

Statement of Thaddeus Hoffmeister

Opening

I write in support of S.B. 200 which expands the potential pool of jurors in the state of Ohio. At present, jury commissioners in each county of the state create a list of eligible jurors from voter registration rolls consisting of individuals residing in their specific county. While the Ohio Revised Code (ORC) allows jury commissioners to supplement their list by going beyond voter registration rolls, less than half do. S.B. 200 requires jury commissioners to create lists from not only registered voters, but also driver's license and state identification card holders who are 18 and older. As discussed below, a jury list comprised of multiple sources, to include information from the Bureau of Motor Vehicles (BMV), has very few disadvantages and numerous advantages.

Advantages

First, expanded lists distribute the responsibility of jury service more equally throughout the county and avoids repeatedly calling the same individuals for jury service while ignoring others. Jury service is a civic duty that should be shouldered by all members of the community eligible to serve not just one segment of the population. Creating artificial limitations places an undue hardship on those who exercise their right to vote, while affording others the opportunity to shirk their civic duty. Everyone benefits from a properly run legal system; therefore, everyone should work to ensure its success.

Second, expanded jury lists, result in a more diverse jury, which is important for a number of reasons. Diverse viewpoints increase the likelihood that all relevant issues will be discussed and all points of view considered before a verdict is reached. This in turn results in a more accurate outcome as few stones are left unturned. A 2012 study at Duke University reflects this point. This study, which examined over 700 non-capital cases, found that all-white juries convicted black defendants 16% more often than jury pools containing at least one black juror. While a number of conclusions can be drawn from this study, it appears to show that diverse juries are less inclined to rely on group think and more likely to view evidence through multiple lenses which leads to a better end result.

Diverse juries also work to strengthen society's acceptance of the verdict. While all segments of the community may not necessarily agree with a jury's ultimate decision, they have to believe that the process was fair. If not, our adversarial system may break down. One method of ensuring fairness is to rely on a cross-section of decision makers, which works to legitimize the verdict. A diverse jury does just this by including members from across the community not just those who register to vote.

Third, the growing trend in this country has been to make juries more, not less, diverse. Starting in the 20th century, jury pools have been increasingly representative with respect to racial, ethnic, and gender diversity. Most attribute these changes to enactment of the 19th Amendment (women's suffrage), 24th Amendment (elimination of the poll tax), 26th Amendment (lowering the voting age to 18) and the Voting Rights Act of 1964. In addition, states have started their own reform measures by going beyond traditional voter registrations rolls to find potential jurors. For example, some states look at unemployment and welfare rolls, taxpayer rolls, utility bills and, like SB 200, driver's licenses to create jury lists. At present, Ohio is one of two states, Wyoming the other, that requires drawing jury lists from one source. It is time for Ohio to catch up with the rest of the country.

Disadvantages

As for the negatives to SB 200, they are few. Yes, this law will mandate that most counties will have to change the manner in which they summon jurors. However, this mandate, as mentioned above, improves the legal system. Furthermore, the mandate is neither time consuming nor laborious. The information that jury commissioners need is available and already maintained by the BMV it only has to be extracted and culled.

As for the argument put forward by the Ohio Prosecuting Attorneys Association (OPAA) (see letter dated November 13, 2017), it is not supported by any statistical studies. Are Ohio residents really not registering to vote in order to avoid jury duty? There are a number of reasons why people don't register to vote. However, assuming *in arguendo* that the OPAA is correct, SB 200 resolves this issue. With the change to the ORC required by SB 200, citizens will have no reason to avoid registering to vote. They now will be called to jury duty regardless of whether they register.

Conclusion

In sum, the reasons for passing SB 200 greatly outweigh the negatives. At one time, Ohio had a legal system that many states envied; however, it has failed to keep up with the changes in society. Passage of SB 200 will be a step in the right direction of modernizing Ohio's legal system.

Thaddeus Hoffmeister is a professor of law who edits the blog, www.juries.typepad.com. He has written extensively on the jury and is the author of the book, *Criminal Law: The One-State Solution*, which is the only first-year criminal law text based on Ohio cases and statutes.