act.”

Section 2.- Bureau of the Jury Service Administration

The Bureau of the Jury Service Administration is hereby created, attached to the Court Administration Bureau, which shall manage the Puerto Rico Jury System created by this Act.

The Bureau of the Jury Service Administration shall be managed by a director, who shall be appointed by the Chief Justice of the Puerto Rico Supreme Court and shall be staffed as determined by said Chief Judge. The position of the Bureau Director shall be included in the Judicial Branch Central Service Personnel and shall accrue the salary established by the Regulations of the Court Administration Bureau.

The organization, tax and personnel matters, and the internal operation of the Bureau shall be subject to the regulation approved for such purposes.

Section 3 - Main Register of Jurors

The Bureau Director shall prepare a main register of jurors, using a method where the selection of people in the list is completely at random. No person can be included in the list by personal request or by the request of third parties.

In order to prepare such list, the Bureau Director shall require, it being mandatory, that any department, agency, board, commission, instrumentality or corporation of the Commonwealth of Puerto Rico or its municipalities, including the State Electoral Commission, shall submit free of charge and by any means, copies of the registries of people in their charge, including without limitation, the voters, motor vehicle drivers, electricity, water and telephone services recipients, and those registered in any other government program or service.

The Bureau Director shall determine the number of jurors that comprise the main register and shall distribute the jurors according to the needs determined in each Judicial Region. Wherever possible, there shall be a proportional number of jurors for each municipality forming the region, taking its population as a base, according to the last census of the United States Census Bureau.

The Main Register of Jurors must be periodically updated or reviewed, but never at intervals longer than three (3) years.

Section 4.- Jury Selection in a Trial

Whenever the penal docket of a Division of the District Court so requires, the court shall issue an order addressed to the Bureau Director, with prior notice to the parties, for said Director to randomly select the number of jurors deemed necessary by the Court. The list of jurors selected by the Bureau Director shall contain the full name of each juror, unless there is an order to the contrary, as well as the municipality of residence and any other information required by the regulations.

A copy of the list of jurors so appointed shall be delivered to the Court and to the parties three (3) days before the empanelling of the jury.

Section 5.- Eligibility to serve as a juror

Any person who meets the following requirements shall be eligible to serve as a juror in Puerto Rico:

- (a) To be eighteen (18) years or older.
- (b) Having legally resided in Puerto Rico for one (1) year and ninety (90) days previously in the judicial region where the proceeding shall be held.
- (c) Knowing how to read and write in Spanish.
- (d) Not having been convicted of a felony or any other crime involving moral turpitude.
- (e) Being physically and mentally able to serve as a juror.

Section 6.- Jury Duty

Any person meeting the requirements established by this Act shall be bound to serve as a juror in any criminal proceeding pending before any Division of the District Court of the Commonwealth of Puerto Rico.

Section 7.- Rights of a person summoned to serve as a juror

Any person summoned to serve as a juror shall have the right to:

- (a) Not be forced to serve as a juror for more than the terms established in Section 8 of this Act.
- (b) Be treated with dignity and decorum by the staff and management of the Judicial Branch with whom he or she enters into contact.
- (c) Have an adequate place available while in active service in the court.
- (d) Be summoned to serve as a juror not less than ten (10) days before the date on which attendance is required.
- (e) Receive salary payments from his employer while in active jury duty and in compliance with the norms approved in this Act.
- (f) Receive, while unemployed, or while the leave for jury duty established by this Act has expired, payment of a fee for each day of service attending the court that is required from him.

(g) Receive payment or reimbursement for transportation expenses that were necessarily incurred in order to attend court, in compliance with the regulations approved for such purposes, and to receive transportation supplied by the court when the court believes that there are circumstances so warranting.

(h) Receive payment for reimbursement for food expenses while in active service as a juror, in compliance with the regulations approved for such purposes.

(i) Not being fired from his or her job or being penalized in any way by his or her employer for the sole fact of having served as a juror.

(j) Be covered by the Judicial Division's worker's compensation insurance while acting as a juror.

