

IN THE SENATE

SENATE BILL NO. 1018, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO JURY SELECTION AND SERVICE; AMENDING SECTION 2-208, IDAHO CODE,  
2 TO PROVIDE A CORRECT CODE REFERENCE AND TO REVISE PROVISIONS RELATING  
3 TO CONTEMPT PROCEEDINGS FOR A PROSPECTIVE JUROR WHO FAILS TO APPEAR PUR-  
4 SUANT TO COURT ORDER; AND AMENDING SECTION 7-610, IDAHO CODE, TO PROVIDE  
5 A CERTAIN PENALTY.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 2-208, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 2-208. NAMES RANDOMLY DRAWN FROM MASTER JURY LIST -- QUALIFICATION  
11 QUESTIONNAIRE FORMS FOR PROSPECTIVE JURORS -- MAILING AND RETURN -- ORDER  
12 TO APPEAR -- CRIMINAL CONTEMPT -- PENALTY FOR MISREPRESENTATION. (1) The  
13 court or any other state or county official having authority to conduct a  
14 trial or hearing with a jury within the county may direct the jury commission  
15 to draw and assign to that court or official the number of qualified jurors  
16 deemed necessary for one (1) or more jury panels or as required by law for a  
17 grand jury. Upon receipt of the direction and in a manner prescribed by the  
18 court, the jury commission shall publicly draw at random, by use of a manual,  
19 mechanical, or automated system, from the master jury list the number of  
20 prospective jurors specified. Neither the names drawn nor the list shall be  
21 disclosed to any person except upon specific order of the presiding judge.

22 (2) Each person on the prospective jury panel shall be served with a  
23 summons, issued by the clerk of the court or the jury commissioner. The sum-  
24 mons shall be served either personally, or by regular mail or certified mail,  
25 addressed to the prospective juror at that person's usual residence, busi-  
26 ness or post office address.

27 (3) The clerk or the jury commissioner shall mail a qualification  
28 questionnaire form, accompanied by instructions, addressed to the prospec-  
29 tive jurors at their usual residence, business or post office address. The  
30 qualification questionnaire form may be sent together with the summons in  
31 a single mailing to a prospective juror. The qualification questionnaire  
32 form shall be in a form prescribed by the supreme court. The qualification  
33 questionnaire form must be completed and returned to the clerk or the jury  
34 commissioner within ten (10) days from the date of mailing. The qualifi-  
35 cation questionnaire form shall elicit the name, address of residence, and  
36 age of the prospective juror and whether the prospective juror: (a) is a  
37 citizen of the United States of America and a resident of the county, (b) is  
38 able to read, speak and understand the English language, (c) has any dis-  
39 ability impairing his capacity to render satisfactory jury service, and (d)  
40 has lost the right to serve on a jury because of a felony criminal conviction  
41 as provided by section 3, article VI, of the constitution of the state of  
42 Idaho, and who has not been restored to the rights of citizenship pursuant

1 to section 18-310, Idaho Code, or other applicable law. The qualification  
2 questionnaire form shall contain the prospective juror's declaration that  
3 his responses are true to the best of his knowledge and his acknowledgment  
4 that a willful misrepresentation of a material fact may be punished as a  
5 misdemeanor. Notarization of the completed qualification questionnaire  
6 form shall not be required. If the prospective juror is unable to complete  
7 the form, another person may do so on his or her behalf and shall indicate  
8 that such person has done so and the reason therefor. If it appears there is  
9 an omission, ambiguity, or error in a returned form, the clerk or the jury  
10 commissioner shall again send the form with instructions to the prospective  
11 juror to make the necessary addition, clarification, or correction and to  
12 return the form to the jury commission within ten (10) days after its second  
13 mailing.

14 (4) Any prospective juror who fails to return a completed qualifica-  
15 tion questionnaire form as instructed shall be directed by the jury commis-  
16 sion to appear forthwith before the clerk or the jury commissioner to com-  
17 plete the qualification questionnaire form. At the time of his appearance  
18 for jury service, or at the time of interview before the court, clerk, or the  
19 jury commissioner, any prospective juror may be required to complete another  
20 qualification questionnaire form in the presence of the court, clerk, or the  
21 jury commissioner, at which time the prospective juror may be questioned,  
22 but only with regard to his responses to questions contained on the form and  
23 grounds for his excuse or disqualification. Any information thus acquired  
24 by the court, clerk, or the jury commissioner shall be noted on the qualifi-  
25 cation questionnaire form.

26 (5) A prospective juror who fails to appear as directed by the commis-  
27 sion, pursuant to subsection (34) of this section shall be ordered by the  
28 court to appear and show cause for his failure to appear as directed. ~~If the A~~  
29 ~~prospective juror who fails to appear pursuant to the court's order or fails~~  
30 ~~to show good cause for his failure to appear as directed by the jury commis-~~  
31 ~~sion, he is guilty of contempt and upon conviction may be fined not more than~~  
32 ~~three hundred dollars (\$300) or imprisoned not more than three (3) days, or~~  
33 ~~both may be subject to contempt proceedings under chapter 6, title 7, Idaho~~  
34 ~~Code, and applicable rules of the supreme court, and the prospective juror's~~  
35 ~~service may be postponed to a new prospective jury panel as set by the presid-~~  
36 ~~ing judge.~~

37 (6) Any person who willfully misrepresents a material fact on a quali-  
38 fication questionnaire form for the purpose of avoiding or securing service  
39 as a juror is guilty of a misdemeanor.

40 (7) The contents of the juror qualification questionnaire form shall be  
41 confidential to the extent provided by rules of the Idaho supreme court.

42 (8) The clerk or the jury commissioner may provide an opportunity to a  
43 prospective juror to complete and return the qualification questionnaire  
44 form through electronic mail, facsimile transmission, or other reliable  
45 means of communication prior to mailing the qualification questionnaire  
46 form to the prospective juror. If the prospective juror completes and  
47 returns the qualification questionnaire form in such manner, the qualifica-  
48 tion questionnaire form need not be mailed to the prospective juror.

49 SECTION 2. That Section 7-610, Idaho Code, be, and the same is hereby  
50 amended to read as follows:

1           7-610. JUDGMENT -- PENALTY. Upon the answer and evidence taken, the  
2 court or judge must determine whether the person proceeded against is guilty  
3 of the contempt charged, and if it be adjudged that he is guilty of the  
4 contempt, a fine may be imposed on him not exceeding five thousand dollars  
5 (\$5,000), or he may be imprisoned not exceeding five (5) days, or both;  
6 provided that a person who is guilty of contempt for neglecting to attend or  
7 serve as a juror when summoned to do so, or for failing to appear as a prospec-  
8 tive juror when summoned by the jury commission under section 2-208(4),  
9 Idaho Code, shall be fined in an amount not exceeding one thousand dollars  
10 (\$1,000), or may be imprisoned not exceeding five (5) days, or both; and  
11 except that if the contempt of which the defendant be adjudged guilty be a  
12 disobedience of a judgment or order for the support of minor children, he  
13 may be imprisoned not exceeding thirty (30) days in addition to such fine,  
14 under this section, as the court may impose. Additionally, the court in its  
15 discretion, may award attorney's fees and costs to the prevailing party.