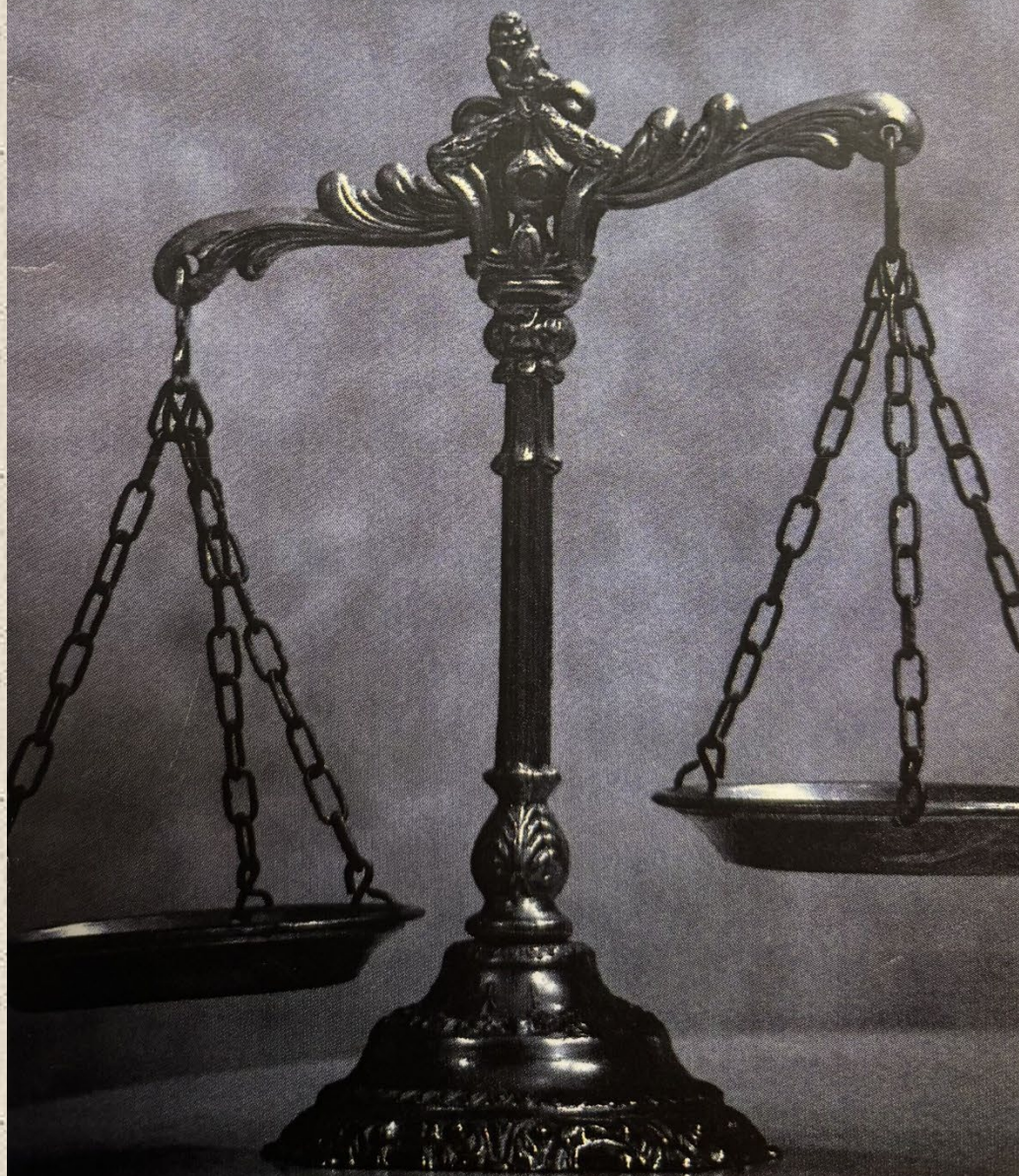


Handbook for Jurors

by Ryan Spitzer, Judge
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7th Judicial District
Rex Lynch, Circuit Court Clerk
ANDERSON COUNTY, TENNESSEE



A Guide to Jury Service

By Ryan Spitzer, Judge

And

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*7th Judicial District
Anderson County, Tennessee*

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Introduction

This pamphlet is being distributed in order to familiarize jurors with the court system in Anderson County, to inform them to some extent about the nature of their work and its importance, and to explain the duties and responsibilities as a member of a jury panel.

