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**AB-1452 Pilot program: increased fee for low-income jurors: criminal trials.** (2021-2022)

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Date Published: 10/11/2021 02:00 PM

**Assembly Bill No. 1452**

**CHAPTER 717**

An act to add and repeal Section 240 of the Code of Civil Procedure, relating to juries.

[ Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1452, Ting. Pilot program: increased fee for low-income jurors: criminal trials.

The Trial Jury Selection and Management Act requires all persons be selected for jury service at random, from a source or sources inclusive of a representative cross section of the population of the area served by the court. The act further requires a juror in a civil or criminal superior court case to be paid a fee of \$15 a day for each day's attendance as a juror after the first day, except as specified, plus reimbursement for mileage.

This bill would, notwithstanding these payment provisions, authorize the Superior Court of San Francisco, in conjunction with the City and County of San Francisco and their justice partners, as defined, to conduct a pilot program to analyze and determine whether paying certain low-income trial jurors \$100 per day for each day they are required to report for service as a trial juror in a criminal case promotes a more economically and racially diverse trial jury panel that more accurately reflects the demographics of the community. The bill would require the pilot program court to be developed and implemented at no cost to the Superior Court of San Francisco and to only fund the \$100 fee using funding provided by The Financial Justice Project of the City and County of San Francisco. The bill would require the pilot program court to collect data self-reported by jurors who receive the increased fee and would require the pilot program court and its justice partners to select a third-party entity to prepare an analysis and report of that data and conclusion about the pilot program without any cost to the pilot program court. The bill would require the pilot program court to terminate the pilot program on or before December 31, 2023, or at any time it determines the increased financial reimbursement is causing prejudice to the rights of litigants or the interests of justice. The bill would repeal these provisions on January 1, 2025. The bill would also make related findings and declarations.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** The Legislature finds and declares all of the following:

- (a) The right to a jury of peers is at the core of our system of justice. The right to a trial by jury is the only right that appears in both the Constitution and the Bill of Rights.
- (b) Jury duty is the most meaningful opportunity for true civic engagement that our system provides.

(c) A jury of peers means a jury of equals, drawing jurors from different races, genders, and socioeconomic classes. *Taylor v. Louisiana* (1975) 419 U.S. 522 requires that a petit jury be selected from a representative cross section of the community, which is fundamental to the jury trial guaranteed by the Sixth Amendment to the United States Constitution. The jury pool must include a cross section of the community by gender, race, and national origin (*People v. Fields* (1983) 35 Cal.3d 329). The jury selection process must not exclude or intentionally narrow any particular group of people (*United States v. Green* (D. Mass. 2005) 389 F. Supp. 2d 29, 40, 75–76, overruled on other grounds, (1st Cir. 2005) 426 F.3d 1).

(d) California, like many states, requires employers to provide time off for employees who are summoned to jury duty. While time off work is guaranteed, California law does not require employers to pay employees who serve on a jury. If a juror's employer does not cover their salary, jurors earn nothing on their first day of service and \$15 per day after that. Hourly wage earners generally receive no compensation from their employer.

(e) Because many low-income families cannot afford to forfeit days, weeks, or months of their salary, many minimum wage or low-income workers who file a claim of financial hardship are excused from service.

(f) Income inequality is strongly correlated with race and ethnicity. The median household income for Black and Latinx communities in San Francisco is significantly lower than other racial groups. In 2018, the median household income for a Black household was approximately \$18,020 and was \$43,555 for a Latinx household. This is significantly lower than the median household income of \$173,250 for a White household.

(g) Many San Franciscans would like to serve on a jury but cannot because they cannot afford to take the time off work that is required. As a result, jury pools tend to be composed of people who can afford to serve unpaid or who have employers who will pay them while they are serving and are not reflective of the economic or racial diversity of San Francisco's overall population.

(h) Removing economic barriers to jury participation will likely result in juries that are more economically and racially diverse and therefore are more reflective of the local population. A local jurisdiction should conduct a pilot program to determine if this is indeed true.

(i) A pilot program was developed collaboratively through a partnership between the San Francisco Financial Justice Project within the Treasurer's Office, the San Francisco Public Defender's Office, the San Francisco District Attorney's Office, and the San Francisco Bar Association.

