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# **State Court Organization 2004**

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# State Court Organization 2004

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and National Center for State Courts*

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## Part VI: The Jury

This section uses several tables to describe jury selection, jury verdict rules in the state courts, and the composition and function of the grand jury in state courts.

"No person shall be held to answer for a capital, or other infamous crime, unless on a presentment or indictment at a grand jury." That clause from the Fifth Amendment to the U.S. Constitution applies to all felony prosecutions in the federal courts. The information in Table 38 shows that while most states retain the option of a grand jury indictment, few require it to begin felony proceedings. A diminished role for the state grand jury in processing felony cases can be seen early in this century. Grand jury indictments were largely replaced by the practice of prosecutors filing a document called a criminal information, a practice ultimately upheld by the U.S. Supreme Court (*In re McNaught*, 1909; *Palko v. Connecticut*, 1937). Table 38 indicates whether a grand jury indictment is required for all felony prosecutions, the size of the grand jury, the number needed to indict, the statutory term of grand jury sittings, and the civic duties undertaken by grand juries.

Table 39 starts the description of trial juries by indicating the basis for the master list from which the jury pool is drawn and the relevant state statute. Most states use a variety of sources to compile a master list. Sources followed by an asterisk must be used; others are generally used at the discretion of local jury commissioners. Qualifications for jury service in terms of age, time elapsed since a prior jury service, residency, and English proficiency are specified. The table indicates, through footnotes, the states that have adopted the provisions of the Uniform Jury Selection and Service Act, which was drafted in 1970 by the National Conference of Commissions on Uniform State Laws.

Table 40 lists the factors that exempt an individual from jury duty. Exemptions are generally based on age or occupation. Twenty-four states and the District of Columbia do not grant automatic occupational exemptions; several other states limit exemptions to those on active military service. Excusals from jury service follow from claims of undue hardship, extreme inconvenience, public necessity, or mental disability. Table 40 also details the obligations that employers bear in each state toward maintaining the salaries of employees while on jury service. The daily fee, if any, paid to serving jurors is also indicated.

The allocation of peremptory challenges is described in Table 41. The number of peremptory challenges available to the parties to a dispute is indicated for civil and criminal cases. Criminal cases are subdivided into capital, felony, and misdemeanor cases. In criminal cases, the number of peremptory challenges may be different for the state and the defense. Additional

provisions for peremptory challenges are sometimes specified for the selection of alternate juries and in cases involving multiple parties.

Since 1970, U.S. Supreme Court decisions have allowed states to move away from the traditional federal jury standard of 12 members who must reach a unanimous verdict. Specifically, six-member juries were found to be constitutional in *Williams v. Florida*, 399 U.S. 78 (1970) and non-unanimous verdicts in *Apodaca v. Oregon*, 406 U.S. 404 (1972). Table 42 specifies jury size and verdict rules for felony, misdemeanor, and civil cases. The relaxation of traditional size and verdict requirements is most prevalent for misdemeanor criminal cases. Four states use eight- (Arizona and Utah) or six-member juries (Connecticut and Florida) in their courts of general jurisdiction for non-capital felonies, and two states (Louisiana and Oregon) and Puerto Rico do not require a unanimous verdict in such cases. States that continue to use a 12-member, unanimous verdict jury typically allow the parties to agree to a smaller, non-unanimous jury.