Section 8.- Term of Service as a Juror

The duty of any citizen eligible to serve as a juror in the Commonwealth of Puerto Rico shall be during the time it takes to empanel the jury or during the selection process, or while the trial lasts, as provided in this Section.

If a person duly qualified to serve as a juror appeared in reply to a court summons and were not selected to participate in the empanelling of the jury, or to act as a juror in a criminal proceeding that day, said person shall be relieved from jury duty.

If the summoned person were selected to participate in a proceeding to empanel the jury, or to act as a juror in a criminal proceeding, he will have the duty to remain in active service until his participation in the proceeding for which he was selected ends, regardless of the number of days that said proceeding takes.

Once a person has complied with his obligation to serve as a juror for one day or for one case, or has been relieved from jury duty, said person cannot be summoned again to serve as a juror until a term of five (5) years has elapsed.

Nothing of the above shall prevent a person duly qualified to serve as a juror from remaining in active service as a juror voluntarily for a longer term than is established herein, but in such case he shall not have the right to enjoy a paid leave nor protection for his employment, and shall not be able to remain in active service for a term exceeding three (3) months.

Section 9.- Dispensation and Deferral

The Court shall not be able to exempt anyone from serving as a juror for trivial reasons, nor for inconveniences or disturbances in his personal business or personal matters, but may defer service only for the person's state of health, disease or death of some family member or due to serious danger of detriment or ruin of the person's property or of that under his

custody. As soon as the reason for the dispensation or the deferral disappears, the person may be summoned again.

The Court may dispense those public servants who, due to the nature of their duties, must be exempt from jury service. These are those under active service in government agencies or dependencies such as the Police, Armed Forces, employees of the Judicial Branch, elected officers and district attorneys, including those in charge of minors and families.

Section 10.- People Exempt from Serving as Jurors

The following shall be exempt from serving as a juror:

- (a) Any attorney, attorney's paralegal, secretary or stenographer.
- (b) Any citizen rendering service as a juror in the United States District Court for Puerto Rico during the term for which he was selected.
- (c) Any woman breast-feeding her child (a) under twenty-four (24) months old and who presents a medical attestation to such fact.

Section 11.- Jury Duty Leave

Except for the Commonwealth of Puerto Rico's personnel and officers, any person duly summoned by a Court for jury duty shall have the right to accrue the compensation for daily appearance established in the regulations. This compensation shall not be available while the person summoned is enjoying a paid leave.

Any personnel or officers of the Commonwealth of Puerto Rico, its agencies, entities or public instrumentalities, of municipal governments, as well as of state or municipal public corporations shall have the right to enjoy a leave with pay and to receive compensation from his or her employer for meals and mileage, according to the regulations of each agency, as if it were an official assignment of such personnel or officers.

Any person hired by a private employer, who has been summoned for jury duty in a Court, shall have the right to enjoy paid leave from his employer up to a maximum of fifteen (15) work days, and such compensation by daily appearance as established in this Section and determined through the regulations. If due to jury duty it were necessary for that person to appear before the Court for a period longer than the one previously stated, the employee shall have the right to charge the time of absence during jury duty to his regular vacation leave, or to receive the per diem compensation for his appearance, established in the regulations to be approved for such purposes. What is established in this paragraph shall not affect the employee's rights acquired through collective bargaining concerning this matter.

When a person duly summoned for jury duty concludes his appearance before the court, the Court Clerk must issue a certificate with a clear indication of the time spent in that appearance indicating the days and time.

To have a right to the protection offered by this Act, the employee must inform his employer, at least five days before the date for which he has been summoned, of his need for being absent from work in order to comply with jury duty. However, the employer can be given shorter notice if the employee is prevented from complying with his obligation due to the delay with which he received his notice or because of any other justified reason. Once the employee returns to his job he must deliver the referenced certificate to his employer.

