

TRAVERSE JUROR HANDBOOK



**State of Maine
Superior Court**

Constitution of the State of Maine, as Amended

ARTICLE I - DECLARATION OF RIGHTS

Rights of persons accused:

Section 6. In all criminal prosecutions, the accused shall have a right to be heard by the accused and counsel to the accused, or either, at the election of the accused;

To demand the nature and cause of the accusation, and have a copy thereof;

To be confronted by the witnesses against the accused;

To have compulsory process for obtaining witnesses in favor of the accused;

To have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a jury of the vicinity. The accused shall not be compelled to furnish or give evidence against himself or herself, nor be deprived of life, liberty, property, or privileges, but by judgment of that person's peers or the law of the land.

Right of redress for injuries:

Section 19. Every person, for an injury inflicted on the person or the person's reputation, property or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

Trial by jury:

In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practiced; the party claiming the right may be heard by himself or herself and with counsel, or either, at the election of the party.



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**State of Maine
Superior Court**

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NOTE: This booklet is designed to aid you during your jury service. It is not part of the court's instructions and should not be used during deliberation in a case.

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Introduction

You have been selected for service on a traverse jury. A **traverse jury is a trial jury** — a jury impaneled to try an action or prosecution, as distinguished from a grand jury which reviews evidence submitted by the prosecutor and determines whether a person should be charged with a crime (indictment).

There is no more valuable service citizens can perform than to aid their community by serving as a juror. The principle that a person has a right to be judged by a jury of peers dates back to England in the Middle Ages and is guaranteed by our Federal and State Constitutions. By serving as a juror you are helping to preserve a fundamental right, to protect that right so it will be a safeguard for all persons, including yourself, should you someday find your property, liberty or life endangered. Give your service as a juror the same attention that you would like from a juror if you were a party involved in the trial.

Serving on a jury is hard work. The hours are long and the pay is less than you would receive from an employer. There may be periods of waiting and you may become impatient. However, you should not allow such periods to overshadow the importance of your jury service.

The mere presence of a jury and the knowledge that the trial time is nearing encourages parties to engage in settlement talks. Thus, even though a full court day has been scheduled, many or all of the cases may be settled at the courthouse before trial and the jury may be kept waiting. These settlements are of benefit. Many could not be achieved without the presence of the jury.

The purpose of this booklet is to explain what you will do as a juror. The explanation is intended to help you feel more comfortable and to do a better job. When you are chosen as a juror, the judge will give you instructions that apply in the particular case. This booklet is not meant to and does not take the place of those instructions.

This booklet answers questions a person is likely to ask when first reporting for jury duty. As you read, you will notice certain words are underlined. These words are defined in the back of the booklet.

What Kind of Court is the Superior Court?

In the United States there are state and federal court systems. The Superior Court in which you will serve is part of the Maine state court system. The types of cases which can be heard in each court are specified by state and

federal laws, which establish the jurisdiction or subject matter which each court system may handle.

Within the federal and state court systems, there are different types of courts, whose jurisdiction is also set by law. The Superior Court is a trial court as distinguished from the Maine Supreme Judicial Court which is an appellate court. The Maine District Court is a limited jurisdiction trial court in which cases are heard by a judge without a jury.

What Types of Cases Are Heard in the Superior Court?

A criminal case involves an accusation that an individual or corporation has committed a crime. The party charged with the crime, called the defendant, is brought before the court by a complaint, an indictment or an information. The plaintiff in the case is the State of Maine, represented by a prosecutor, who may be either from the District Attorney's office or from the Attorney General's office. A defendant under our constitutional system is presumed innocent. In a criminal trial, the State has the burden of proving a defendant's guilt beyond a reasonable doubt.

How Are Jurors Selected?

There are two steps in the jury selection process. The first step is taken when a person's name is placed on a list to be summoned for jury duty. The second step is taken when a person is chosen for jury duty in an individual case.

