

7 GCA CIVIL PROCEDURE
CH. 22 TRIAL BY JURY

CHAPTER 22
TRIAL BY JURY

NOTE: This Chapter was first enacted by P.L. 3-42, but was applied to trials in the District Court (federal court) only. P.L. 9-256 amended the Chapter to apply it to both the District and Island Courts (a local courts) of Guam. The law was amended a number of times between the 9th and 17th Legislatures and then, in the 17th Guam Legislature, was repealed and reenacted as found in this Chapter. Therefore, all source references are to the Code of Civil Procedure as reenacted by P.L. 17-62 and as amended after that.

At the time of the original enactment of this Chapter, the Organic Act was such that it was up to the local Legislature to determine whether or not jury trials applied to local cases in any court on Guam. The District Court was then responsible for all cases having a value over \$2,000 and all felonies. Since the Court Reorganization Act of 1974 (P.L. 12-85), the District Court has had no local jurisdiction and it handles its own jury selection procedure through federal law.

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As used in this Chapter:

- (1) *Clerk* and *clerk of the court* include any deputy clerk;
- (2) *Court* means the Superior Court of Guam, and includes, when the context requires, any judge of the court;
- (3) *Jury Wheel* means any physical device or electronic system for the storage of the names or identifying numbers of prospective jurors;
- (4) *Master Jury Wheel* means the jury wheel in which are placed names or identifying numbers of prospective jurors taken from the master list;
- (5) *Master List* means the voter registration lists which shall be supplemented with names from other sources prescribed pursuant to this Chapter in order to foster the policy and protect rights secured by this Chapter;
- (6) *Name* when used in connection with prospective jurors, includes identifying numbers of the jurors;
- (7) *Physical disability* means a physical impairment which substantially limits one or more of a person's major life activities;
- (8) *Qualified jury wheel* means the jury wheel in which are placed the names of prospective jurors drawn at random from the master jury wheel who are not disqualified; and
- (9) *Voter registration list* means the official record of persons registered to vote in the most recent general election.

SOURCE: CCP § 680.1.

§ 22102. Declaration of Policy.

It is the policy of the territory of Guam that all persons selected for jury service be selected at random from a fair cross section of the population of the Territory, and that all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service on grand or petit juries, in this Territory and an obligation to serve as jurors when summoned for that purpose.

SOURCE: CCP § 680.2

§ 22103. Prohibition of Discrimination.

A citizen shall not be excluded from jury service in the courts of Guam on account of race, color, religion, sex, national origin, economic status, or on account of a physical disability except as provided in § 22105(5) of this Chapter.

SOURCE: CCP § 680.3.

§ 22104. Right to Jury Trial.

In all cases at law in which the demand, exclusive of interest and costs, or the value of the property in controversy amounts to more than Twenty Dollars (\$20.00), except for small claims cases and appeals thereafter, and in all criminal cases where the authorized punishment consists of confinement for more than sixty (60) days or a fine of more than Five Hundred Dollars (\$500.00), the parties shall be entitled to a trial by jury.

SOURCE: CCP § 680.4; amended by P.L. 18-4:1.

CROSS-REFERENCE: See Rule 47 of the Guam Rules of Civil Procedure.

§ 22105. Grounds of Disqualification.

A prospective juror is disqualified to serve as a juror if he:

- (1) is not a citizen of the United States;
- (2) is not at least eighteen years old;
- (3) has not resided for a period of at least one year within Guam;
- (4) is unable to read, write, speak, and understand the English language;
- (5) is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate as to the disability, and the certifying physician is subject to inquiry by the court at its discretion; or

- (6) has been convicted of a felony in a state, territorial or federal court and has not been pardoned.

SOURCE: CCP § 680.5

§ 22106. Disqualification by Interest.

No person shall sit as a juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the juror has, either directly or through such relative, any pecuniary interest.

SOURCE: CCP § 680.6.

§ 22107. Exempt When.

A person may claim exemption from service as a juror if he is:

- (1) a member in the active services of the armed forces of the United States;
- (2) An elected official, or a judge, of the United States or the Territory of Guam;
- (3) an actively engaged member of the clergy;
- (4) an actively practicing attorney, physician, dentist, or registered nurse;
- (5) a member of the Fire or Police Departments or an employee of a government contractor engaged in providing internal security or fire protection for such contractors;
- (6) a person who has served as a juror, either in the Superior Court or the United States District Court of Guam, within two (2) years preceding the time of filling out the juror qualification form; or
- (7) over sixty-five years old.

SOURCE: CCP § 680.7.

§ 22108. Excused When, for Cause.

A juror shall not be excused by the court for slight or trivial cause, but only when it appears that jury duty would entail a serious personal hardship, or that for other good cause he should be excused either temporarily or otherwise.

SOURCE: CCP § 680.8.

§ 22109. Fees.

