

SENATE BILL REPORT

SB 5128

As of January 31, 2023

Title: An act relating to jury diversity.

Brief Description: Concerning jury diversity.

Sponsors: Senators Trudeau, Dhingra, Billig, Hasegawa, Hunt, Kuderer, Pedersen, Stanford, Valdez, Wellman and Wilson, C.; by request of Administrative Office of the Courts.

Brief History:

Committee Activity: Law & Justice: 1/10/23, 1/12/23 [DPS-WM, DNP, w/oRec].
Ways & Means: 1/31/23.

Brief Summary of First Substitute Bill

- Requires the Administrative Office of the Courts to collect data on juror demographics.
- Requires the Administrative Office of the Courts to establish a childcare assistance program workgroup.
- Provides additional compensation for jurors who qualify for means-tested state-run benefits programs.
- Permits electronic service of jury service summons.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5128 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senator Padden, Ranking Member.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: That it be referred without recommendation.

Signed by Senators McCune, Torres, Wagoner and Wilson, L..

Staff: Joe McKittrick (786-7287)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Mahnur Khan (786-7437)

Background: A jury is a body of individuals temporarily selected from the qualified inhabitants of a particular district and invested with the power to present or indict a person for a public offense or try a question of fact. Jurors are randomly selected from a jury source list made up of the list of registered voters, licensed drivers, and identicard holders in each county.

A jury source list is a list of all registered voters of a county, merged with a list of licensed drivers and identicard holders who reside in that county. The list specifies each person's first and last name, middle initial, date of birth, gender, and residence address. Information provided to the court for preliminary determination of qualification for jury duty may only be used for the term the person is summoned and may not be used for any other purpose. Jury source lists are used to create a master list from which jurors are randomly selected.

All individuals are considered competent to serve as a juror unless that person is less than 18 years old, is not a citizen of the United States, is not a citizen of the county in which they have been summoned to serve, is not able to communicate in the English language, or has been convicted of a felony and has not had their civil rights restored.

Individuals selected for jury service are selected at random from a fair cross section of the population of the area served by the court. Individuals may not be excluded from jury service on account of membership in a protected class or on account of economic status. However, jurors may be excused if jury duty is an undue hardship, extreme inconvenience, for public necessity, or as the court deems necessary.

The rate of pay for jurors is set by state law. Jurors must be paid at least \$10 per day, and may be paid up to \$25 per day, as determined by the local jurisdiction. Local jurisdictions bear the cost of paying jurors. Jurors also receive reimbursement for mileage at the rate set for state officials and employees by the director of the Office of Financial Management.

Summary of Bill (First Substitute): The Administrative Office of the Courts (AOC) is required to provide all courts with a method to collect data on juror demographics, including race, ethnicity, age, sex, employment status, educational attainment, and income. This data must be reported in a manner that preserves juror anonymity.

AOC must establish a workgroup to make recommendations for the creation of a childcare

assistance program for individuals reporting for jury service with the intent to eliminate the absence of childcare as a barrier to performing jury service. The workgroup must report its findings and recommendations to the appropriate committees of the Legislature by December 1, 2024.

Subject to appropriations, jurors who qualify for a means-tested state-run benefits program, such as the Supplemental Nutrition Assistance Program or the Women, Infants, and Children Nutrition Program, whose employer does not pay the juror their regular wages or salary while performing jury service must receive \$125 for each day's attendance. If an employer does pay regular wages or salary for employees who qualify for means-tested state-run benefits programs while performing jury service, but which compensation is less than \$125 per day, the county must pay the juror the difference between their normal wage or salary and \$125 for each day's attendance.

Beginning January 1, 2024, individuals on lists of registered voters, driver's license, and identicard holders, will have the ability to opt-in to the Secretary of State and Department of Licensing sharing their email address with the consolidated technology services agency for electronically receiving jury summons and other communications related to jury service.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Requires certain low-income jurors in municipal courts, in addition to superior and district court, be paid up to \$125 per day of jury service.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute (Law & Justice): *The committee recommended a different version of the bill than what was heard.* PRO: Jury service is central to our democracy. Women, minorities, LGBTQ individuals, and low-income individuals are underrepresented on juries. Women are more likely to report hardship with childcare. Low-income individuals must be paid more so they can afford to participate on a jury. The richer you are the more likely you are to report for jury service. This bill will provide real data-driven solutions to address these issues and allow us to better monitor jury demographics. The electronic summons will be an opt-in program, the court will not receive email addresses from individuals unless they have given express permission to do so.

Persons Testifying (Law & Justice): PRO: Senator Yasmin Trudeau, Prime Sponsor; Judge Steve Rosen, King County Superior Court; Russell Brown, WA Assoc of Prosecuting Attorneys; Brittany Gregory, Administrative Office of the Courts; Larry Shannon; Dr. Dana Raigrodski, Washington State Supreme Court Gender and Justice Commission.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Courts across the state struggle with representation and diversity. Representation includes gender, rural vs urban vs suburban, socio-economic status, and race. Studies show that when women are underrepresented in the court, deliberation is less accurate. Many are unable to report to court for jury duty because they cannot afford to take time off work, pay for transportation costs and parking costs, or for childcare. Juror pay needs to be increased to make this civic duty accessible to all. Without action, courts lose perspective in the jury system, and the same people who are unable to testify are treated unfairly if they have to go through the justice system themselves.

Persons Testifying (Ways & Means): PRO: Senator Yasmin Trudeau, Prime Sponsor; Brittany Gregory, Administrative Office of the Courts; Steve Rosen; Rebecca Glasgow, Gender and Justice Commission; Larry Shannon, Washington State Association for Justice.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.