(j) Diverse juries are critical to the fair delivery of justice in San Francisco. In a city with increasing income inequality, it is more important than ever to ensure all San Franciscans can have a jury of their peers.

**SEC. 2.** Section 240 is added to the Code of Civil Procedure, to read:

**240.** (a) Notwithstanding any other law, including Section 215, the Superior Court of San Francisco, in conjunction with the City and County of San Francisco and their justice partners, is authorized to conduct a pilot program pursuant to the requirements of this section to analyze and determine whether paying certain low-income trial jurors an increased fee for service as a trial juror in a criminal case promotes a more economically and racially diverse trial jury panel that more accurately reflects the demographics of the community. This pilot program shall be developed and implemented at no cost to the Superior Court of San Francisco.

(b) The fee for service as a trial juror in a criminal case paid pursuant to the pilot program shall be as follows:

(1) Except as provided in paragraph (2), a trial juror in a criminal case shall be paid the fee required by Section 215.

(2) A trial juror in a criminal case shall be paid a fee of one hundred dollars (\$100) per day for each day they are required to report for service as a trial juror if the trial juror's household income for the past 12 months is less than 80 percent of the San Francisco Bay area median income and the trial juror meets one of the additional following criteria:

(A) The trial juror's employer does not compensate for any trial jury service.

(B) The trial juror's employer does not compensate for trial jury service for the estimated duration of the criminal jury trial.

(C) The trial juror is self-employed.

(D) The trial juror is unemployed.

(c) The pilot program court shall determine whether a trial juror is eligible for the one-hundred-dollar (\$100) fee for service in a criminal jury trial pursuant to paragraph (2) of subdivision (b).

(d) The pilot program court shall only fund the one-hundred-dollar (\$100) fee to eligible trial jurors using funding provided by The Financial Justice Project of the City and County of San Francisco.

(e) The pilot program court shall provide information about the pilot program with every mailed jury summons and all information that is provided regarding excuse from jury service based on a hardship. The pilot program court and court staff shall also provide information about the pilot program whenever applicable under the circumstances. The justice partners shall develop the materials and language to describe the pilot program to prospective jurors. There shall be no additional cost to the pilot program court to provide information about the pilot program, including all printing and mailing costs, which shall be covered through funds provided by The Financial Justice Project of the City and County of San Francisco.

(f) The pilot program court shall implement a juror self-reporting data collection effort to collect data during the pilot program that allows a thorough analysis of whether paying certain low-income trial jurors an increased fee for service as a trial juror in a criminal case promotes a more economically and racially diverse trial jury panel that more accurately reflects the demographics of the community. The data collected shall include, to the maximum extent possible, the race, ethnicity, and income level of all trial jurors that receive the one-hundred-dollar (\$100) fee for service as a trial juror. The justice partners shall design the self-reporting data collection survey and the pilot program court shall use existing resources and leverage technology to disseminate and collect surveys from jurors, and shall not require additional funding to support this data collection effort.

(g) The pilot program court and the justice partners shall select a third-party entity to prepare an analysis and report of the data collected pursuant to subdivision (f) without any cost to the pilot program court. Any funding required to support the third-party entity shall be made available through funds provided by The Financial Justice Project of the City and County of San Francisco. The third-party entity shall prepare a report of its analysis of the data and conclusion whether paying certain low-income trial jurors an increased fee for service as a trial juror in a criminal case promotes a more economically and racially diverse trial jury panel that more accurately reflects the demographics of the community. The third-party entity shall transmit its report to the pilot program court and the Legislature, in compliance with Section 9795 of the Government Code, within six months of the conclusion of the pilot program.

(h) The pilot program court shall terminate the pilot program on or before December 31, 2023. The pilot program court shall terminate the pilot program if at any time it determines the increased financial reimbursement is causing prejudice to the rights of litigants or the interests of justice.

(i) For the purposes of this section only, "pilot program court" means the Superior Court of San Francisco.

(j) For the purposes of this section only, "justice partners" means the San Francisco Financial Justice Project within the Treasurer's Office, the San Francisco Public Defender's Office, the San Francisco District Attorney's Office, and the San Francisco Bar Association.

(k) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.