The information contained herein is not to be regarded by members of the jury panel as instructions of law applicable in deciding cases. The judge will instruct the jury in each separate case as to the law that would govern the issues in that particular case, and jurors must follow those instructions in reviewing the evidence and in reaching a decision or verdict.

The right to trial by jury is a very sacred and valuable right in American jurisprudence. It is guaranteed by the Constitution of the United States and by the Constitution of the State of Tennessee. This valuable right is also preserved in most state constitutions of our country.

Qualifications and Selection of Jurors

In Tennessee, in order to be basically qualified for jury service, one must be at least 18 years of age, a citizen of the United States, a resident of the State of Tennessee, and a resident of the county in which he or she may be summoned for jury service for a period of at least twelve (12) months.

22-1-102. Excluded persons. (a) The following persons are incompetent to act as jurors: (1) Persons convicted of a felony or any other infamous offense; (2) Persons convicted of perjury or subornation of perjury.

Driver License Registration: Driver license registration has been found to be the most common and the most reliable identifiable source for citizen participation in activities

requiring registration. It is from the list of registered drivers living in Anderson County that citizens are selected to serve as jurors. The selective process is accomplished by a computer which is programmed to randomly select Anderson County citizens over 18 years of age and who are registered as drivers in the State of Tennessee. This selection is on a prorata basis in accordance with the number of persons living in the various zip codes of Anderson County. The law does not allow a citizen to volunteer to serve as a juror. Fairness and a commitment to impartiality is the true test for you to perform this important constitutional duty.

Importance of Jury Service

Jurors perform a vital role in the American system of justice. The protection of our rights and liberties is largely achieved through the teamwork of judge and jury who, working together in a common effort, put into practice the principles of our great heritage of freedom. The judge determines the law to be applied in the case, while the jury decides the facts. Thus, in a very important way, jurors become a part of the court itself.

Efficient jurors are men and women of sound judgement, absolute honesty, and a complete sense of fairness. Jury service is a high duty of citizenship. The juror aids in the maintenance of law and order and upholds justice among his fellow men. His greatest reward is the knowledge that he has discharged this duty faithfully, honorably, and well.

Excuses from Jury Duty

(A) General:

Most jurors must serve at a financial sacrifice, but few who read this handbook and

thoroughly consider the privilege available to them will ask to be excused from service. It is understood that some jurors may have good reason because of the state of his or her health, occupation or other urgent circumstances, to justify a request for being excused from jury service. All requests will be given due consideration, but only those that present sufficient legal reasons will be granted.

(B) T.C.A. 22-1-103 Provides:

(a) Any person may be excused from serving as a juror if the prospective juror has a mental or physical condition that causes that person to be incapable of performing jury service. The juror, or the juror's personal representative, must provide the court with documentation from a physician licensed to practice medicine, verifying that a mental or physical condition renders the person unfit for jury service.

(b) Any person, when summoned to jury duty, may be excused upon a showing that the person's service will constitute an undue or extreme physical or financial hardship to the prospective Juror's care or supervision.

(1) A judge of the court for which the prospective juror was called to jury service shall make undue or extreme physical or financial hardship determinations unless a judge of that court delegates this authority to the jury coordinator. In the event this authority is not delegated to the jury coordinator, a judge of the court may authorize the jury coordinator to make initial inquiries and recommendations concerning such requests.

(2) A person asking to be excused based on a finding of undue or extreme physical or financial hardship shall take all actions necessary to have obtained a ruling on that request by no later than the date on which the person is

scheduled to appear for jury duty.

(3) Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from that prospective juror's place of employment.

(4) A person requesting an excuse based on undue or extreme physical or financial hardship shall be required to provide the judge with income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, an affidavit stating that the person is unable to obtain an appropriate substitute caregiver during the period of participation in the jury pool or on the jury, or similar documentation that the judge finds to clearly support the request to be excused. Failure to provide satisfactory documentation may result in a denial of the request to be excused.

(5) For purposes of this section, "undue or extreme physical or financial hardship" is limited to circumstances in which a prospective juror would:

(A) Be required to abandon a person under the juror's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury;

(B) Incur costs that would have a substantial adverse impact on the payment of the juror's necessary daily living expenses or on those for whom the juror provides the principle means of support;

(C) Suffer physical hardship that would result in illness or disease; or

(D) Be deprived of compensation due to the fact that the prospective juror works out-of-state and the out-of-state employer is unwilling to compensate the juror pursuant to § 22-4-106 or

that the prospective juror is employed by an employer who is not required to compensate jurors pursuant to § 22-4-106 and declines to do so voluntarily.

