

**TESTIMONY ON HB 2224
BEFORE THE HOUSE COMMITTEE ON JUDICIARY
FEBRUARY 8, 2023**

**PRESENTED BY: MEAGAN FLYNN, OREGON SUPREME COURT CHIEF JUSTICE
OREGON JUDICIAL DEPARTMENT**

Chair Kropf, Vice-Chairs Andersen and Wallan, and Members of the Committee:

I am Meagan Flynn, Chief Justice of the Oregon Supreme Court. I am here to testify in support of House Bill (HB) 2224, introduced on behalf of the Oregon Judicial Department (OJD). Thank you for the opportunity to appear before you today.

The right to a trial by jury is a constitutional cornerstone of the United States' democracy and extends to both criminal and civil cases.¹ When addressing the composition of a jury, the U.S. Supreme Court has held that a jury should be a "representative cross-section of the community."² In explaining why the process of selecting a jury is a traditional function of the government, the court emphasized that "the jury system performs the critical governmental functions of guarding the rights of litigants and insur[ing] continued acceptance of the laws by all of the people."³

HB 2224 does three things to promote participation in jury service:

- First, HB 2224 would increase the daily stipend for jurors from \$10/day – a rate that has not changed in 20 years – to \$50/day for the first two days of service, and from \$20/day to \$60/day for any additional days.
- Second, HB 2224 would authorize OJD to periodically adjust this rate for changes in the cost-of-living index. We would come to you with a budget request to implement future cost-of-living adjustments.
- Finally, HB 2224 would increase the mileage rate paid to jurors from \$0.20/mile to the federal reimbursement rate used by state government, which currently is \$0.655/mile.

HB 2224 is aligned with OJD's Strategic Campaign to improve access to justice by eliminating barriers, and to enhance the public's trust and confidence in Oregon's state government by listening and responding to the needs of those we serve.

We recognize that jury service isn't always something that people get excited about or necessarily look forward to, and we know that barriers to participation can affect the diversity and representation of our jury pools and panels.

Nationally, studies have shown there is a relationship between the amount of juror compensation, the proportion of jurors excused for financial hardship, and the demographic composition of the jury pool.⁴ Adequate juror fees are relevant to the diversity of a jury in terms

¹ U.S. Const., amend. VI, VII; Or Const., art. 1, § 11, 17; [OSB Oregon Juror Handbook](#).

² *Taylor v. Louisiana*, 419 U.S. 522, 530 (1975).

³ *Edmonson v. Leesville Concrete Co., Inc.*, 500 U.S. 614, 624 (1991).

⁴ National Center for State Courts (2022), *Juror Compensation in the United States*.

of socioeconomic background, as well as racial diversity, given the general link between socioeconomic status and racial demographics.⁵

And if service is a financial hardship, that affects who serves on juries because current Oregon law allows for a juror to be excused from service upon a showing of undue hardship or extreme inconvenience to the juror, the juror's family, the juror's employer, or the public. Here are a few examples of hardship requests that court jury coordinators have received recently:

A Jackson County prospective juror called to serve once a week for two months starting in February wrote: *"I am working 6 days a week right now, if not 7. Even working so much I am still living paycheck to paycheck and starting to need to save for school this upcoming August. I have already obligated my time to a friend for babysitting Monday-Wednesday while she works at the hospital and Thursday-Sunday I am working minimum wage, trying to make tips. Is there any way that I could be exempt from my order as I cannot afford to miss any days of work, let alone for such an extended amount of time?"*

And another wrote: *"I am a single mother. I am the sole proprietor of my business. My income is what sustains my daughter and me. I am a licensed massage therapist and I have clients scheduled for January 9. And cannot financially afford to miss work. If there is any documentation that I need to send to prove that I am a business owner and the only one working at my business I can gladly provide that."* Jackson County prospective juror.