Jury lists represent a random computer selection of persons living within a given area based upon lists of names supplied by the Secretary of State Motor Vehicle Division. These lists include the names of licensed Maine drivers, people with State ID's and people who have asked to be eligible for jury service. Each person selected is sent a questionnaire which must be completed and a summons which instructs the prospective juror to report for jury service on a specific date at a specific time and court location.

People who need to be excused from jury duty must contact the court clerk before reporting to jury duty. The clerk may excuse or postpone service and in some cases will seek the approval of the judge. A certain minimum number of jurors is required for different proceedings. For this reason, excuses are granted only for serious reasons.

If you have a substantial mental or physical handicap which may affect your ability to serve as a juror, please bring this to the attention of the clerk as soon as possible. However, the

courts generally can accommodate jurors with a wide range of physical limitations. Please speak to the clerk if you have any concerns of this nature. Also, bear in mind that all jurors serve at some degree of economic hardship. For that reason, the court cannot excuse you from jury service merely because you may incur economic difficulty unless the hardship is extreme. For jurors with significant financial hardships, the court can often fashion limited service which will minimize the impact of service. Again, please speak to the clerk before your date of service if you have any concerns.

After all the evidence has been presented and the attorneys have made their final arguments, the judge will instruct the jury about the law which applies to the particular case being tried. Once the judge has given these instructions, the case is submitted to the jury. Any jury alternates who have been sitting on the case will be excused at this time. The jury will retire to the jury room to begin its deliberation. Please note that this is the first opportunity for jurors to speak about the facts of the case with any other person.

When a person reports for jury duty, that person becomes a member of a jury pool. This pool is brought before a Superior Court justice, who speaks with them about jury service.

Once the judge has instructed the jury, jury selection will begin with the voir dire examination. Generally, voir dire involves questions addressed to the jury by the judge. In some cases, the judge, the attorneys or both may ask questions of the entire group. In some cases, jurors are questioned individually, while all other jurors remain out of the courtroom.

The purpose of voir dire is to discover if there are reasons why any juror cannot be fair about the case. If you cannot be objective about the case or if you have a personal interest in it, you should tell the judge at this time. Jurors may be removed by challenge for cause. This means there are reasons why the juror may not be able to be impartial and fair. There is no limit to the number of jurors who may be challenged for cause. A second way a juror may be removed is by peremptory challenge. Each party is allowed a certain number of these challenges, which require that a juror be excused without explanation. If you are challenged, do not be offended. Each lawyer is trying to help his or her client's case. Being challenged should not be considered as an unfavorable reflection of your character.

In all criminal cases, twelve jurors are selected and impaneled, unless the parties agree to a lesser number. In civil cases, a minimum of eight jurors are selected and impaneled, unless the parties agree to a lesser number. Alternate

jurors may be impaneled so that the trial can continue if a member of the regular panel must be excused.

After voir dire, those people who will make up the jury panel are given the Juror's Solemn Oath. Jurors who do not wish to swear the oath may request to affirm their support of it.

After the oath is sworn, the jury has been impaneled. This means the jury is official. Now the trial will begin.

What Are the Responsibilities of a Juror?

PLEASE DO NOT BE LATE IN REPORTING FOR JURY DUTY. Until all jurors are present, the trial cannot proceed.

Once you have been sworn in, you are officially a juror. Your conduct as a juror during the trial is extremely important. A person's freedom or livelihood may be affected by your actions.

The verdict of the jury is to be based solely on the evidence presented in the courtroom. To ensure that the verdict is based on the evidence presented, that jurors remain impartial and objective and that they receive the same information in a case, certain standards have been set.

- Jurors are allowed to take notes on the trial **ONLY** upon order of the trial justice.

- Jurors may not ask questions of witnesses.
- Jurors should not talk about the case with anyone or with other jurors until the case is submitted to the jury for deliberation.
- As the verdict is to be based only on evidence admitted in the case, do not investigate the case on your own.
- Do not read accounts of the trial in the newspaper or listen to them on television or radio.
- Above all, remain objective and pay strict attention to the testimony given in each case.
- If anyone tries to talk about the case, refuse to listen and report the incident to the judge at the earliest possible time.
- The court will instruct you as to any further precautions to be taken in a given case.