(c) Documents submitted pursuant to this section shall be maintained by the jury coordinator during the jury service term but may be destroyed thereafter. These documents are not public records and shall not be disclosed, except pursuant to a court order; however, the jury coordinator shall maintain a list of members of the jury pool who were excused pursuant to this section, and that information shall be made available upon request.

(d) A person excused from jury service pursuant to this section becomes eligible for qualification as a juror following the period ordered by the court, which shall not exceed twenty-four (24) months. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.

Scheduled Vacation, Business Trips and Personal Matters

Every juror will be allowed to be excused for:

- (1) Scheduled vacation
- (2) Business trips
- (3) Personal matters of importance

Prior approval will require a call to the Clerk's office during normal work hours of the Clerk's office and the juror will inform the clerk of the scheduled vacation, business trip or personal matter. Remember, you must inform the clerk of your scheduled vacation, business trips or personal matters. Otherwise, you will not be excused.

Employment and Employers

Employment – amount of compensation; night shift, etc.; railroad employees, five or more employees; temporary employees; violations T.C.A. 22-4-106 provides:

Absence from employment-Amount of compensation.

(a)(1) Upon receiving a summons to report for jury duty, any employee shall, on the next day the employee is engaged in the employee's employment, exhibit the summons to the employee's immediate superior, and the employer shall thereupon excuse the employee from employment for each day the employee's service as a juror in any court of the United States or this state exceeds three (3) hours.

(2) If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, the employee shall also be excused from employment as provided by this

section for the shift immediately preceding the employee's first day of service. After the first day of service, when the person's responsibility for jury duty exceeds three (3) hours during a day, the person whose circumstances fall within the parameters of this subdivision (a)(2) shall be excused from the person's next scheduled work period occurring within twenty-four (24) hours of that day of jury service. Any question concerning the application of this subdivision

(a)(2) to a particular work shift or shifts shall be conclusively resolved by the trial judge of the court to which the employee has been summoned.

(b) Notwithstanding the excused absence as provided in subsection (a), the employee shall be entitled to the employee's usual compensation received from such employment; however, the

employer has the discretion to deduct the amount of the fee or compensation the employee receives for serving as a juror. Moreover, no employer shall be required to compensate an employee for more time than was actually spent serving and traveling to and from jury duty. If an employer employs less than five (5) people on a regular basis or if the juror has been employed by an employer on a temporary basis for less than six (6) months, the employer is not required to compensate the juror during the period of jury service pursuant to this section.

(c) It is the duty of all persons paying jurors their fee or compensation for jury service to issue to each juror a statement showing the daily fee or compensation and the total amount of fees or compensation received by the juror. The person also shall provide a juror with statement showing the number of hours the juror spent serving each day if the juror or juror's employer requests such a statement prior to the service issue.

(d) (1) No employer shall discharge or in any manner discriminate against an employee for serving on jury duty if the employee, prior to taking time off, gives the required notice pursuant to subsection (a).

(2) (A) Any employee who is discharged, demoted or suspended because the employee has taken time off to serve on jury duty is entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer.

(B) Any employer who willfully refuses to rehire or otherwise restore an employee or former employee commits a Class A misdemeanor.

(e) Any employer who violates this section commits a Class A misdemeanor

(f) For the purposes of this section, “employer” includes, but is not limited to, the state of Tennessee or any local government.

Notification of Reporting for Jurors

Schedule and notification of jury service: On the first day of reporting, for which jurors are summoned, jurors are assigned to a panel number and provided a written schedule for reporting. The schedule gives each day on which the juror is to report.

However, since some cases are settled by agreement by the parties to the case, prior to the day of the scheduled trial, those trials may be cancelled: In order to provide jurors with last minute reporting instructions, an answering machine with a recorded message is provide by the Clerk's office.

For jurors to obtain the final information or the need to report on the scheduled date, call 865-457-6221 **after 3:00 p.m.** the day before the scheduled date and listen for information regarding their assigned panel number.

In the event of malfunction of the message, jurors may call 865-264-6321 after 8:00 a.m. the morning that they are scheduled to report.