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**Table 38. Grand Juries: Composition and Function**

Legend: ~ = Not applicable; N/S = Not stated; ■ = Yes

	Indictment required for all felonies?*	Grand jury size	Size of quorum	Number needed to indict	Statutory term	Special civil duties
Alabama	■	18	13	12	Less than 50,000 population, not less than two per year; over 50,000 population, minimum of four per year	Inspect jails, examine county treasurer and education superintendent bookkeeping
Alaska	■	12 to 18	12	Majority	Up to four months, unless extended for good cause	Investigate and make recommendations about public safety and welfare
Arizona		12 to 16	9	9	County grand jury, up to 120 days; statewide grand jury, six months	Investigate corruption of public officers
Arkansas		16	12	12	1 year maximum	Inspect prisons, investigate corruption of public officers
California		23/19/11 <sup>1</sup>	14/12/8 <sup>1</sup>	14/12/8 <sup>1</sup>	1 year	Investigate operation of local government, public records
Colorado		23/12 <sup>2</sup>	12/9 <sup>2</sup>	12/9 <sup>2</sup>	12 months, may be extended by six months	~
Connecticut		1-3 <sup>3</sup>	~	~	Varies	~
Delaware	■	15/10 <sup>4</sup>	9/7 <sup>4</sup>	9/7 <sup>4</sup>	Serve for three months in NCC, and one year in Kent and Sussex	~
District of Columbia	■ <sup>5</sup>	16 to 23	16	12	Up to 18 months, may be extended by six months	~
Florida	■ <sup>6</sup>	15 to 21 <sup>7</sup>	12	12	12 months, may be extended by six months	Investigate political corruption, election rules violations
Georgia		16 to 23	16	12	Coterminous with term of court for which summoned	Inspect jails, public buildings, offices of superior and probate courts, county treasurer, district attorney, school superintendent; appoint committee to inspect other county offices and officers
Hawaii		16	8	3/4, but not less than 8 of the jurors present	1 year	~
Idaho		16	12	12	6 months	~
Illinois		16	12	9	18 months maximum	Inspect jails
Indiana		6	5	5	Up to six months, may be extended up to two years	Submit status report on county homes and correctional facilities
Iowa		7	5	5	1 year, may be extended until investigation completed	Inspect public prisons, county institutions, places of detention, investigate misconduct of public officers
Kansas		15	12	12	3 months, may be extended to six	~
Kentucky		12	9	9	20 court days, 90 days for special grand jury	Investigate public corruption, election rules violations
Louisiana		12	9	9	4 to 8 months, one year in Cameron Parish	Inspect jails and other public facilities
Maine	■	13 to 23	13	12	1 year maximum	~
Maryland		23	13	12	Coterminous with term of court for which summoned	Inspect local jail conditions
Massachusetts		23	12	12	3 months, may be extended	~
Michigan <sup>8</sup>		13 to 17	13	9	6 months, may be extended up to one year	~

**Table 38. Grand Juries: Composition and Function**

Legend: ~ = Not applicable; N/S = Not stated; ■ = Yes

	Indictment required for all felonies?*	Grand jury size	Size of quorum	Number needed to indict	Statutory term	Special civil duties
Minnesota		16 to 23	16	12	1 year maximum	Inspect prison management, investigate public corruption
Mississippi	■	20	15	12	6 months	Inspect county offices, jails, tax books
Missouri	■ <sup>9</sup>	12	12	9	Up to six months; may be extended 60 days to complete work	Inspect public buildings, investigate conduct of public officers
Montana		11	11	8	Varies	Inspect prisons, county books and records, investigate public corruption
Nebraska		16	12	12	Varies	Inspect county jails
Nevada <sup>10</sup>		17	12	12	1 year	Inspect prisons and public records, investigate conduct of public officers
New Hampshire	■	23	12	12	30 days maximum	
New Jersey	■	23	12	12	20 weeks maximum	Investigate public affairs and conditions
New Mexico		12	12	8	3 months	Inspect jails
New York	■	16 to 23	16	12	No set term	Investigate conduct of public officers
North Carolina	■	12 to 18	12	12	1 year (if judge finds burden on jurors and their employers is too great, may fix term at six months)	Inspect jails and other county offices or agencies
North Dakota		8 to 11	8	6	10 days	Inspect prisons, investigate public corruption
Ohio	■	15	9	12	Up to four months, may be extended to nine months	Inspect jails
Oklahoma		12	12	9	18 months, may be extended by six months	Investigate public officer conduct, prison management
Oregon		7	5	5	Varies by county	Inspect jails and youth detention facilities
Pennsylvania		23	15	~	18 months, may be extended by six months	~
Puerto Rico	N/S	N/S	N/S	N/S	N/S	N/S
Rhode Island	■ <sup>11</sup>	13 to 23	13 to 23	12	18 months maximum	~
South Carolina	■	18	12	12	2 year maximum	Investigate conduct of public officers
South Dakota		6 to 10	6	6	18 months maximum	Inspect prisons, investigate conduct of public officers, examine public records
Tennessee	■	13	12	12	Foreperson serves for two years. The other 12 serve until dismissed by the judge or until the next term.	Inspect conditions and management of prisons and other county buildings, investigate conduct of public officers, inquire into county treasury
Texas	■	12	9	9	Varies	~
Utah		9 to 15	9	3/4 of jury	18 months, may be extended by six months	~
Vermont		18 to 23	18	12	6 months	~
Virginia	■	5 to 7	5	4	1 year, may be extended by six months	~
Washington		12	12	3/4 of jury	60 days, may be extended by 60 days	Investigate public corruption
West Virginia	■	16	15	12	1 term (4 months), may be extended	~
Wisconsin <sup>12</sup>		17	14	12	31 consecutive days, or time necessary to complete proceedings	~