Jurors in the courts of Guam shall receive the following fees, except as otherwise expressly provided by law:

For actual attendance at the place of trial or hearing and for the time necessarily occupied in going to and from such place at the beginning and end of such service or at any time during the same, Thirty Dollars (\$30.00) per day, except that any juror required to attend more than thirty (30) days in hearing one case may be paid in the discretion and upon the certification of the judge a per diem fee not exceeding Forty Dollars (\$40.00) for each day in excess of thirty (30) days he is required to hear each case.

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Whenever in any case the jury is ordered to be kept together and not to separate, the cost of subsistence during such period shall be paid upon the order of the court. Jury fees provided by this section shall be paid on the certificate of the clerk of the court, and in the case of jury fees in excess of Thirty dollars (\$30.00) per diem, when allowed as hereinabove provided, on the certificate of the trial judge.

SOURCE: CCP § 680.9.

§ 22110. Jury Trust Fund.

There is hereby established a Jury Trust Fund (the Fund) to carry out the provisions of sections § 22104 and § 22109 of this Title. The Fund shall be replenished annually by appropriation of the Legislature paid directly to the Fund. All expenses related to jury services shall be accounted for in the Fund which shall be maintained separate and apart from other funds of the Superior Court.

SOURCE: CCP § 680.9a added by P.L. 19-28:2.

§ 22111. Appointed Counsel Trust Fund.

[Repealed]

SOURCE: CCP § 680.9b added by P.L. 19-28:3. R/R by P.L. 26-152:IV:13. Repealed by P.L. 27-55:3. Any funds in account to be placed in Judicial Client services Fund. See 7 GCA Chapter 9.6

§ 22112. Master list.

(a) The clerk shall compile a master list. The master list shall consist of the vote registration list for the Territory, which may be supplemented with names from other lists of persons resident therein such as lists of property taxpayers, utility customers, and drivers' licenses which the court from time to time designates. Additionally, any person whose name may not appear on any list used in the compilation of the master list may request the clerk to place his name on the master list, and the clerk shall comply with such request if he finds the person qualified to serve as a juror.

(b) Whoever has custody, possession, or control of any of the lists which are to be used in compiling the master list, shall make the list available to the clerk for inspection, reproduction, and copying at all reasonable times.

SOURCE: CCP § 680.10.

§ 22113. Master Jury Wheel.

Each year the clerk shall, by random selection, place in the master jury wheel the names of prospective jurors taken from the master list, in such number as the court determines should be processed in order to provide the number

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of jurors required for the ensuing year. The clerk shall make the random selection of names as follows: One out of every ten (10) names from the master list shall be selected by first selecting a starting number, by chance, between one and ten, and every tenth name thereafter shall be selected. From time to time an additional number may be ordered by the court to be placed in the master jury wheel. The master jury wheel shall be emptied and refilled between July 1 and September 1 of every year.

SOURCE: CCP § 680.11.

§ 22114. Juror Qualification Form.

(a) The clerk shall prepare an alphabetical list of the name in the master jury wheel, which shall not be disclosed to any person other than pursuant to this chapter or specific order of the court. The clerk shall have delivered to every person whose name appears on such list a juror qualification form accompanied by instructions to fill out and return the form by mail or in person to the clerk within ten days after its receipt. The form shall be subject to approval by the court as to matters of form and shall elicit the name, address of resident, age of the prospective juror, other information pertinent to disqualification or exemption from jury service and such other matters as may be ordered by the court. The form further shall contain the prospective juror's declaration that his responses are true to the best of his knowledge and his acknowledgement that a willful misrepresentation of material fact may be punished by a fine of not more than \$500 or imprisonment for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor. Upon failure or refusal of any person duly receiving the juror qualification form to complete and return it as required, or in case of an omission, ambiguity, or error in a return form, the court, after first summoning the person to appear before the clerk to complete or correct the form, may punish the person for contempt.

(b) At the time of his appearance for jury service, or at the time of any interview before the court or clerk, any prospective juror may be required or permitted to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to his responses to questions contained on the form and grounds for his exemption, excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

(c) The clerk may in his discretion, by court process, summon prospective jurors before him for examination.

(d) Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a petty misdemeanor.

SOURCE: CCP § 680.12.

§ 22115. Qualified Jury Wheel.

Upon return of the juror qualification forms, the clerk shall select for jury service all those persons whom he believes are qualified and not exempt; provided, that any person who is exempt may be selected if he waives his exemption. The names of the persons so selected shall be placed in the qualified jury wheel, to be used in compiling lists of jurors subject to service during the ensuing year; provided that the clerk may, with the approval of the court, excuse a prospective juror for any cause set forth under § 22107, in which case the name of such excused person shall not be placed in the qualified jury wheel.

SOURCE: CCP § 680.13.

§ 22116. Selection and Summoning of Jury Panels.

(a) From time to time, the clerk shall draw at random from the qualified jury wheel such number of persons as may be required for assignment to grand and petit jury panels. The clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel. When the court orders a grand or petit jury to be drawn, the clerk shall issue summonses for the required number of jurors and deliver them to the Marshal for service.

(b) Each person drawn for jury service shall be served personally or by mail addressed to such person at his usual residence or business address. Such service shall be made by the Marshal who shall attach to his return the addressee's receipt for registered or certified mail where service is made by mail.

