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HOUSE BILL 352

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

INTRODUCED BY

Anna M. Crook

AN ACT

RELATING TO JURY SERVICE; PROVIDING FOR AN EXEMPTION FROM JURY SERVICE FOR A PERSON WHO IS SEVENTY YEARS OF AGE OR OLDER; GRANTING MANDATORY EXEMPTIONS FOR CERTAIN CONDITIONS.

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

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

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

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

12 C. A person who is seventy years of age or older
13 shall be excused from jury service if the person files an
14 affidavit with the court stating that the person does not wish
15 to perform jury service.

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

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

23 [~~E.~~] F. The service upon a jury of a person
24 disqualified shall, of itself, not vitiate any indictment found
25 or any verdict rendered by that jury, unless actual injury to

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1 the person complaining of the injury is shown.

2 [F-] G. As used in this section and Section 38-5-1
3 NMSA 1978, "undue or extreme physical or financial hardship":

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

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

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

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

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