Section 12.- Nonappearance or Refusal to Comply with Jury Duty

It shall be a felony, conviction upon which shall be sanctioned with a fee of not less than five hundred (500) dollars, for any person who meets the requirements for jury duty established in this Act, who incurs in the following conduct:

- (1) Unjustified refusal to provide the Bureau of the Jury Duty Administration or the Court with the necessary information to achieve the objectives of this Act.
- (2) Providing false information to the Bureau the Jury Duty Administration or the Court.
- (3) Failure to appear before the Court to perform jury duty although duly required or summoned for such purpose.
- (4) Unjustified refusal of jury duty without having been duly excused or deferred from it.

Section 13.- Employer's Penalty for Firing or Other Discriminatory Acts

(A) Any employer who authorizes, consents or performs a firing, and any person who threatens with firing, dismissal, or dismisses, suspends, reduces the salary, lowers the category or imposes or intends to impose onerous work conditions on an employee for the fact that said employee has been summoned to serve, is serving or will serve as a juror, or who for such reason refuses to reinstate or reinstates in a lower category or with a lower remuneration than that held when the jury duty began, as long as the provisions of this Act are complied with, shall incur in civil liability:

1. For an amount equal to the damages that the act has caused to the worker, or for one thousand (1,000) dollars, whichever is greater; or
2. For an amount of not less than one thousand (1,000) dollars nor greater than three thousand (3,000) dollars, at the discretion of the Court, if money damages cannot be determined.

In the civil action filed in agreement with the previous provisions, the Court may order the employer to reinstate the worker in his job and to cease and desist from the action in question.

(B) Any public or private employer is hereby banned from discounting salary, or vacation or sickness leave, from his employees during the days and hours that a duly summoned employee uses to appear as a jury before a Court, except as is set forth.

Any employee who has complied with the provisions of this Act and whose salary or vacation or sickness leave is illegally discounted, shall have the right to collect the difference owed to him, plus an equal amount that he has not received, corresponding to additional compensation, apart from legal costs, expenses, interests and attorney's fees, the latter in a reasonable amount, never below one thousand (1,000) dollars.

(C) The civil actions established in the previous paragraphs may be filed by the employee or by the Secretary of Labor and Human Resources, in the latter's name, through the procedure determined in Act No. 140 of July 23, 1974, as amended, known as the "Controversies and Provisional Legal Status Act," through the special proceeding established by law for labor claims or through a regular civil action, at the employee's choice.

Section 14.- Regulations

The Puerto Rico Supreme Court shall establish through regulations that must be approved within one hundred and eighty (180) days as of the approval of this Act, all those rules and regulations necessary for the implementation of this Act, including but without limitation, the proceeding to be used to prepare the jurors' master list, for the total or partial recusal of that list, for the qualification of people selected for registration, for summoning such people, for the adjudication of exemption or deferral requests, for the judicial review of final decisions by the Bureau Director and for any other purpose complying with the purposes of this Act.

Section 15.- Repeal of other laws

Rules 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107 and 108 of the Rules of Criminal Procedure of 1963, as amended, are hereby repealed. Equally repealed is any other law or part thereof that is incompatible with the provisions of this Act.

Section 16.- Appropriation of Funds

The amount of two hundred seventy-eight thousand (278,000) dollars is hereby assigned for the initial set up of the Bureau of the Administration of Jury Service. The necessary funds for compliance with the other provisions of this Act shall be included in the General Expense Budget of the General Court of Justice for Fiscal Year 2003 - 2004.

Section 17.- Effectiveness

This Act shall take effect one hundred and eighty (180) days after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 281 (S.B. 397) (Conference) (Reconsidered) of the 6th Session of the 14th Legislature of Puerto Rico: **AN ACT** to create the “Puerto Rico Jury Service Administration Act,” for the purpose of establishing the Office of the Administration of Jury Service, determining the jury selection procedures for criminal cases to be held in our jurisdiction, providing the pertinent regulation, and to repeal Rules 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107 and 108 of Criminal Procedure, as amended,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 27th of October of 2004.

Elba Rosa Rodríguez-Fuentes

Director