

ALASKA COURT SYSTEM  
OFFICE OF THE ADMINISTRATIVE DIRECTOR  
ADMINISTRATIVE BULLETIN NO. 66.2  
(Temporarily Amended November 16, 2020)

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OTHERS: Jury Clerks

SUBJECT: Jury Service - Clerks' Authority to Defer and Excuse Jurors

Dated: November 16, 2020

/s/  
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Administrative Director

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## **Clerks' Authority to Defer and Excuse Jurors**

Pursuant to Administrative Rule 15(e) and (f), clerks are authorized to defer and excuse prospective jurors without judicial approval as follows:

### **I. Deferrals**

Jury service may be deferred as provided in Administrative Rule 15(e).

- A. *Deferral as a Matter of Right.* Except in courts where the term of jury service is one year, clerks may defer a person's term of jury service once without requiring the person to state a reason for deferral. Administrative Rule 15(e)(2) and (e)(3). The clerk may also authorize additional deferrals without requiring a reason unless instructed otherwise in writing by the local judge assigned to rule on excusal and deferral requests.
- B. *If Reason is Required for Subsequent Deferrals.* If a court requires a person to state a reason for deferrals after the first request, these subsequent deferral requests must be referred to the local judge assigned to rule on deferral requests.
- C. *Deferral After Term of Service Begins.* A clerk may defer part of the term of service for a juror whose term has begun. Administrative Rule 15(e)(4).
- D. *Partial Deferral for Shift Workers.* A clerk may defer jury service for shift workers as provided in Administrative Rule 15(e)(5).

### **II. Excusals by Clerks**

A person may be excused from jury service as provided in Administrative Rule 15(f). Clerks have authority to excuse jurors for the following reasons:

- A. **Permanent Excusals Granted by Administrative Rule 15(f)(2).**
  - 1. The person is over age 70. In addition, if a person will be age 70 within 10 months after the beginning of the person's term of service (and could request to be deferred for those 10 months), the clerk can also permanently excuse that person upon request.

2. The person is permanently unable to serve as a juror for medical reasons. One of the medical professionals listed in Administrative Rule 15(f)(2)(B) (licensed physician, psychologist, nurse practitioner, physician's assistant or chiropractor) must verify in writing on business stationery or prescription pad that the person is permanently unable to serve as a juror for medical reasons. The medical professional does not need to state that the person has a "disability" or describe the nature of the medical condition. The term "physician" means a person who has a medical degree and is licensed to practice medicine, including osteopaths. Psychologists, nurse practitioners, physician's assistants and chiropractors must also be licensed.

B. Temporary Excusals of Judicial Officers Granted under Administrative Rule 15(f)(1)(B)(ii).

A clerk may temporarily excuse a judicial officer from jury service if the judicial officer requests to be excused. AS 09.20.030(a) and Administrative Rule 15(f)(1)(B)(ii).

C. Juror Not Qualified Under AS 09.20.010 or 09.20.020. Administrative Rule 15(f)(1)(B)(i).

Clerks have authority to excuse prospective jurors for one year from the beginning of the term for which the person was summoned for the following reasons:

The prospective juror states on the qualifying questionnaire or comes to the court and demonstrates that he/she:

1. Is not a citizen of the United States. The clerk can only excuse the juror if the juror provides documentation such as a copy of a permanent resident card (green card) or passport.
2. Is not a resident of the state.
3. Is not at least 18 years of age.<sup>1</sup>

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<sup>1</sup> JuryView prevents summonses from being sent to persons who are under age 18 on the date in November that the annual draw is conducted (based on information obtained from PFD applications). Although summonses are not sent to persons under age 18, occasionally the parents of young people enter the wrong birthdate on the child's PFD application and the child is sent a jury summons.

4. Has a mental or physical reason that prevents him/her from serving as a juror. The clerk can only excuse the juror if:
  - a. The juror has a court-appointed guardian and letters of guardianship are provided or the clerk verifies in CourtView that the person has a court-appointed guardian, or
  - b. A licensed physician, psychologist, nurse practitioner, physician's assistant, or chiropractor verifies in writing that the juror is unable to serve as a juror for medical reasons. The written documentation must be on business stationery or a prescription pad. The medical professional does not need to state that the person has a "disability" or describe the nature of the medical condition.

This reason for excusal comes from AS 09.20.010(a)(4 & 5) which states that to qualify as a juror, the person must be "of sound mind" and "in possession of the person's natural faculties." The qualifying questionnaire does not use these terms. Instead, it uses the language shown above.

