

Public Law 95-572
95th Congress

An Act

To amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service.

Nov. 2, 1978

[S. 2075]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Jury System
Improvements
Act of 1978.

SHORT TITLE

SECTION 1. This Act may be cited as the "Jury System Improvements Act of 1978".

28 USC 1861
note.

EXCUSE FROM JURY SERVICE

SEC. 2. (a) Section 1863(b) of title 28, United States Code, is amended—

(1) by striking out paragraph (7); and

(2) by redesignating paragraphs (8) and (9), and all references thereto, as paragraphs (7) and (8), respectively.

(b) Section 1866(c) of title 28, United States Code, is amended by striking out "paragraph (5), (6), or (7)" and inserting in lieu thereof "paragraph (5) or (6)".

JURY SERVICE UPON RESTORATION OF CIVIL RIGHTS

SEC. 3. (a) Section 1865(b) (5) of title 28, United States Code, is amended by striking out "by pardon or amnesty".

(b) Section 1869(h) of title 28, United States Code, is amended by striking out "by pardon or amnesty."

DEFINITIONS

SEC. 4. Section 1869 of title 28, United States Code, is amended—

(1) by striking out the period at the end of subsection (i) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new subsections:

"(j) 'undue hardship or extreme inconvenience', as a basis for excuse from immediate jury service under section 1866(c) (1) of this chapter, shall mean great distance, either in miles or travel-time, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service;

"(k) 'publicly draw', as referred to in sections 1864 and 1866 of this chapter, shall mean a drawing which is conducted within

the district after reasonable public notice and which is open to the public at large under the supervision of the clerk or jury commission, except that when a drawing is made by means of electronic data processing, 'publicly draw' shall mean a drawing which is conducted at a data processing center located in or out of the district, after reasonable public notice given in the district for which juror names are being drawn, and which is open to the public at large under such supervision of the clerk or jury commission as the Judicial Conference of the United States shall by regulation require; and

"(1) 'jury summons' shall mean a summons issued by a clerk of court, jury commission, or their duly designated deputies, containing either a preprinted or stamped seal of court, and containing the name of the issuing clerk imprinted in preprinted, type, or facsimile manner on the summons or the envelopes transmitting the summons."

FEEES OF JURORS

SEC. 5. Section 1871 of title 28, United States Code, is amended to read as follows:

"§ 1871. Fees

"(a) Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk only upon the order of a district judge.

"(b) (1) A juror shall be paid an attendance fee of \$30 per day for actual attendance at the place of trial or hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during such service.

"(2) A petit juror required to attend more than thirty days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding \$5 more than the attendance fee, for each day in excess of thirty days on which he is required to hear such case.

"(3) A grand juror required to attend more than forty-five days of actual service may be paid, in the discretion of the district judge in charge of the particular grand jury, an additional fee, not exceeding \$5 more than the attendance fee, for each day in excess of forty-five days of actual service.

"(4) A grand or petit juror required to attend more than ten days of actual service may be paid, in the discretion of the judge, the appropriate fees at the end of the first ten days and at the end of every ten days of service thereafter.

Certification.

"(5) Certification of additional attendance fees may be ordered by the judge to be made effective commencing on the first day of extended service, without reference to the date of such certification.

Travel allowance.

"(c) (1) A travel allowance not to exceed the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed

rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

"(2) The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route. Rules and regulations.

"(3) Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring such charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such fees upon presentation of a valid parking receipt. Parking fees shall not be included in any tabulation of mileage cost allowances. Toll charges.

"(4) Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative modes, and the shortest practical route between residence and court. Travel expenses.

"(d) (1) A subsistence allowance covering meals and lodging of jurors shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to section 604(a) (7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area. Claims for such allowance shall not require itemization. Subsistence allowance.

"(2) A subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

"(3) A subsistence allowance for jurors serving in district courts outside of the contiguous forty-eight States of the United States shall be allowed at a rate not to exceed that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem fee pursuant to section 604(a) (7) of this title.

"(e) During any period in which a jury is ordered to be kept together and not to separate, the actual cost of subsistence shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d) of this section. Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

"(f) A juror who must necessarily use public transportation in traveling to and from court, the full cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid, in the discretion of the court, the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings

where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

Regulations.

“(g) The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.”

PROTECTION OF JURORS' EMPLOYMENT

SEC. 6. (a)(1) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1875.

“§ 1875. Protection of jurors' employment

“(a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.

“(b) Any employer who violates the provisions of this section—

“(1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;

“(2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and

Penalty.

“(3) shall be subject to a civil penalty of not more than \$1,000 for each violation as to each employee.

“(c) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.

“(d) An individual claiming that his employer has violated the provisions of this section may make application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by section 3006A of title 18, United States Code.

“(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may award a prevailing employer a reasonable attorney's fee as part of the costs if the court determines that the action is frivolous, vexatious, or brought in bad faith.”

(2) The chapter analysis of chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“1875. Protection of jurors' employment.”

(b)(1) Chapter 85 of title 28, United States Code, is amended by redesignating section 1363, and all references thereto, as section 1364, and by inserting immediately after section 1362 the following new section:

“§ 1363. Jurors’ employment rights

28 USC 1363.

“The district courts shall have original jurisdiction of any civil action brought for the protection of jurors’ employment under section 1875 of this title.”

(2) The chapter analysis of chapter 85 of title 28, United States Code, is amended by striking out the item relating to section 1363 and inserting in lieu thereof the following:

“1363. Jurors’ employment rights.

“1364. Construction of references to laws of the United States or Acts of Congress.”

EFFECTIVE DATE

SEC. 7. (a) Except as provided in subsection (b) of this section, the amendments made by this Act shall apply with respect to any grand or petit juror summoned for service or actually serving on or after the date of enactment of this Act.

28 USC 1363
note.

(b) The amendment made by section 5 of this Act shall apply with respect to any grand or petit juror serving on or after the sixtieth day following the date of enactment of this Act.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1652 (Comm. on the Judiciary).

SENATE REPORT No. 95-757 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 27, considered and passed Senate.

Oct. 12, considered and passed House, amended.

Oct. 13, Senate concurred in House amendment.