

ACT 155

S.B. NO. 911

A Bill for an Act Relating to Jurors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State has over four hundred incarcerated for every one hundred thousand people in the State. It is estimated that there are approximately four thousand nine hundred residents in Hawaii who have been convicted of felonies and served their sentence. Despite having served their sentence, existing law prevents these residents from serving on a jury, perpetuating the stigma that a convicted individual is incapable of reintegrating back into society.

The legislature further finds that jury exclusion based on felony convictions contributes to a lack of juror diversity. It is well-established that the criminal justice system has a disparate impact on people of color, including Native Hawaiians. The effect of the existing exclusion makes it more difficult to fill a jury with a diverse group of jurors.

The legislature also finds that those with felony convictions who are not pardoned cannot serve as jurors in civil cases, despite many instances where the criminal convictions occurred decades before. Under existing law, a person sentenced for a felony and who is finally discharged may vote in elections and become a candidate for or hold public office, yet they cannot serve on a jury. The legislature believes it is in the best interest of Hawaii's democratic system for the State to work toward affirming the rights of all individuals to be allowed fair and equitable participation in the State's judicial system. The legislature further finds that nineteen states and the District of Columbia allow individuals who have completed their incarceration for a felony, after varying passages of time, to be eligible to serve on a jury. Four states, Colorado, Illinois, Iowa, and Maine, do not have any automatic exclusion of the right to serve on a jury.

The purpose of this Act is to clarify that a prospective juror is disqualified to serve as a juror if they have been convicted of a felony and have not been finally discharged or pardoned. This Act would not apply where there is no discharge or pardon, such as for those individuals sentenced to life imprisonment

with or without parole, or those convicted of murder or class A felonies for which a sentence of an indeterminate life term is imposed. This Act would also not affect a juror being excused for cause or a party's right to exercise a peremptory challenge.

SECTION 2. Section 612-4, Hawaii Revised Statutes, is amended to read as follows:

“§612-4 Grounds of qualification and disqualification. (a) A prospective juror ~~[is]~~ shall be qualified to serve as a juror if the prospective juror~~[:]~~ is:

- (1) ~~[Is a]~~ A citizen of the United States and ~~[of the]~~ State;
- (2) ~~[Is at]~~ At least eighteen years old;
- (3) ~~[Is a]~~ A resident of the judicial circuit; and
- (4) ~~[Is able]~~ Able to read, speak, and understand the English language.

(b) A prospective juror ~~[is]~~ shall be disqualified to serve as a juror if the prospective juror:

- (1) Is incapable, by reason of the prospective juror's disability, of rendering satisfactory jury service; ~~[but]~~ provided that a prospective juror claiming this disqualification may be required to submit a physician's, physician assistant's, or advanced practice registered nurse's certificate as to the disability, and the certifying physician, physician assistant, or advanced practice registered nurse is subject to inquiry by the court at its discretion;
- (2) Has been convicted of a felony in a state or federal court and not finally discharged or pardoned; or
- (3) Fails to meet the qualifications in subsection (a).

(c) For purposes of this section, “finally discharged” means the person has received or is eligible to receive a certificate of discharge pursuant to section 831-5.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2024.

(Approved June 29, 2023.)