



## ALEC's Jury Patriotism Act

*Reducing Hardship for Thousands of Jurors and Ensuring Representative Juries on Complex Cases*

BY CARY SILVERMAN

**J**URY SERVICE IS AN IMPORTANT OBLIGATION OF CITIZENSHIP THAT IS VITAL TO BOTH THE CIVIL AND CRIMINAL JUSTICE SYSTEMS.

Not only is it a civic duty for individuals to serve, litigants depend on a representative jury for a fair trial. When entire segments of the population are missing from the jury pool, excluding their perspectives from decision making, there is a greater chance of a “run-away” jury that reaches an extraordinary verdict.

ALEC has made a significant contribution to creating more flexible, less burdensome jury service systems that have allowed a broader range of citizens to serve through its model *Jury Patriotism Act* (JPA). In strained economic times, those who are summoned are often forced to make a choice between paying their bills and reporting for jury service for several days. In this environment, the JPA takes on special importance as a critical tool for preserving representative juries and maintaining confidence in state judicial systems.

### ENACTMENT IN THE STATES

Since its development, more than a dozen states have enacted all or portions of the JPA, which incorporates the best practices of the states as recognized by the National Center for State Courts and the American Bar Association. The JPA makes jury service less burdensome by providing summoned jurors with a hassle-free system for rescheduling jury service, ensuring that citizens are not repeatedly called to serve, and limiting the length of service to no more than one day if not selected to serve on a jury or the duration of one trial. Some courts have adopted reforms included in the JPA on their own initiative. For instance, last November, Gwinnett County, Georgia began a pilot project of the one-day/one-trial system that has both made jury service more convenient for citizens and is projected to reduce court costs by \$100,000 annually through its increased efficiency.

Given the increased flexibility of jury service, the JPA closely defines the grounds for obtaining a full excusal from jury service rather than a postponement. It also eliminates outdated exemptions that permitted individuals in certain occupations to avoid jury service. The goal is to ensure that everyone can and does serve.

## REDUCING THE BURDEN OF SERVING ON LENGTHY TRIALS

The most innovative element of the JPA is its Lengthy Trial Fund (LTF), which has allowed thousands of citizens in Arizona and Oklahoma to serve as jurors who judges might otherwise have felt compelled to excuse for financial hardship. Reports from around the country repeatedly show the difficulty in finding jurors who are able to serve on lengthy trials. In such cases the stakes are often quite high. In criminal cases, prosecutors seek justice for horrible crimes, while defendants may face life imprisonment or the death penalty. In civil litigation, personal injury attorneys may seek millions in compensation, plus punitive damages for their clients. Such a verdict can push a business defendant into bankruptcy and threaten the jobs of its employees. Yet in these types of cases, entire groups of people cannot serve on juries. Those who are self-employed, independent contractors, hourly wage earners, or owners or employees of small businesses—taxi drivers, plumbers, accountants, shopkeepers—are unlikely to participate in jury service without incurring extreme and unfair financial hardship.

Take for example the recent Casey Anthony trial that captivated the media in 2011. A Florida court summoned more than 400 people for jury service; as it anticipated the need to excuse many people on what was expected to be a two-month murder trial. During the first day of jury selection, a man asked to be excused because he would not receive compensation from his employer during jury service. Orange-Osceola Chief Judge Belvin Perry asked him what would be the impact if he was selected to serve and received only the \$30 per diem provided to Floridians who serve as jurors on trials lasting more than three days. “I’d probably be in bankruptcy by the end of 12 weeks,” the man said. A second juror who would not be paid during jury service asked to be excused. She was afraid that she would lose her car and be evicted without her income. Judge Perry did not excuse the first juror for hardship, but let the second go home.

Their concerns are typical. In most states, jurors receive no more than a \$10 to \$30 per diem for their service. “Most people can’t live on \$10 a day for a half-month,” said Paula Hannaford-Agor, Director of the Center for Jury Studies. “It’s not going to buy their groceries. It’s not going to pay the rent. It’s not going to pay the American Express bill when it comes due.” Several states increase the per diem to around \$40 after the third day of service. New Mexico pays its jurors minimum wage. Nevertheless, when a trial extends over several weeks or months, a juror who is not receiving his or her usual income will suffer a tremendous hardship if not excused.

To address financial hardship issues that undermine citizen participation, the model act’s LTF makes supplemental compensation available to jurors in this position. As suggested by the model act, jurors who serve on trials lasting longer than three days can request supplemental compensation of up to \$100 if they would otherwise be excused from service due to financial hardship. In the rare case that a trial lasts ten days or more, any juror who is not fully compensated by their employer during jury service or who does not receive their usual income would be eligible to receive supplemental compensation of up to \$300 per day from the fund.

Obviously, in times of tight state budgets, a substantial increase in juror compensation funded by taxpayers is not in the cards. The JPA addresses this concern by spreading the costs of LTF on those who use the courts by placing a nominal fee on the filing of civil cases.

## THE ARIZONA EXPERIENCE

Arizona was the first state to enact legislation based on ALEC’s model JPA, including the LTF, in 2003. According to Arizona’s Administrative Office of the Courts (AOC), “Jury commissioners throughout the state have reported that the lengthy trial fund is a welcome reform that has allowed a number of citizens to serve on juries who would not have been financially able to serve without reimbursement of lost earnings offered by the fund.”

The Arizona LTF provides supplemental compensation to about 1,000 jurors each year. Jurors receive an average of \$69 per day in reimbursement based on their lost income, according to the AOC. Where jurors would have otherwise received no more than the \$12 per diem provided by the county and mileage, the LTF additionally has provided them with earning replacement that, on average, amounts to \$600 on a lengthy trial.

Far from running short of funds, as some had feared, the LTF, which is financed in Arizona through a \$15 fee on the filing of civil complaints and answers, has consistently run a surplus. Arizona’s Fiscal Year 2013 budget continues to anticipate that court fees collected will more than fully cover juror requests.

As a result, the Arizona Legislature has repeatedly expanded eligibility for compensation from the fund. Under current Arizona law, a juror whose service lasts more than five days may request earnings replacement of up to \$300 per day beginning on the fourth day of jury service. The legislature also opted to provide unemployed and retired jurors who serve on juries for more than five days with minimum juror compensation of \$40 (the \$12 per diem provided by the counties plus \$28 from the LTF).

The Arizona Legislature is considering a bill (S.B. 1142) that once again would change the time that jurors on lengthy trials begin receiving earnings replacement from the LTF. Those who serve on a jury for more than five days, with a loss of income would be eligible to receive up to \$300 per day in earnings replacement for their entire period of jury service. At the time of this writing, the bill has passed the Arizona Senate with unanimous support and looks likely to be enacted into law. 🗳️

To find out how the JPA can help improve your state’s jury service laws, contact Amy Kjose, Director of ALEC’s Civil Justice Task Force.



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