**Table 38. Grand Juries: Composition and Function**

Legend: ~ = Not applicable; N/S = Not stated; ■ = Yes

	Indictment required for all felonies?*	Grand jury size	Size of quorum	Number needed to indict	Statutory term	Special civil duties
Wyoming		12	9	9	Up to 1 year, may be extended by six months	Inspect jails

\*Unless waived by the accused; "No" = not required, but available.

Note: Grand juries in all states have the power to investigate crimes. In all but two states, Connecticut and Pennsylvania, grand juries also return indictments.

**FOOTNOTES:**

**California:**

<sup>1</sup> In counties with populations exceeding four million, there are 23 members on a grand jury, with 14 as the number needed for a quorum and to indict; in counties having a population less than 20,000, there are 11 members on the grand jury, with eight as the number needed for a quorum and to indict; in all other counties, there are 19 members on the grand jury, with 12 as the number needed for a quorum and to indict.

**Colorado:**

<sup>2</sup> Upon motion by district attorney and for good cause, a grand jury may consist of 23 jurors, with 12 as the number needed for a quorum and to indict; otherwise, grand juries consist of 12 members, with nine as the number needed for a quorum and to indict.

**Connecticut:**

<sup>3</sup> The grand jury is composed of judges.

**Delaware:**

<sup>4</sup> In New Castle County a grand jury consists of 15 members, with indictment by nine. In Kent and Sussex Counties a grand jury is composed of 10 members, with indictment by seven.

**District of Columbia**

<sup>5</sup> A defendant may waive his/her right to a grand jury in non-capital cases.

**Florida:**

<sup>6</sup> A grand jury indictment is required for capital felonies, but optional for other felonies.

<sup>7</sup> Statewide, a grand jury consists of 18 jurors, with 15 as the number needed for a quorum, and 12 as the number needed to indict.

**Michigan:**

<sup>8</sup> For multi-county grand juries, the Court of Appeals shall designate the number of jurors to be drawn. (MCL 767.7e)

**Missouri:**

<sup>9</sup> Grand juries may be called by the Circuit Court.

**Nevada:**

<sup>10</sup> Every public offense must be prosecuted by indictment or information, except removal of civil officer, offenses arising in militia, and offenses tried in municipal or justice court.

**Rhode Island:**

<sup>11</sup> A grand jury indictment is required in capital and life imprisonment cases only.

**Wisconsin:**

<sup>12</sup> Wisconsin has not convened a grand jury in at least 30 years, although the grand jury statute is still on the books. As a practical matter, it serves no function.