(c) A juror who willfully or without reasonable excuse fails to attend after service of a summons in accordance with this Section may be ordered to be arrested by the court and may be punished for contempt.

SOURCE: CCP § 680.14.

§ 22117. Requests for Exemption or Excuse.

If a person who is exempt or who believes himself to be entitled to be excused from jury duty, is summoned as a juror, he may, even though he did not request exemption or excuse previously, or was not exempted or excused by the clerk, make his request for exemption or excuse to the judge of the court for which he is summoned. The request may be made to the clerk, who shall deliver it to the judge and if sufficient in substance it shall be received as an excuse for nonattendance in person.

SOURCE: CCP § 680.15.

§ 22118. Jurors Disqualified, Exempted, or Excused.

Whenever a juror has been disqualified, exempted, or excused, that fact shall be noted on his juror qualification form and he shall not be subject to service for the period of time commensurate with the nature and circumstances of his disqualification, exemption, or excuse.

SOURCE: CCP § 680.16.

§ 22119. Challenging Compliance with Selection Procedures.

(a) In criminal cases, before the voir dire examination ends, the defendant may move to dismiss the indictment or stay the proceedings against him on the ground of substantial failure to comply with the provisions of this Title in selecting the grand or petit jury.

(b) In criminal cases, before the voir dire examination ends, the prosecuting attorney may move to dismiss the indictment or stay the proceedings on the ground of substantial failure to comply with the provisions of this Title in selecting the petit jury.

(c) In civil cases, before the voir dire examination ends, any party may move to stay the proceedings on the ground of substantial failure to comply with the provisions of this Title in selecting the petit jury.

(d) Upon motion filed under Subsection (a), (b) or (c) of this Section, containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with the provisions of this Title, the moving party shall be entitled to present in support of such motion the testimony of the clerk, if available, any relevant records and papers not public or otherwise available used by the clerk, and any other relevant evidence. If the court determines that there has been a substantial failure to comply with the provisions of this Title in selecting a grand jury, the court shall stay the proceedings pending the selection of a grand jury in conformity with this Title or dismiss the indictment, whichever is appropriate. If the court determines that there has been a substantial failure to comply with the provisions of this Title in selecting the petit jury, the court shall stay the proceedings pending the selection of a petit jury in conformity with this Title.

(e) The procedures prescribed by this Section shall be the exclusive means by which a person accused of a territorial crime, the prosecuting attorney, or a party in civil case may challenge any jury on the ground that such jury was not selected in conformity with the provisions of this Title. Nothing in this Section shall preclude any person or the government of Guam from pursuing any other remedy, civil or criminal, which may be available for the vindication or enforcement of any law prohibiting discrimination on account of

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race, color, religion, sex, national origin or economic status in the selection of persons for service on grand or petit juries.

(f) The contents of records or papers used by the clerk in connection with the jury selection process shall not be disclosed, except pursuant to the Superior Court plan or as may be necessary in the preparation or presentation of a motion under Subsection (a), (b), or (c) of this Section, until after the master jury wheel has been emptied and refilled pursuant to § 22112 of this Chapter and all persons selected to serve as jurors before the master wheel was emptied have completed such service. The parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and pendency of such a motion. Any person who discloses the contents of any record or paper in violation of this Subsection is guilty of a misdemeanor.

SOURCE: CCP § 680.17.

§ 22120. Challenges.

In civil cases, each party shall be entitled to three peremptory challenges. Several defendants or several plaintiffs may be considered as a single party for the purpose of making challenges, or the court may allow additional peremptory challenges and permit them to be exercised separately or jointly. All challenges for cause or favor, whether to the array or panel or to individual jurors, shall be determined by the court.

SOURCE: CCP § 680.18.

§ 22121. Preservation of Records.

After the master jury wheel is emptied and refilled pursuant to § 22112 of this Title, and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, all records and papers compiled and maintained by the clerk before the master wheel was emptied shall be preserved in the custody of the clerk for four (4) years or for such longer period as may be ordered by the court, and shall be available for public inspection for the purpose of determining the validity of the selection of any jury.

SOURCE: CCP § 680.19.

§ 22122. Protection of Jurors' Employment.

(a) An employer shall not deprive an employee of his employment, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

(b) Any employer who violates Subsection (a) is guilty of a petty misdemeanor.

(c) If an employer discharges an employee in violation of subsection (a) the employee within ninety days from the date of discharge may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed lost wages for six weeks. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

SOURCE: CCP § 680.20.

§ 22123. Use of Electronic or Electro-Mechanical Devices oor Drawing Grand and Petit Juries.

Selections of potential jurors and drawings of jury lists and panels, may be made by means of electronic or electro-mechanical devices commonly designated as data processing equipment such as punch cards, electronic tape, random access files, and other solid state devices when the same are available for their use and the court so orders.

SOURCE: CCP § 680.21.

§ 22124. Continuation of Law.

This Chapter shall be deemed a continuation of former law so far as sections of the former law are continued unamended. The present jury panel shall continue until its term expires.

SOURCE: CCP 680.22.