Inclement Weather

On occasion jury duty must be called off because of weather conditions such as snow or ice. If Anderson County Schools are closed, all jury trials will be cancelled. (see page 19)

Types of Cases

CIVIL CASE

Let us suppose you are called to help decide the case of John White vs. Tom Green. John White would be the person who begins the case, and he is called the **plaintiff**. Tom Green would be called the **defendant**. In a civil case, the plaintiff must prove that the plaintiff is entitled to recover a money judgement against the defendant and that burden of proof by the plaintiff is by the "preponderance of the evidence." The procedure in a civil case will be explained more fully at the trial of the case.

CRIMINAL CASE

The jury will be called to decide a guilty or not guilty verdict of a person accused of a crime. There are generally two categories of crimes, "misdemeanors and felonies." Felonies are punishable by a prison sentence of one year or more, "life" or death by electrocution. Misdemeanor crimes are normally punishable by a jail sentence not greater than one year.

Both misdemeanors and felonies are generally treated the same procedurally because freedom may be taken from the accused if convicted.

Remember, the jury must *presume* the defendant is *innocent* until the State convinces *each* of the 12 jurors the defendant is guilty *beyond a "reasonable doubt."* These legal requirements and procedures will be explained on the date of each separate trial in a criminal case. In a criminal case, jurors are not called upon to set punishment in Tennessee except when the death penalty is requested by the State of Tennessee. So, the jury will normally decide

only the guilt or innocence of those accused of a crime and not punishment.

In criminal cases, the jury, on occasion, will be sequestered. This doesn't often occur. However, when you are called to remain overnight, the Court will allow jurors to make all personal arraignments.

Procedures at Trial

(A) The Voir Dire Examination

The case is called for trial after the pleadings are prepared. The plaintiff, the defendant, and their lawyers are in the courtroom. The panel members are sworn to answer questions about their qualifications to sit as jurors in the case. This questioning process is called **voir dire**. This is an examination conducted by the judge or by counsel and sometimes both. A deliberately untruthful answer to any fair question could result in serious punishment to the person making it. The **voir dire** examination opens with a short statement about the case. The purpose is to inform the jurors what the case is about and to identify the parties and their lawyers. Questions are then asked to find out whether anyone on the panel has any personal interest in the case or knows of any reason why he cannot render an impartial verdict, also whether any member of the panel is related or personally acquainted with the parties. Other questions will determine whether any panel member has a prejudice or feeling that might influence him or her. Any juror having knowledge of the case should disclose such fact when called into the jury box. But not facts that he or she knows. Parties on either side may ask that a member of the panel be excused. These requests, or demands, are called **challenges**. A person may

be challenged for cause if the examination shows he or she might be prejudiced, or such other fact would exist as to automatically excuse the juror. The judge will excuse him from the panel if the cause given in challenge is sufficient. There is no limit to the number of challenges for cause which either party may make.

The parties also have a right to a certain number of challenges for which no cause is necessary. These are **peremptory challenges**.

(B) THE JUROR'S OATH

After the jurors are selected, they are sworn to try the case according to the evidence given by the witness and the instructions that will be given by the court.

(C) THE ARGUMENTS OF COUNSEL

At the beginning of the trial, the attorneys usually present a short opening statement to the jury which merely serves as an introduction to the case. At the conclusion of all of the evidence, the lawyers make their final statement or arguments to the jury. This helps the members of the jury panel to look at the evidence and apply the different theories of the case to all of the evidence that has been admitted for their consideration. At this final stage of the case, the jury is in a much better position to understand what the case is all about. It must be remembered that each attorney may present the view of the case that is most favorable to his own: client. His statements may; or may not, be countered or balanced by the statement of the lawyers on the other side of the case. In a civil case, plaintiff's lawyer argues first; then the defendant's lawyer argues next; and then the plaintiff's lawyer presents the closing and final argument to the jury. The argument follows this pattern because under the law the Plaintiff has the burden of proof and

therefore he is entitled to open the argument and close the final arguments to the jury. In criminal cases, the state has the right to open and close the argument.

(D) INSTRUCTIONS TO THE JURY

The instructions of a judge to a jury are statements of the rules of law. It is the jury's duty to reach its own conclusion upon the evidence. *As to the law, the judge's instructions control, and the jury must apply the law as given to the facts as they find them to exist from the evidence.*

(E) COURTROOM ETIQUETTE

A court session begins when the Bailiff calls for order. At this moment, the judge usually enters the courtroom. Everyone is required to stand. And after the judge takes his place on the bench, the Bailiff announces the opening of court, usually identifying the court that is being opened and the presiding judge. The respect that is afforded by everyone, arising or standing, is not for the presiding judge or any particular person in the courtroom; but it is in recognition that our society and our government is regulated by rules of law, rather than by rules of man. When court adjourns at the end of the day, a similar procedure is used to adjourn the proceeding.