What Happens During a Trial?

After you have been selected to sit on a jury, the court session will begin each time by the court officer calling for order and announcing the opening of court. Everyone rises and stands until the judge is seated on the bench. When court is adjourned the same procedure will be followed.

As a juror, you will be sitting in the jury box which will be on one side or the other of the judge's bench. It is likely that a seat will be assigned to you.

Most trials go through four stages:

- **Stage 1 — Opening Statements** by the lawyers for each side in which they describe to the jury their view as to what is involved in the case. Remember, what the lawyers say is not evidence. It is their own version of what the case is about and what they think the evidence is.
- **Stage 2 — Presentation of Evidence.** This generally consists of word-of-mouth testimony of several witnesses and a variety of documents and physical evidence.
- **Stage 3 — Lawyers' Closing Arguments** to the jury to summarize what they think are the most important and favorable points for their side. Again, their statements are not evidence.
- **Stage 4 - Judge's Instructions** to the jury as to the law. The judge will indicate the issues the jury should decide and explain the process of deliberation.

In a case tried before a jury, the jury must decide what happened on the basis of the evidence presented. In this process you will be called upon to determine the credibility of witnesses, to choose between conflicting theo-

ries presented, and to decide if enough evidence has been submitted to prove a particular fact.

The judge is present to inform the jury of the law that applies to the case. This occurs at the end of the trial, but the judge may also rule on questions of law during the trial. As mentioned previously, the jury is to decide the case based only on the evidence admitted. There are certain rules regulating the introduction of evidence that may prevent some evidence from being admitted. When questions arise about these rules and their application, the judge must make a decision on whether or not to let the evidence in. Because the jury should not hear this evidence or the discussion about it, the jury may be excused, the judge may call the attorneys and the court reporter to the side of the bench for a conference, called a "side bar," or the judge, the attorneys and the reporter may retire to the judge's chambers. All discussion at the side bar conference or in chambers is recorded, so that it will be available if the case is appealed. After hearing the arguments of both attorneys, the judge will make a decision on the question presented. This is not a matter for jury deliberation.

These discussions may cause temporary trial delays, but they are necessary and, in the long run, may shorten the total trial process.

After all the evidence has been presented and the attorneys have made their final arguments, the judge will instruct the jury about the law which applies to the particular case being tried. Once the judge has given these instructions, the case is submitted to the jury. Any jury alternates who have been sitting on the case will be excused at this time. The jury will retire to the jury room to begin its deliberation. Please note that this is the first opportunity for jurors to speak about the facts of the case.

Responding to Questions

From time to time, jurors may be questioned or asked to comment on a particular case by members of the news media, attorneys, litigants or other interested parties. If this occurs during the course of the trial or deliberation, you should refuse to discuss the case, as instructed, and inform the judge of the incident as soon as possible. After you have been finally excused as a juror, you may, if you wish, discuss matters heard during your term of service. However, you are not required to do so.

How Are Jurors Paid?

The State Legislature has authorized the court to pay jurors a fee for each day that they report for jury duty at the courthouse, plus

mileage round-trip from home to the courthouse. Parking costs are reimbursed for jurors serving at locations where free parking is not available. These rates are set and established by the Legislature, not by the Court, and are subject to change.

Payments to jurors are processed by the Administrative Office of the Courts (AOC). Requests for juror payments are submitted to the AOC by each court on a biweekly basis, and checks are then mailed directly to jurors ten working days after the end of the biweekly period. It may, therefore, be a full 30 days after you serve on a jury before you receive a check in the mail. It is important that you make sure that court records accurately reflect your address.

You are responsible for keeping records of the money you earn as a juror. The courts do not keep track of the individual amounts for tax purposes, nor are W-2 forms prepared. If you have questions, you should seek an opinion from a tax professional; the courts cannot offer tax advice.