Note: A person is not disqualified from serving as a juror solely because of the loss of hearing or sight in any degree, or a disability that substantially impairs or interferes with the person's mobility. AS 09.20.010(b).

5. Can neither read nor speak the English language.

If a clerk believes that the person may be able to adequately speak or read the English language, the clerk may opt to deny the excusal, requiring the person to appear if summoned for trial. If the clerk does this, the clerk must make a note on the person's record in JuryView documenting the decision so the information will be available to the judicial officer if the person appears for jury selection.

6. Has been convicted of a felony for which the person has not been unconditionally discharged; unconditional discharge has the meaning given in AS 12.55.185 <http://www.legis.state.ak.us/basis/statutes.asp#12.55.185>. The clerk can only excuse the prospective juror if the prospective juror provides either a case number or the name

of his/her parole/probation officer. The clerk must verify that the prospective juror is actually on parole/probation for a felony conviction.

D. Excusal after Service.

As provided in Rule 15(f)(3), jurors who have appeared for service are not required to serve again for one year after their term ends (two years in Anchorage, Fairbanks, and Palmer).

Clerks have the authority to excuse a prospective juror who has appeared for service within the one or two-year period described above. The clerk must first confirm the prospective juror's service dates.

The prior service can be in either state or federal court.<sup>2</sup> If the juror was only summoned but did not appear for jury selection, that person should not be excused. If jury service was in the federal court, the jury clerk must confirm the appearance dates with the federal jury clerk.

E. Deceased Persons

If a clerk is notified that a summoned person is deceased, the clerk must confirm the death and, after confirmation, excuse the person permanently. If the clerk needs assistance in confirming the death, the clerk may contact the office of the Statewide Jury Coordinator for help.

F. Temporary Short-Term Excusal. Administrative Rule 15(f)(1)(B)(iii).

Unless otherwise ordered in writing by the local judge assigned to rule on excusal requests, clerks may excuse prospective jurors and seated grand jurors<sup>3</sup> for short periods during their term of service as

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<sup>2</sup> If a juror has appeared for service in state court, JuryView will not assign that juror to a new term until the one or two-year excusal period has passed. Therefore, clerks should only need to calculate the length of the excusal period when the prior service was in federal court. If the service was in federal court, the clerk should use the local court's own term of service as the term of service for the federal court appearance. For example, if the federal court appearance date was in May of 2013, a court with a one-month term of service would excuse that juror through the end of May 2014, but a court with a "year" term of service would excuse the juror through the end of December 2014.

<sup>3</sup> When a clerk excuses a seated grand juror, the clerk must contact an alternate to replace the excused juror.

explained below. Clerks may not excuse jurors who have been seated as trial jurors.

1. Juror has an illness or medical or family emergency. The clerk may excuse the juror as needed. There are no limitations on frequency or duration of the excusal. However, if too many service days will be missed, the clerk should suggest to the juror that the juror's service be deferred to a new term (except in year-term courts). If deferral is not an option because of the 10-month limit on deferrals, the juror should be excused for one year from the first date in their original term of service.
2. Juror has medical appointments or will be out of town for a short period. The number of days the clerk can excuse a juror depends on the length of the juror's term of service. If a juror requests excusal for more days than the clerk can grant, the juror can defer their service (within the 10-month limit) or the request must go to the judge.
  - a. Week Term. No short-term excusals; defer only.
  - b. Month Term. Up to 5 business days.
  - c. Two-Month Term. Up to 10 business days.
  - d. Three-Month Term. Up to 15 business days.
  - e. Four-Month Term. Up to 20 business days.
  - f. Year-Term. Up to 30 business days.
  - g. Grand Jury. Up to 5 business days.

G. Temporary Excusals for One Year Due to Hardship. Administrative Rule 15(f)(1)(B)(iii).

1. Unless ordered otherwise in writing by the local judge assigned to rule on excusal requests, clerks have authority to excuse prospective jurors for one year for the following hardship reasons:
  - a. The prospective juror requests excusal for medical reasons and provides written documentation from a medical professional as provided in (C)(4)(b) above.