A Lane County prospective juror wrote: *"I'm a single mom of 4 kids, I work 2 jobs 7 days a week. I work a double on Friday, and I can't afford to lose out on \$300.00 that day, I wouldn't be able to pay my bills. I don't really call out because I can't afford to, but they would cover me. I need all the hours I can get to pay my bills. I'm struggling to make ends meet and I can't afford to miss work, please."*

Our jury coordinators have described recent challenges as well:

"I have had multiple Grand Jury mornings of potential Jurors letting us know they would love to sit on Grand Jury, however missing out on four to six days of pay would absolutely financially devastate them. To sum it up, it's one of our highest requested exemption/deferrals reasonings next to medical excusals and being seventy years or older." Marion County Jury Coordinator.

"I received a call yesterday from a juror who was to appear, today 2/2/2023, juror #94 who didn't want to be excused per se. This is an important civic duty and being a Black woman in Washington County, finds this as a significant responsibility to represent. She indicated what an extreme hardship this was going to be as she doesn't own a car. She researched Uber and it was going to cost her \$35 one way to serve as a juror, \$70 round trip and she currently just doesn't have the funds to make this happen at this time." Washington County Jury Coordinator.

⁵ [Lack of Jury Diversity: A National Problem with Individual Consequences \(americanbar.org\)](#) (2015); [Race and the Jury -EJI Reports](#) (2021)

“We would say that about 40-50% of the responses we receive state that serving as a juror is a financial hardship, they cannot afford to take time off work based on the amount the court pays jurors.” Deschutes County Jury Coordinator.

Courts have a constitutional obligation to provide a jury trial in both criminal and civil cases but must balance the economic hardship pleas against that mandate. To ease the burden of jury service, courts have become creative to limit the number of days a person would serve. Most large courts use a “one day one trial” rule – sitting on one trial, regardless of length, or just showing up if you are not selected for a jury, removes you from potential jury duty for two years. In 2022, the median length of a felony trial was about 12 hours, and the median length for a civil trial was twice that.

Smaller counties, especially those with very small populations, are not able to offer shorter service terms. In our more rural and frontier counties, terms of jury service can last from one to four months, in which individuals are “on call” for jury service but may only be required to report to the courthouse once or twice. Changing to shorter terms of service in these areas is difficult due to the number of eligible jurors in the pool relative to each county’s population.

Inadequate juror compensation raises important questions of access to justice and participation in our democracy. Financial realities create barriers to service for many people in our community. While jury service can be fulfilling and serves to ensure the constitutional rights of Oregonians, it is becoming increasingly apparent that many jurors are unable to bear the financial burden. Nobody could survive long on a salary of \$50 per day, but it comes closer to addressing the sacrifice that many make – or cannot make – to serve as jurors. The value of juror compensation is its contribution to increased representation and access to justice, enthusiasm in participation, increased perceptions of procedural fairness, and faith in the judicial system. \$50 per day tracks with the federal juror compensation rate. And adequate compensation ensures that inequities do not impact participation, particularly for low-income earners, parents without childcare, dependents, and those who are self-employed or do not receive paid time off.

The last time the legislature changed juror compensation was in 2002, and the change actually reduced the compensation. The rate had been \$10/day for the first two days of service but a rate for third and subsequent days either the lesser of \$50 or the number of hours served multiplied by the minimum wage. The 2002 legislature kept the \$10 rate for the first two days but lowered subsequent days to the current \$25/day rate – in other words, it took the jurors who sacrificed the most to serve on juries and cut their pay in half.

This bill reflects the same concerns that motivated the legislature in 2021 to address the compensation paid for citizen participation in executive branch boards and commissions. Recognizing the need to broaden citizen participation, the 2021 legislature increased the reimbursement to members who make less than \$50,000/year from \$30/day to \$151/day, which was the legislator per diem rate at the time. That change was specifically intended to reduce barriers to participation on state boards and commissions. I would point out that even the old \$30/day rate was greater than what we pay jurors who are compelled to attend court to protect the constitutional rights of their neighbors.

I am not asking that you equalize the compensation for those groups, but I hope you do see the connection, and I hope that you act to help Oregonians serve on civil and criminal juries.

Thank you.