Common courtesy and politeness are safe guides as to the way jurors should act. Jurors should be attentive to the business that is being transacted in the courtroom and should refrain from any conduct which might disturb the proceedings. As a general rule, food and drinks are not allowed in the courtroom.

The Six Stages of Trial

The trial in both *Criminal* and *Civil* cases are generally the same. In criminal cases there is Presumption of *Innocence* and the *State* has the burden of proof and that burden is "*Beyond a Reasonable Doubt.*" The concepts will be explained at the trial of the scheduled cases. In a *Civil* case, each side of the controversy is to begin with the scales of justice being equally balanced - neither side having an advantage over the other.

The trial proceeds when the jury has been sworn. There are usually six stages of a trial in civil cases. They are:

- (1) The Voir Dire examination.
- (2) The opening statement of the lawyers. Sometimes the opening statements are omitted.
- (3) Witnesses are called and testimony and evidence is introduced to convince the jury as to the burden of proof (Criminal cases, beyond a reasonable doubt - Civil cases, preponderance of the evidence)
- (4) Defendant has the opportunity to call witnesses and produce evidence. (In criminal cases, defendant need not testify - no inference of guilt.)
- (5) Arguments are made by the lawyers on each side.
- (4) The judge instructs the jury as to the law

During the trial, witnesses called by either side may be cross-examined by the lawyers on the other side. Throughout the trial, the judge may be asked in the presence of a jury to decide questions of law. Usually, these questions concern objections to testimony that either side wants to present. The law requires that the judge decide such questions.

A ruling by the judge does not indicate he is taking sides. He is merely saying, in effect, that

the law does, or does not permit that question to be asked, or evidence of a certain nature to be admitted into evidence.

Conduct of the Jury During the Trial

Each juror should give close attention to the testimony. They are sworn to follow the court's instructions. They must render a verdict according to the best judgement of each.

Jurors should keep an open mind. They should not discuss the case before the testimony is completed and the case is submitted to them. Human experience shows that once a person expresses his/her views why hesitate to change them. Therefore, it is wise for a juror not to express his/her views until the entire story has been told.

During the trial the jury may hear references to rules of evidence. Some of these rules may appear strange to a person who is not a lawyer. However, each rule has a reason and purpose. The rules are the results of hundreds of years of experience in the trial of cases.

Jurors are generally expected to use their common sense in evaluating and weighing evidence. They should not rely on any private source of information and should be careful during the trial not to discuss the case at home or elsewhere. If it develops during the trial that a juror learns out of court some fact about the case, he should inform the judge. He should not mention any such fact in the jury room.

Individual jurors should never inspect the scene of an accident or crime or any event in the case.

Jurors must not talk about the case with others not on the jury and must not read about the case in the newspaper. They should avoid radio and television broadcasts that might mention

the case. Jurors should avoid contact with attorneys, parties and witnesses, while around the courtroom and halls. The jury's verdict must be based on nothing else but the evidence before the court.

If any outsider attempts to talk with a juror about a case in which it is sitting, the juror should do the following:

- (1) Tell the person it is improper for a juror to discuss the case or receive information except in the courtroom.
- (2) Refuse to listen if the outsider persists.
- (3) Report the incident at once to the judge.

IN THE JURY ROOM

After the jurors hear the evidence, the arguments of counsel and the instruction by the Court, they retire to their jury room. It would be best for the jury to select a foreperson before they commence their deliberations in order that one member of the jury would be presiding to some extent through the discussion and the decision-making process. Sometimes, where the issues are very sharp, the discussions may be heated and protracted. In this event, it is always best to have someone who is in a position to moderation or preside over the discussions, so that each person can have his say about the matter. They should then enter upon their discussion with open minds. They should freely exchange views and should not hesitate to change their opinion if they are shown to be wrong.

The jurors have a duty to give full, consideration to the opinion of their fellow jurors. They should try to reach a verdict whenever possible. However, no juror is required to give up any opinion which he is convinced is correct.

The jurors are sworn to pass judgement on the facts in a particular case. They are to have

no concern beyond the case heard. They violate their oath if they render their decision on the basis of the effect their verdict may have on other situations or cases. Remember, no juror can become a witness in the Jury Room. You are to apply your good judgement and common sense, but you cannot give information to your fellow jurors that did not come from the witness stand.

