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HOUSE BILL 1255

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Debbie A. Rodella

AN ACT

RELATING TO COURTS; PROVIDING THAT JUDGES NOT REQUIRE PERSONAL ATTENDANCE TO EXCUSE A PERSON FROM JURY SERVICE DUE TO EXTREME PHYSICAL HARDSHIP; REQUIRING THAT A PERSON EXCUSED FROM JURY SERVICE DUE TO EXTREME PHYSICAL HARDSHIP NOT BE SUMMONED AGAIN FOR SERVICE FOR A PERIOD OF THREE YEARS.

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

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1 person requests to be exempted from service by reason of the
2 exemption granted by this subsection.

3 B. A person may be excused from jury service at the
4 discretion of the judge or the judge's designee [~~with or~~
5 ~~without the person's personal attendance upon the court~~], if:

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

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

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

13 C. A person may be excused from jury service
14 pursuant to Subsection B of this section with or without the
15 person's personal attendance upon the court; except the judge
16 or the judge's designee shall not require a person's personal
17 attendance upon the court if the person provides, within the
18 required time period indicated on the summons, a written
19 request supported by satisfactory evidence for exemption from
20 jury service due to extreme physical hardship.

21 D. A person who is excused from jury service due to
22 extreme physical hardship shall not be summoned for jury
23 service for at least three years from the date of excusal.

24 [~~C.~~] E. A person requesting an exemption or an
25 excuse from jury service shall take all necessary action to

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1 obtain a ruling on the request no later than the date on which
2 the person is scheduled to appear for jury duty.

3 ~~[D-]~~ F. The judge, in the judge's discretion, upon
4 granting any excuse, may disallow the fees and mileage of the
5 person excused.

6 ~~[E-]~~ G. The service upon a jury of a person
7 disqualified shall, of itself, not vitiate any indictment found
8 or any verdict rendered by that jury, unless actual injury to
9 the person complaining of the injury is shown.

10 ~~[F-]~~ H. As used in this section and Section 38-5-1
11 NMSA 1978, "undue or extreme physical or financial hardship":

12 (1) means circumstances in which a person
13 would:

14 (a) be required to abandon another
15 person under the person's care or supervision due to the
16 extreme difficulty of obtaining an appropriate substitute
17 caregiver during the period of jury service;

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

21 (c) suffer physical hardship that would
22 result in illness or disease; and

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

25 Section 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2007.

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