

The exemptions are:

- Expectant mother or mother who is currently breastfeeding
- Parent or guardian not employed full time who has custody of a child under six years of age
- Caregiver for elderly or disabled persons who is scheduled or expected to provide care at the time of jury service

FISCAL IMPLICATIONS

This change to the jury statute has the potential to reduce the number of available jurors and thereby increase the workload of courts, thus requiring additional resources to handle the increase. There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

SIGNIFICANT ISSUES

The jury statute was amended during the 2005 legislative session. Based on the 2005 amendments, the court may excuse any person who would “be required to abandon another person under the person’s care or supervision due to the extreme difficulty of obtaining an appropriate substitute caregiver during the period of jury service” §38-5-2 F(1)(a). This language allows courts to excuse persons in the groups designated in this bill.

Our trial system is based on a jury of one’s peers. Automatic excusals limit the diversity of the jury based on a group of persons, not the person’s actual ability to serve.

Excusing expectant or breastfeeding mothers is language that is broader than needed. Many pregnant women continue to work full time until delivery. Also, many breastfeeding mothers work outside the home.

An excusal of a parent or guardian who does not work full time and has custody of a child under six may be too broad. As drafted, any non-working parent of a child under six could be excused, even if care is readily available and/or commonly used.

Excusals for a caregiver of the elderly or disabled who is scheduled or expected to provide care may also be too broad. As drafted any healthcare employee who works with the elderly or disabled could be excused from jury service.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill could impact two performance measures. They are the percentage of jury summonses successfully executed and average cost per juror. Automatic excusals may increase the total number of jury summonses that must be executed, and could increase the average cost per juror as fewer jurors summoned actually serve.

ADMINISTRATIVE IMPLICATIONS

See Fiscal Implications

TECHNICAL ISSUES

The amendment to Subsection B appears to be unnecessary, as the trial judge or designee may currently exempt a person when he or she gives satisfactory evidence why he or she cannot perform his or her civic duty, under Subsection B(3), a catch-all exception.

OTHER SUBSTANTIVE ISSUES

Breastfeeding provides a range of benefits for the infant's growth, immunity, and developments. The American Academy of Pediatrics recommends that infants be exclusively breastfed for approximately the first six months of life, and then continued for at least the first year of life and thereafter for as long as mutually desired by the mother/infant pair (<http://pediatrics.aapublications.org>)

The United States Breastfeeding Committee recognizes that jury duty can present significant problems for the breastfeeding mother. In their paper, "State Breastfeeding Legislation", they recommend enacting or amending laws to offer greater support for breastfeeding. The committee states that the effect of a sudden separation can put the breastfeeding relationship between mother and infant at risk and that separation can also cause the mother to become ill with a breast infection if she is not able to breastfeed or to pump breast milk regularly (www.usbreastfeeding.org). The U.S. Health and Human Services Blue Print for Action on Breastfeeding recommends that breastfeeding mothers who need to express their milk be provided with adequate breaks, flexible work hours and a private room for milk expression in a secure and relaxing environment (www.4woman.gov/breastfeeding). Many court facilities may not be able to provide these accommodations for the breastfeeding mother. Breastfeeding mothers in these situations describe having to use a public or private restroom for pumping milk, which is not a sanitary or acceptable alternative.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mt:nt