Laws Affecting Jurors

The rights and responsibilities of jurors are governed by Maine law. You should be aware of the following provisions:

Penalties for failure to perform jury service A person summoned for jury service who

fails to appear or fails to complete jury service will be ordered by the court to appear and to show cause for his or her failure to comply with the summons. A prospective juror who fails to show good cause for not complying with the summons is guilty of contempt and may be punished by a fine of not more than \$100 or by imprisonment for not more than 3 days, or both. (14 M.R.S.A. §1217.)

Length of service by jurors No juror is required to serve more than once in a five-year period. A juror may be required to serve, or to attend court for prospective service, for up to fifteen court business days, depending on the court's calendar. Such service could be longer if necessary to complete a particular case.

Service will be extended if necessary to complete service in a particular case. A person will also not be required to serve on more than one grand jury or to serve as both a grand and a traverse juror. (14 M.R.S.A. §1216).

Protection of jurors' employment and health insurance The clerk's office will prepare a juror service confirmation letter upon request. An employer may not deprive an employee of employment or health insurance coverage because the employee receives or responds to a summons for jury service or serves as a juror. An employer is also prohibited from threatening or coercing an employee with respect to loss

of employment or health insurance coverage. Employers who violate this law are guilty of criminal contempt and upon conviction may be punished by a fine of not more than \$500 or by imprisonment for not more than six months or both. The affected employee may bring a civil action for recovery of wages or health insurance benefits. (14 M.R.S.A. §1218).

Definition of Terms

Appellate Court: A court which reviews trial court cases on questions of law.

Challenge: To ask that a member of the jury panel be excused.

Challenge For Cause: To ask that a member of the jury panel be excused, because there appears to be a reason why he or she might not be impartial as a juror.

Civil Action: A civil court proceeding filed by one party against another.

Complaint: A written charge against a person in a criminal action. A written statement of the plaintiff's claim in a civil action.

Cross Examination: The questioning of a witness by the side that did not call the witness.

Deliberations: The discussion by the jury through which the verdict in a case is reached. This discussion is private; only

members of the jury are allowed to participate or to be present.

Grand Jury: A jury that reviews evidence submitted by the prosecutor and determines whether a person should be charged with a crime.

Impaneled: A jury which has been chosen and sworn in a particular case.

Indictment: The formal charge by a grand jury against an individual or organization.

Information: The formal charge filed by a prosecuting attorney when a defendant has waived the right to have the defendant's case submitted to the grand jury.

Peremptory Challenge: A lawyer's request that a juror be excused from a case without giving a reason why the juror should be excused. This type of challenge results in automatic removal. The number of challenges depends on the type of case.

Submitted: When a case is given to the jury for deliberation.

Trial Court: A court which is established to resolve disputes between parties by analysis of the evidence presented.

Voir Dire: The French word "Voir" means to inspect; "dire" means to talk or speak. It is an examination of jurors to determine whether there are any reasons why they should not be sworn.

Juror Etiquette

Proper attire is required. Jurors should dress comfortably for the courtroom, but in a way that does not detract from the dignity of the court. Women may wear slacks provided they are appropriate for a courtroom. Men should dress conservatively. Hats, shorts, uniforms (law enforcement or otherwise), tee-shirts, tank tops, muscle shirts, halter tops, bare midriff clothing, and clothing with slogans or other messages are inappropriate. Please remember that the parties in any case look to the jurors for justice. Their faith in the jury system is more likely to persist if the jurors' appearance is respectful of the parties and the court.

In accordance with Maine Law, **smoking is prohibited** in the courthouse.

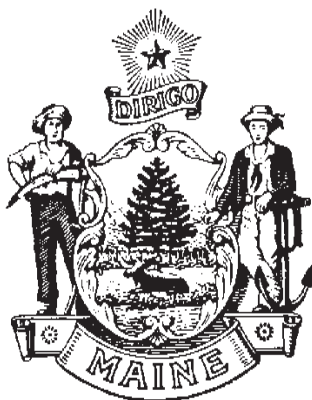
The **use of cell phones is prohibited** in the jury room as well as in the courtroom.



For more information about being
a juror or the Maine Court System,
visit: www.courts.state.me.us



The State of Maine thanks you for
your service as a juror.
You may keep this booklet or return
it to the Clerk for recycling.



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