

Policy Statement

Policy Statement on Jury Service by Ohio Citizens

Prepared by
Ohio Judicial Conference Jury Service Committee

The Ohio General Assembly in 2005 permitted any prospective juror who is over seventy five years of age to excuse him or her from jury service. In the last several sessions the General Assembly has considered legislation creating exemptions for broad classes of Ohio's citizens from serving on juries.

The United States Supreme Court has held that a jury pool representing a fair cross-section of the community is a fundamental requirement under the Sixth Amendment to the U.S. Constitution. *Taylor v. Louisiana* (1975), 419 U.S. 522. The Ohio Supreme Court has adopted this view also. *State v. Fulton* (1991), 57 Ohio St.3d 120.

The Ohio judiciary has long advocated procedures to insure the broadest possible cross-section of citizens within a court's jurisdiction participate in juries. The Ohio Futures Commission, in 2000, had as its vision for 2025, "[j]ury pools will reflect the full diversity of the communities they serve."

The Ohio Supreme Court's Ohio Trial Court Jury Use and Management Standards provide:

The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

Jury service is an obligation of all qualified citizens.

The Ohio Supreme Court's 2004 Task Force on Jury Service had as part of its mission "to broaden citizen participation" in Ohio's juries. The Task Force echoed the Futures Commission's call that jury pools reflect the full diversity of a community.

The Ohio judiciary is not unmindful that jury service can constitute an undue personal or financial hardship for some prospective jurors. However, Ohio judges should have the discretion to review these hardships on a case by case basis and to excuse jurors who do truly suffer from such hardships. Ohio's eighty-eight counties are remarkably diverse. Whether it is a farmer during harvesting season, a university student during exam week, or a pregnant mother-to-be, Ohio judges should have the flexibility to address the needs of prospective jurors while insuring a broad cross section of that county's population remains in the jury pool. The judge is in the best position to balance the individual needs of each potential juror against the immediate requirements of a particular case.

The Ohio Judicial Conference should resist any effort of the legislature to exempt from jury service broad classes of Ohio citizens and should support all efforts to include all citizens in the pool of prospective jurors regardless of race, national origin, gender, age, religions belief, income, occupation, or disability. The Ohio Judicial Conference should continually encourage the General Assembly to rely on the full and careful discretion of the individual judge in managing juror participation.

2335.28 Jury fees in civil actions to be taxed as costs.

(A) Except as provided in division (B) of this section, in any civil action in a court of common pleas in which a jury is sworn **AND A VERDICT IS RETURNED**, the fees of the jurors sworn shall be taxed as costs unless the court determines that the payment of the fees by a party against whom they are proposed to be taxed would ~~cause significant financial hardship to that party or would not be in the interest of justice.~~

(B)(1) IF A CIVIL ACTION IN A COURT OF COMMON PLEAS IN WHICH A JURY HAS BEEN SUMMONED BUT NOT SWORN IS SETTLED OR DOES NOT OTHERWISE GO FORWARD, THE FEES OF THE JURORS SUMMONED MAY BE TAXED AS COSTS AT THE DISCRETION OF THE TRIAL COURT.

(2) If a civil action in a court of common pleas is settled after jurors are sworn, the fees of the jurors sworn shall be paid in accordance with the settlement agreement. If the agreement does not provide for the payment of the fees, the ~~court shall order that the fees~~ **OF** ~~be paid by any party, allocated among the parties, or paid by the county. In making this determination, the court shall consider whether the payment of the fees by a party against whom they are proposed to be taxed would cause significant financial hardship to that party or would not be in the interest if justice.~~ **JURORS SWORN MAY BE TAXED AS COSTS AT THE DISCRETION OF THE TRIAL COURT.**

(C) Upon receipt of fees taxed as costs under division (A) or (B) of this section or paid in accordance with a settlement agreement, the clerk of the court shall pay the fees to the county treasurer to be deposited in the county treasury.

(D) If any juror serves on more than one jury on the same day, the court shall tax the juror's jury fees for that day as costs equally among the parties who are required to pay the fees under this section either as determined by the court or pursuant to a settlement agreement.

(E) Jury fees shall be taxed as costs pursuant to this section for each day or part of a day that a sworn juror serves.

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2947.23 Costs and jury fees - community service to pay judgment.

(A)(1) In all criminal cases, including violations of ordinances, the judge or magistrate shall include in the sentence the costs of prosecution and render a judgment against the defendant for such costs. At the time the judge or magistrate imposes sentence, the judge or magistrate shall notify the defendant of both of the following:

(a) If the defendant fails to pay that judgment or fails to timely make payments towards that judgment under a payment schedule approved by the court, the court may order the defendant to perform community service in an amount of not more than forty hours per month until the judgment is paid or until the court is satisfied that the defendant is in compliance with the approved payment schedule.

(b) If the court orders the defendant to perform the community service, the defendant will receive credit upon the judgment at the specified hourly credit rate per hour of community service performed, and each hour of community service performed will reduce the judgment by that amount.

(2) The following shall apply in all criminal cases:

(a) If a jury has been sworn at the trial of a case, the fees of the jurors shall be included in the costs, which shall be paid to the public treasury from which the jurors were paid.

(b) If a jury has not been sworn at the trial of a case because of a defendant's failure to appear without good cause **OR BECAUSE THE DEFENDANT ENTERED A PLEA OF GUILTY LESS THAN 24 HOURS BEFORE THE SCHEDULED COMMENCEMENT OF THE TRIAL**, the costs incurred in summoning jurors for that particular trial may be included in the costs of prosecution. If the costs incurred in summoning jurors are assessed against the defendant, those costs shall be paid to the public treasury from which the jurors were paid.

(B) If a judge or magistrate has reason to believe that a defendant has failed to pay the judgment described in division (A) of this section or has failed to timely make payments towards that judgment under a payment schedule approved by the judge or magistrate, the judge or magistrate shall hold a hearing to determine whether to order the offender to perform community service for that failure. The judge or magistrate shall notify both the defendant and the prosecuting attorney of the place, time, and date of the hearing and shall give each an opportunity to present evidence. If, after the hearing, the judge or magistrate determines that the defendant has failed to pay the judgment or to timely make payments under the payment schedule and that imposition of community service for the failure is appropriate, the judge or magistrate may order the offender to perform community service in an amount of not more than forty hours per month until the judgment is paid or until the judge or magistrate is satisfied that the offender is in compliance with the approved payment schedule. If the judge or magistrate orders the defendant to perform community service under this division, the defendant shall receive credit upon the judgment at the specified hourly credit rate per hour of community service performed, and each hour of community service performed shall reduce the judgment by that amount. Except for the credit and reduction provided in this division, ordering an offender to perform community service under this division does not lessen the amount of the judgment and does not preclude the state from taking any other action to execute the judgment.

(C) As used in this section, "specified hourly credit rate" means the wage rate that is specified in 26 U.S.C.A. 206(a)(1) under the federal Fair Labor Standards Act of 1938, that then is in effect, and that an employer subject to that provision must pay per hour to each of the employer's employees who is subject to that provision.

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