

1 SENATE BILL NO. 430

2 INTRODUCED BY RYAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON OVER THE AGE OF 70 MAY BE
5 EXCUSED FROM JURY SERVICE; AMENDING SECTION 3-15-313, MCA; AND PROVIDING AN IMMEDIATE
6 EFFECTIVE DATE."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9

10 **Section 1.** Section 3-15-313, MCA, is amended to read:

11 **"3-15-313. Who may be excused -- affidavit to claim excuse -- permanent exclusion for**
12 **chronically incapacitated -- excuse for elderly.** (1) The court or jury commissioner with the approval of the
13 court shall excuse a person from jury service upon finding that jury service would entail undue hardship for the
14 person or the public served by the person.

15 (2) If a person believes jury service would entail undue hardship for the person or the public served,
16 the person may make and transmit an affidavit to the jury commissioner for which the person is summoned,
17 stating the person's occupation or other facts that the person believes will excuse the person from jury service.
18 The affidavit must be filed with the jury commissioner, who shall transmit it to the court. The court or jury
19 commissioner with the approval of the court may excuse a prospective juror from jury service if the prospective
20 juror satisfies the provisions of subsection (1).

21 (3) (a) A person over the age of 70 who desires to be excused from jury service may request to be
22 excused from jury service on the basis of undue hardship under subsection (1) by filing an affidavit stating the
23 facts that will excuse the elderly person under this subsection. The court or jury commissioner with the approval
24 of the court shall excuse the elderly person upon filing of the affidavit.

25 (b) A person that meets the requirements of subsection (3)(a) may request a permanent exclusion from
26 jury service by making and transmitting an affidavit to the jury commissioner of the person's place of residence.
27 The affidavit must include proof of age. The affidavit must be filed with the jury commissioner, who shall transmit
28 it to the court. The court or jury commissioner with the approval of the court may permanently excuse a
29 prospective juror from jury service if the prospective juror satisfies the provisions of this subsection (3).

30 ~~(3)~~(4) A person who is chronically incapacitated by illness or injury may request a permanent exclusion

1 from jury service by making and transmitting an affidavit to the jury commissioner of the person's place of
2 residence. The affidavit must include a certification by the person's physician that the person is chronically
3 incapacitated by illness or injury. The affidavit must be filed with the jury commissioner, who shall transmit it to
4 the court. The court or jury commissioner with the approval of the court may permanently excuse a prospective
5 juror from jury service if the prospective juror satisfies the provisions of this subsection ~~(3)~~ (4).

6 ~~(4)~~(5) For purposes of subsection ~~(3)~~ (4), a person is chronically incapacitated if the person has a
7 condition due to an illness or injury that restricts the person's ability to leave the person's place of residence
8 without the aid of supportive devices, such as crutches, a cane, a wheelchair, or a walker, that restricts the
9 person's ability to leave home without the use of special transportation or the assistance of another person, or
10 that causes leaving home to be medically contraindicated. Examples of factors to be taken into account in
11 determining whether chronic incapacitation exists include but are not limited to the following:

12 (a) paralysis by a stroke or other cause;

13 (b) blindness;

14 (c) senility;

15 (d) loss of the use of a person's extremities requiring the assistance of another in leaving the person's
16 place of residence;

17 (e) arteriosclerotic heart disease of such severity that a person must avoid all stress and physical
18 activity; or

19 (f) a psychiatric problem if the illness is manifested in part by a refusal to leave home or is of such a
20 nature that it would not be considered safe for the person to leave home unattended, even if there are no
21 physical limitations."

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23 **NEW SECTION. Section 2. Effective date.** [This act] is effective ~~on passage and approval~~ JULY 1,
24 2005.

25 - END -