AFTER THE TRIAL

After the conclusion of the case, the members of the jury panel may or may not discuss the case with third parties. What occurs in the jury room may be kept secret, only known to those jurors who participated in the case.

CONVENIENCE OF JURORS

It is intended that the juror's service be as enjoyable as possible. The court and the lawyers attempt to have only such delay as the necessities of their duties require. Occasionally matters of law have to be discussed between them. When it appears that only brief discussions are required, they may be done quietly at the bench. In this matter jurors are saved the inconvenience of going to the jury room.

Ordinarily, cases will be scheduled so that a juror will not be asked to serve on a case every day. The average case does not take more than one day to try, and the jury will be allowed to return home each evening.

If a juror cannot hear a witness or needs to go to the restroom, he should raise his hand and let the judge know. If a juror is in doubt about his rights, he should present his question to the Bailiff so that he can pass it on to the judge.

Ordinarily, a short recess is called at mid morning and mid-afternoon.

NOTE TAKING BY JURORS

Jurors shall be instructed that they may take notes during the trial. The court shall provide suitable materials for this purpose. Jurors shall have access to their notes during recesses and deliberations. After the jury has rendered a verdict, the notes shall be collected by court personnel who shall destroy them promptly.

When the court deems it helpful in a particular case, jurors may be provided with notebooks to use in collecting and organizing appropriate materials, including such items as jury instructions, copies of exhibits, and the juror's own notes. Counsel should be apprised of this procedure and invited to prepare exhibits and other materials in a way that facilitates their inclusion in the juror's notebooks. At the end of the trial, the notebooks should be collected by court personnel and their contents destroyed, unless the court instructs to the contrary.

QUESTIONS BY THE JURORS

In the court's discretion, a juror desiring to propound a question to a witness may be permitted to do so. The juror must put the question in written form and submit it to the judge through a court officer at the end of a witness' testimony. The judge shall review all such questions and, outside the hearing of the jury, shall consult the parties about whether the question should be propounded. The judge, in his or her discretion, may ask the juror's question in whole or part and may change the wording of the juror's question before propounding it to the witness. The judge may permit counsel to ask the question in its original or amended form in whole or part, in the judge's discretion. When juror questions are permitted, early in the trial juror shall be instructed about the mechanics of asking a

question. In addition, the jurors shall be instructed to give no meaning to the fact that the judge chose to ask a question or altered the wording of a question submitted by a juror. A juror's questions shall be anonymous, so that the juror's name is not included in the question. All juror's questions, whether approved or disapproved by the court, shall be retained for the record.

SMOKING

Smoking is not allowed in the courthouse. If a juror desires to smoke in recess, you must inform the Bailiff that you will smoke at an exit to the courthouse and make sure that the smoking does not delay the trial.

Donation of Juror Compensation

22-4-109. Donation of juror reimbursement to criminal injuries compensation fund. (a) Each prospective juror reporting for jury service shall be provided a form letter that when signed by the prospective juror directs the county treasurer to donate all of the prospective juror's reimbursement for jury service to the criminal injuries compensation fund provided for in title 29, chapter 13. (b) The county treasurer shall send all donations made under subsection (a) to the state department of the treasury for deposit to the credit of the criminal injuries compensation fund. (Acts 1999, ch 39,1.)

Conclusion

The performance of jury service is the fulfillment of a most important civic obligation. Conscientious service brings its own reward in the satisfaction of a significant task well done. Jury work is the most valuable public service the average citizen has an opportunity to perform

It is the highest calling of citizenship. You are sitting in judgement of those accused of a crime and in a civil case you have authority and power to sit in judgement on the facts of a case that will resolve a legal controversy. Putting an end to dispute by jury decision was recognized by our forefathers as one of the most important aspects of our judicial system. It permits the citizens of the community to participate and decide the disputes that arise among their fellow citizens. And in this respect, it accomplishes that historical purpose where the people are entrusted with the final authority to govern their own affairs.

Information

Reporting Message for Jurors

After 3:00 p.m. day before Jury Duty

Call 865-457-6221

Inclement Weather

After 7:00 a.m. on the morning of Jury Duty listen to WYSH Radio for closings. If Anderson County schools are closed for inclement weather, all jury trials will be cancelled.

Communications with Clerk's Office

Between 8:00 a.m. and 5:00 p.m.

Call 865-264-6321