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SENATE BILL 376

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO TRIALS; EXPANDING THE EXEMPTION FROM JURY SERVICE;  
AMENDING A SECTION OF THE NMSA 1978.

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.

B. A person may be excused from jury service at the

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1 discretion of the judge or the judge's designee, with or  
2 without the person's personal attendance upon the court, if:

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

6 (2) the person has an emergency that renders  
7 the person unable to perform jury service; [~~or~~]

8 (3) the person presents other satisfactory  
9 evidence to the judge or the judge's designee; or

10 (4) the person is:

11 (a) a parent or guardian who is not  
12 employed outside of the home and who is responsible for the  
13 care and custody of a child under the age of six years old; or

14 (b) a caregiver of an aged or infirm  
15 family member who is scheduled or expected to provide care at  
16 the time of the required jury service; provided, however, that  
17 the provisions of this subparagraph do not apply to a caregiver  
18 who provides care through employment or as the caregiver's  
19 normal course of business.

20 C. A person requesting an exemption or an excuse  
21 from jury service shall take all necessary action to obtain a  
22 ruling on the request no later than the date on which the  
23 person is scheduled to appear for jury [~~duty~~] service.

24 D. The judge, in the judge's discretion, upon  
25 granting any excuse, may disallow the fees and mileage of the

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1 person excused.

2 E. The service upon a jury of a person disqualified  
3 shall, of itself, not vitiate any indictment found or any  
4 verdict rendered by that jury, unless actual injury to the  
5 person complaining of the injury is shown.

6 F. As used in this section and Section 38-5-1 NMSA  
7 1978, "undue or extreme physical or financial hardship":

8 (1) means circumstances in which a person  
9 would:

10 (a) be required to abandon another  
11 person under the person's care or supervision due to the  
12 extreme difficulty of obtaining an appropriate substitute  
13 caregiver during the period of jury service;

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

17 (c) suffer physical hardship that would  
18 result in illness or disease; and

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

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