- b. The prospective juror is currently in jail. The clerk must confirm that the juror is in jail for the entire term of jury service and the period during which service could be deferred.
- c. The prospective juror is the sole care-giver for a family member who requires the full-time care of the prospective juror. The prospective juror must provide written documentation from one of the medical professionals listed in (C)(4)(b) above on business stationery or prescription pad stating that because of the prospective juror's full-time caregiving responsibilities, the prospective juror is unable to serve as a juror.
- d. The prospective juror is a parent (or other relative acting as the full-time parent) who:
  - (1) provides care for his/her children under the age of 12; and
  - (2) does not work outside the home during the day; and
  - (3) has no reasonable (free) child care alternatives.
- e. The prospective juror states that he/she has either already moved outside the jury selection area of the court<sup>4</sup> or will be moving before the term to which he/she was summoned will begin, and he/she has no intent to return during the next 10 months.
- f. The prospective juror states that he/she lives outside the jury selection area of the court to which he/she was summoned. For example: jurors who are on the local master jury list because of their zip code, but live beyond the jury selection area for the designated court.
- g. The prospective juror is a student who lives outside the jury selection area of the local court and will not be

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<sup>4</sup> The communities within the jury selection area of each court are established in an annual "Community Assignment/Exclusion" order by the Presiding Judge of each judicial district, which is kept in the office of the Statewide Jury Coordinator.

returning for any length of time in the 10 months after the jury term begins.

- h. The prospective juror requests a COVID-19 excusal for one of the following medical conditions that increases the risk of severe illness from COVID-19:
- [Cancer](#)
  - [Chronic kidney disease](#)
  - [COPD \(chronic obstructive pulmonary disease\)](#)
  - [Immunocompromised state \(weakened immune system\) from solid organ transplant](#)
  - [Obesity \(body mass index \[BMI\] of 30 or higher\)](#)
  - [Serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies](#)
  - [Sickle cell disease](#)
  - [Type 2 diabetes mellitus](#)
- i. The prospective juror requests a COVID-19 excusal for one of the following medical conditions that might increase the risk of severe illness from COVID-19:
- [Asthma \(moderate-to-severe\)](#)
  - [Cerebrovascular disease \(affects blood vessels and blood supply to the brain\)](#)
  - [Cystic fibrosis](#)
  - [Hypertension or high blood pressure](#)
  - [Immunocompromised state \(weakened immune system\) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines](#)
  - [Neurologic conditions, such as dementia](#)
  - [Liver disease](#)
  - [Pregnancy](#)
  - [Pulmonary fibrosis \(having damaged or scarred lung tissues\)](#)
  - [Smoking](#)
  - [Thalassemia \(a type of blood disorder\)](#)
  - [Type 1 diabetes mellitus](#)

Requests for excusal in this subparagraph (i) may be sent to a judge for approval at the clerk's discretion.

- j. The prospective juror does not have to provide written documentation when requesting temporary excusal for any of the conditions listed in subparagraph h. and i.<sup>5</sup>

Jurors with a service term of one calendar year as identified in [Administrative Rule 15\(k\)\(2\)](#) should not be excused for a full year under subparagraphs h. and i., but may be excused from individual trials for those reasons.

2. The following are examples of hardship requests for excusal that must be referred to a judge:
  - a. Employment or occupation (including letters from military commanders citing 10 USC sec. 982 as the reason for exempting certain military personnel).
  - b. Religious beliefs.
  - c. Medical excuse requests without a medical professional's note.
  - d. Juror is a sole caregiver, but does not meet the requirements of (G)(1)(c) above. For example, the prospective juror is not related to the person being cared for or the prospective juror does not provide a medical note.

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<sup>5</sup> Administrative Bulletin 66.2 is temporarily amended to add II. G. 1. h. and i. due to the current COVID-19 pandemic in Alaska. The COVID-19 excusal reasons listed in subparagraph h. and i. are based on the Centers for Disease Control and Prevention's designation of people who are at, or may be at, an increased risk for severe illness from COVID-19. This amendment is issued under Administrative Rule 15(a) and (f)(1)(B)(iii) and remains in effect until rescinded.

- e. Juror provides childcare but does not meet the requirements of (G)(1)(d) above. For example, the prospective juror is a paid or unpaid childcare provider not caring for his/her own child/children.

#### H. Other Excusals.

A judge may also authorize a clerk to excuse jurors for other reasons if the judge provides the clerk with written guidelines specifying the circumstances in which excusal should be granted and the permitted length of the excusal. The length of the excusal may be one of those listed in (F) or (G) above, or another length of time.

For example, a judge in a month-long court might authorize a clerk to allow full-time students studying out of the community to serve for a week rather than a month at some point during the next 10 months, thus “excusing” the student for three or four weeks of their term of service.

#### III. Procedure for Requesting Excusal if Clerk does not have Authority to Excuse.

If the clerk does not have the authority to grant an excusal (for example, if a medical professional’s note is required and the prospective juror cannot provide such a note), the prospective juror must either:

- A. Write to the judge explaining why he/she needs to be excused, or
- B. Appear when his/her service number is called for jury service and explain to the judge during voir dire why he/she needs to be excused.