

1971 Bill 55

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Fourth Session, 16th Legislature, 20 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 55**

**An Act to amend The Jury Act**

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THE ATTORNEY GENERAL

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 55

1971

## AN ACT TO AMEND THE JURY ACT

(Assented to \_\_\_\_\_, 1971)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. *The Jury Act is hereby amended.*
2. *Section 6 is struck out.*
3. *Section 9 is amended by striking out subsection (4).*
4. *Section 19 is amended*
  - (a) *as to subsection (1), clause (a) by striking out the words “, male or female,”*,
  - (b) *as to subsection (4), clause (b) by striking out the words “except that envelopes containing the names of female jurors shall be of one colour, and those containing the names of male jurors another”,*
  - (c) *as to subsection (6) by striking out the words “containing the names of male persons”,*
  - (d) *by striking out subsection (7) and by substituting the following:*

(7) The sheriff shall then select from the box or urn as many envelopes as there are jurors required and the persons named in the envelopes shall be the panel.
  - (e) *by striking out subsection (8).*
5. *Section 21 is amended*
  - (a) *as to subsection (1) by striking out the word “male”,*
  - (b) *as to subsection (3) by striking out the word “man” and by substituting the word “person”,*
  - (c) *by striking out subsection (4).*

## Explanatory Notes

**1.** This Bill amends chapter 194 of the Revised Statutes of Alberta 1970.

**2.** Section 6 reads:

6. No woman shall be compelled to serve as a juror, unless before the service of a jury summons upon her she signs a document signifying her willingness to serve as provided in section 21.

**3.** Section 9, subsection (4) reads:

(4) Having regard to the subsequent provisions of this Act a reasonable proportion of the names on jury lists shall be the names of women, and the names of men and the names of women on jury lists shall be separated and indicated by appropriate headings.

**4.** The amendment strikes out any reference to the words male or female. Section 19, subsections (1), (4), (6), (7) and (8) presently read:

19. (1) When a jury other than a special jury is required the Clerk within a reasonable time before the sittings of the Court for which the jury is required, and with due regard to the provisions of section 20,

(a) shall certify over his hand the number of jurors, male or female, required, and

(b) shall thereupon immediately exhibit the said certificate to a judge of the district court having jurisdiction in the judicial district and shall apply to him for a date upon which to draw the jury panel.

(4) Before the time fixed for the drawing of the panel, the Clerk

(a) shall write the name of each person named in the list returned to him by the sheriff as provided in section 11, together with each such person's address and occupation, upon a card or piece of paper, all such cards or pieces of paper being of uniform size, and

(b) shall place each card or piece of paper in an envelope and seal it, all such envelopes being uniform in size and shape and without markings of any kind, except that envelopes containing the names of female jurors shall be of one colour, and those containing the names of male jurors another.

(6) The Clerk shall thereupon cause all the envelopes containing the names of male persons to be placed in a box or urn and thoroughly mixed in the presence of the district court judge or his representative and of the sheriff.

(7) The sheriff shall then select from the box or urn a number of envelopes corresponding to the number of male jurors required and the persons named in the envelopes shall be a portion of the panel.

(8) The selection of the required number of female jurors shall take place in manner similar to that described in subsections (6) and (7) for the selection of the required number of male jurors.

**5.** The amendment strikes out any reference to the word "male" or "man". Section 21, subsection (4) reads:

(4) In the case of a woman whose name appears in the precept the sheriff shall, before summoning her,

(a) explain to the woman that she is not obliged to serve upon the jury, and

(b) request her to sign a consent in Form D in the Schedule, and if she signs the consent, but not otherwise, the sheriff shall summon her in the manner provided in this section.

6. Section 22 is struck out and the following is substituted:

**22.** The sheriff shall, on or before the opening of the Court for which the jury has been summoned, deliver to the Clerk the precept with a return showing his action thereon.

7. Section 23 is amended by striking out subsection (2) and by substituting the following:

(2) The pieces of card or paper bearing the names of the jurors shall, under the direction of the sheriff, be put in a box or urn, and the sheriff shall deliver the box or urn to the Clerk of the Court.

