

O.C.G.A. § 15-12-40

Current through the 2020 Regular Session of the General Assembly

GA - Official Code of Georgia Annotated > TITLE 15. COURTS > CHAPTER 12. JURIES > ARTICLE 3. SELECTION OF JURORS

§ 15-12-40. Ineligibility to serve as trial juror

Any person who has been convicted of a felony in a state or federal court who has not had his or her civil rights restored and any person who has been judicially determined to be mentally incompetent shall not be eligible to serve as a trial juror.

History

Code 1981, [§ 15-12-40](#), enacted by [Ga. L. 2012, p. 173](#), § 3-1/HB 665.

Annotations

Notes

EFFECTIVE DATE. --

This Code section became effective July 1, 2012.

EDITOR'S NOTES. --

This Code section formerly pertained to the compilation, maintenance, and revision of jury lists. The former Code section was based on Ga. L. 1878-79, p. 27, § 2; Ga. L. 1878-79, p. 34, § 1; Ga. L. 1880-81, p. 124, § 1; Code 1882, §§ 3910b, 3910d; Ga. L. 1887, p. 31, § 1; Ga. L. 1892, p. 61, § 1; Penal Code 1895, §§ 815, 818; Ga. L. 1897, p. 40, § 1; Ga. L. 1899, p. 44, § 1; Penal Code 1910, §§ 816, 819; Code 1933, § 59-106; Ga. L. 1953, Nov.-Dec. Sess., p. 284, § 1; Ga. L. 1955, p. 247, § 1; Ga. L. 1967, p. 251, § 1; Ga. L. 1968, p. 533, § 1; Ga. L. 1973, p. 484, § 1; Ga. L. 1976, p. 438, § 1; Ga. L. 1978, p. 1611, § 1; Ga. L. 1979, p. 3, § 1; Ga. L. 1985, p. 149, § 15; Ga. L. 1985, p. 1511, § 2; Ga. L. 1987, p. 953, § 1; Ga. L. 1987, p. 1575, § 1; Ga. L. 1988, p. 13, § 15; Ga. L. 1989, p. 427, § 1; Ga. L. 1995, p. 1292, § 4; Ga. L. 1999, p. 890, § 1; Ga. 2001, Ex. Sess., p. 318, §§ 1-1, 2-1; [Ga. L. 2005, p. 334](#), § 5-3/HB 501; [Ga. L. 2006, p. 897](#), § 1/HB 1417; [Ga. L. 2011, p. 59](#), § 1-15/HB 415 and was repealed by its own terms effective July 1, 2012.

Case Notes

JUDICIAL DECISIONS

EDITOR'S NOTES. --In light of the similarity of the statutory provisions, annotations decided under former Code 1933, § 59-106 and former Code [Section 15-12-40](#) are included in the annotations under this Code section.

FOURTEENTH AMENDMENT PROTECTS ALL CITIZENS. --[United States Const., amend. 14](#) protects all and not some citizens as to discrimination in jury selection. [Simmons v. Jones, 317 F. Supp. 397 \(S.D. Ga. 1970\)](#), rev'd on other grounds, [478 F.2d 321 \(5th Cir. 1973\)](#) (decided under former Code 1933, § 59-106).

JURY SERVICE IS A DUTY RATHER THAN A RIGHT. --Jury service is not a right or privilege but is a burden which the state summons certain of the state's citizens to bear. [Simmons v. Jones, 317 F. Supp. 397 \(S.D. Ga. 1970\)](#), rev'd on other grounds, [478 F.2d 321 \(5th Cir. 1973\)](#) (decided under former Code 1933, § 59-106).

PRESUMPTION THAT JURORS ABLE TO CORRECTLY ANALYZE FACTS. --Jurors are expected to bring into the box not only uprightness, but also intelligence, and there ought to be a presumption that jurors, through the use of the intelligence which the jurors are required to have in order to be qualified to be jurors, are able to correctly analyze the evidence and determine the facts, shown by such evidence, to have occurred. [Purcell v. Hill, 111 Ga. App. 256, 141 S.E.2d 153 \(1965\)](#) (decided under former Code 1933, § 59-106).

COMPETENCY OF JUROR. --Defendant did not show that juror was incompetent to serve merely because the juror gave an incoherent answer the first time the juror was polled about the defendant's verdict; thus, denial of the defendant's motion for a new trial was proper. [Creed v. State, 255 Ga. App. 425, 565 S.E.2d 480 \(2002\)](#) (decided under former [O.C.G.A. § 15-12-40](#)).

CITED in [Ellington v. State, 292 Ga. 109, 735 S.E.2d 736 \(2012\)](#), overruled in part by [Willis v. State, 304 Ga. 686, 820 S.E.2d 640 \(2018\)](#).

Research References & Practice Aids

CROSS REFERENCES. --

Registration of voters and compilation of official registered voters' lists, [§ 21-2-210](#) et seq.

Hierarchy Notes:

[Title Note](#)

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