

SENATE BILL NO. 137

INTRODUCED BY J. TREBAS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PROSPECTIVE JURORS WHO ARE 75 YEARS OF AGE OR OLDER MUST BE EXCUSED ON REQUEST; AMENDING SECTION 3-15-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-15-313, MCA, is amended to read:

"3-15-313. Who may be excused -- affidavit to claim excuse -- permanent exclusion for chronically incapacitated. (1) The court or the jury commissioner with the approval of the court shall excuse a person from jury service ~~upon~~on finding that jury service would entail undue hardship for the person, a dependent of the person, or the public served by the person. An excuse may be granted if the prospective juror is a breastfeeding mother or otherwise has a personal obligation to provide actual and necessary care to another, including a sick, aged, or special needs dependent who requires the prospective juror's personal care and attention, and comparable substitute care is either unavailable or impractical without imposing an undue economic hardship on the prospective juror or dependent person.

(2) If a person believes jury service would entail undue hardship for the person, a dependent of the person, or the public served by the person, the person may make and transmit an affidavit to the jury commissioner for which the person is summoned, stating the person's occupation or other facts that the person believes will excuse the person from jury service. The affidavit must be filed with the jury commissioner, who shall transmit it to the court. The court or the jury commissioner with the approval of the court shall excuse a prospective juror from jury service if the prospective juror satisfies the provisions of subsection (1).

(3) A person who is chronically incapacitated by illness or injury may request a permanent exclusion from jury service by making and transmitting an affidavit to the jury commissioner of the person's place of residence. The affidavit must include a certification by the person's physician that the person is chronically incapacitated by illness or injury. The affidavit must be filed with the jury commissioner, who shall

1 transmit it to the court. The court or jury commissioner with the approval of the court may permanently excuse a
2 prospective juror from jury service if the prospective juror satisfies the provisions of this subsection (3).

3 (4) For the purposes of subsection (3), a person is chronically incapacitated if the person has a
4 condition due to an illness or injury that restricts the person's ability to leave the person's place of residence
5 without the aid of supportive devices, such as crutches, a cane, a wheelchair, or a walker, that restricts the
6 person's ability to leave home without the use of special transportation or the assistance of another person, or
7 that causes leaving home to be medically contraindicated. Examples of factors to be taken into account in
8 determining whether chronic incapacitation exists include but are not limited to the following:

- 9 (a) paralysis by a stroke or other cause;
10 (b) blindness;
11 (c) senility;
12 (d) loss of the use of a person's extremities requiring the assistance of another in leaving the
13 person's place of residence;
14 (e) arteriosclerotic heart disease of such severity that a person is required to avoid all stress and
15 physical activity; or
16 (f) a psychiatric problem if the illness is manifested in part by a refusal to leave home or is of such
17 a nature that it would not be considered safe for the person to leave home unattended, even if there are no
18 physical limitations.

19 (5) On the request of a person who is 75 years of age or older, the court or the jury commissioner
20 shall excuse the person from jury service."

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22 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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