8. Section 24 is struck out and the following is substituted:

**24.** (1) When an action for which a jury is required is brought on for trial, the Clerk shall in open Court

- (a) cause the box or urn containing the cards or papers inscribed with the names of all the jurors to be shaken so as to mix the cards or papers therein, and
- (b) then draw out the cards or papers one after another, shaking the box or urn after the drawing of each, until a sufficient number of persons to form a complete jury is selected after all peremptory challenges and challenges for cause are allowed.

(2) Such persons upon being sworn shall be the jury to try the issues in the action.

9. Section 32 is amended by striking out subsections (3) and (4).

10. Section 41 is amended

- (a) as to subsection (1) by striking out the word "male",
- (b) by striking out subsection (2).

11. The following section is added after section 45:

**45.1** (1) Every employer shall allow an employee leave of absence from his employment when the employee is summoned to serve as a juror sufficient for him to serve as he may be required.

(2) Every employer or agent of an employer who, directly or indirectly,

- (a) threatens to cause or causes actual loss of position or employment of, or

**6. Section 22 reads:**

22. The sheriff shall, on or before the opening of the Court for which the jury has been summoned, deliver to the Clerk

- (a) the precept with a return showing his action thereon, and
- (b) a list of the women, if any, named in the precept who object to serve as jurors.

**7. Section 23, subsection (2) presently reads:**

(2) The pieces of card or paper bearing the names of male jurors shall under the direction of the sheriff be put in one box or urn, and those bearing the names of female jurors in another box or urn, and the sheriff shall deliver both boxes or urns to the Clerk of the Court.

**8. Section 24 reads:**

24. (1) Except as provided in subsections (3) and (4), when an action for which a jury is required is brought on for trial, the Clerk shall in open Court

(a) cause the box or urn containing the cards or papers inscribed with the names of all the male jurors to be shaken so as to mix the cards or papers therein, and

(b) then draw out the cards or papers one after another, shaking the box or urn after the drawing of each, until a sufficient number of persons to form a complete jury is selected after all peremptory challenges and challenges for cause are allowed.

(2) Such persons upon being sworn shall be the jury to try the issues in the action.

(3) When a jury consisting of women only is required, the Clerk shall in open Court proceed similarly to select a jury from among the persons named on the cards or papers in the box or urn containing the names of female jurors.

(4) When a jury consisting of men and women is required as provided in section 32, subsection (3), the Clerk shall in open Court

(a) cause each box or urn to be separately shaken so as to mix the cards or papers inscribed with the names therein,

(b) draw the cards or papers one after another out of one of the boxes until the full complement of the male or female jurors, as the case may be, has been selected,

(c) draw the cards or papers one after another out of the other box or urn until the remaining portion of the jury has been selected, and

(d) otherwise continue the proceedings as provided in subsection (1).

**9. Section 32, subsections (3) and (4) read:**

(3) In all actions triable by a jury

(a) if a woman is a party to the action she may at any time notify the Clerk of the Court that she desires three women to be upon the jury and in such event the jury shall be composed of three women and three men, or

(b) if all the parties to an action are women they may by a joint request in writing signed by all such parties or their solicitors at any time notify the Clerk of the Court that all the jury must be women, and in such event the jury shall be composed of six women, or

(c) if the rights of a woman who is not a party to the action are involved, such woman, or any party to the action, may apply to a judge for an order that one-half or all of the jury be women, and the judge may make such order as to him seems proper to the end that the spirit of this section will be carried into effect.

(4) The notices and applications referred to in subsection (3) shall be given or made at least 20 days before the opening of the sittings of the Court at which the trial is to be held.

**10. The amendment strikes out a reference to the word male.**

**Section 41, subsection (2) reads:**

(2) A female person who having signed a consent to serve as a juror fails to obey the summons served on her or to answer to her name when called by the Clerk is liable to a fine of not more than \$50, or to imprisonment for not more than 30 days, or to both fine and imprisonment.

**11. Penalty for threatening employee with loss of employment.**

(b) threatens to impose or imposes any pecuniary or other penalty on,  
an employee summoned because of his response to the summons or his service as a juror is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$1000, or to imprisonment for not more than three months, or to both fine and imprisonment.

*12. Form D is struck out.*

*13. This Act comes into force on the day upon which it is assented to.*

**12.** Form D is the form a woman signs consenting to serve on a jury.