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\_\_\_\_\_ BILL

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO COURTS; ALLOWING PERSONS SEVENTY-FIVE YEARS OF AGE OR OLDER TO BE EXEMPTED FROM JURY SERVICE WITHOUT REQUIRING AN AFFIDAVIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 38-5-2 NMSA 1978 (being Laws 1973, Chapter 150, Section 1, as amended) is amended to read:

"38-5-2. EXEMPTION FROM JURY SERVICE--EXCUSALS--SERVICE OF DISQUALIFIED JUROR.--

A. A person who has served as a member of a petit jury panel or a grand jury in either state or federal courts within the preceding thirty-six months shall be exempt from sitting or serving as a juror in a court of this state when the person requests to be exempted from service by reason of the exemption granted by this subsection.

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1           B. A person who is seventy-five years of age or  
2 older who ~~[files an affidavit requesting an]~~ requests exemption  
3 from jury service with a local court shall be permanently  
4 exempt from jury service.

5           C. A person may be excused from jury service at the  
6 discretion of the judge or the judge's designee, with or  
7 without the person's personal attendance upon the court, if:

8                   (1) jury service would cause undue or extreme  
9 physical or financial hardship to the prospective juror or to a  
10 person under the prospective juror's care or supervision;

11                   (2) the person has an emergency that renders  
12 the person unable to perform jury service; or

13                   (3) the person presents other satisfactory  
14 evidence to the judge or the judge's designee.

15           D. A person requesting an exemption or an excuse  
16 from jury service shall take all necessary action to obtain a  
17 ruling on the request no later than the date on which the  
18 person is scheduled to appear for jury duty.

19           E. The judge, in the judge's discretion, upon  
20 granting any excuse, may disallow the fees and mileage of the  
21 person excused.

22           F. The service upon a jury of a person disqualified  
23 shall, of itself, not vitiate any indictment found or any  
24 verdict rendered by that jury, unless actual injury to the  
25 person complaining of the injury is shown.

underscoring material = new  
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1                   G. As used in this section and Section 38-5-1 NMSA  
2 1978, "undue or extreme physical or financial hardship":

3                   (1) means circumstances in which a person  
4 would:

5                               (a) be required to abandon another  
6 person under the person's care or supervision due to the  
7 extreme difficulty of obtaining an appropriate substitute  
8 caregiver during the period of jury service;

9                               (b) incur costs that would have a  
10 substantial adverse impact on the payment of necessary daily  
11 living expenses of the person or the person's dependent; or

12                               (c) suffer physical hardship that would  
13 result in illness or disease; and

14                   (2) does not exist solely because a  
15 prospective juror will be absent from employment."