



The Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness

200 First Avenue, Fourth Floor
Pittsburgh, PA 15222
412.697.1311
pa-interbranchcommission.com

The Honorable Rob W. Kauffman
Chair, House Judiciary Committee
312 Main Capitol Building
P.O. Box 202089
Harrisburg, PA 17120-2089

March 15, 2022

Re: Support for House Bill (“HB”) 2165, Increasing Juror Payment & Updating Juror Payment Options

Dear Chairman Kauffman,

On behalf of the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness (the “Commission”), we write to convey our support for HB 2165. HB 2165 would increase the amount of juror compensation from \$9 to \$40 per day and would clarify and expand the permissible methods of payment through which jurors receive their compensation. On December 13, 2021, HB 2165 was referred to the House Judiciary Committee for consideration. However, to date, the bill has not been considered by the Committee. For the reasons that follow, we respectfully urge the Judiciary Committee to consider HB 2165 and take the appropriate measures to move it through Committee, facilitating its passage.

As you may be aware, the Commission was established in 2005 by the three branches of Pennsylvania government to implement the recommendations from a 2003 Pennsylvania Supreme Court study on racial and gender bias in the justice system.¹ That study contained chapters on fourteen topics, including racial and ethnic bias in jury selection.² It found that Pennsylvania’s policies for choosing juries “fail at each step of the process to include a representative number of minorities.”³ To redress this problem, the Commission’s Jury Service Committee has worked to implement policy changes that reduce barriers to performing jury service and increase diversity on Pennsylvania’s juries.

¹ Pa. Interbranch Comm’n for Gender, Racial and Ethnic Fairness, *Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System*, available at <https://pa-interbranchcommission.com/wp-content/uploads/2022/01/FinalReport.pdf> [hereinafter *Final Report*].

² *Id.* at 51.

³ *Id.* at 54.

In Pennsylvania, an individual may be excused from jury duty if they can demonstrate “undue hardship or extreme inconvenience.”⁴ As the Supreme Court study found, the vast majority of Pennsylvania’s judicial districts accept economic hardship as fitting within this excusal category.⁵ Based on this finding, the study recommended that the Pennsylvania legislature conduct a study of juror compensation and, if warranted, enact legislation to increase juror pay.⁶ The Commission subsequently published its own study in 2016, entitled “Best Practices for Jury Selection and Service in Pennsylvania,” which found that “jury service . . . imposes economic hardships which significantly reduce juror participation rates.”⁷ Because economic hardships tend to disproportionately affect minority populations, excusals are more frequently granted to members of those populations, driving down juror diversity.⁸

In addition, the Commission participated in the First Judicial District’s (the “FJD’s”) 2017 Juror Participation Initiative, which was designed to recommend to the Philadelphia courts strategies to increase the number of individuals who respond to jury summonses in Philadelphia County. The Initiative’s published report found that individuals who received summonses but failed to respond or report for jury service cited low juror pay as a major driving force behind their decision to eschew participation.⁹ Accordingly, the report recommended that juror compensation be significantly increased.¹⁰

HB 2165 is directly responsive to this recommendation: it would increase the *per diem* compensation of jurors from \$9 to \$40. At present, only three states pay their jurors less than Pennsylvania does.¹¹ This is unsurprising, given that Pennsylvania’s juror compensation scale was adopted in 1959, when the minimum wage was one dollar per hour and jurors were paid only \$9 for a full day’s work.¹² Even when Pennsylvania’s juror compensation statute was updated in 1980 to provide \$25 per day to jurors after their third day of service, this change merely reflected a minimum wage that had risen to \$3.10 per hour, a rate still less than half of that in effect in 2022.¹³

HB 2165 would also supplement Pennsylvania’s existing statute to permit judicial districts’ administrative officers to issue compensation to jurors in a more flexible and efficient manner. At

⁴ 42 Pa.C.S. § 4503(a)(3) (2015).

⁵ *Final Report*, *supra* note 1, at 59

⁶ *Id.* at 98.

⁷ Pa. Interbranch Comm’n for Gender, Racial and Ethnic Fairness, *Best Practices for Jury Selection and Service in Pennsylvania* 1, 18 (Sept. 2016), available at <https://pa-interbranchcommission.com/best-practices-for-jury-selection-and-service-in-pennsylvania/> [hereinafter, *Best Practices*].

⁸ *Id.*

⁹ The First Jud. Dist. of Pa., *FJD Juror Participation Initiative* 1, 5-6 (2018), available at <https://pa-interbranchcommission.com/fjd-juror-participation-initiative/>.

¹⁰ *Id.* at 11, 21.

¹¹ *Best Practices*, *supra* note 7, at 18.

¹² *Id.*

¹³ *Id.*

present, providing remuneration to jurors is often a complicated and lengthy ordeal. Administrative officers must first draw and issue checks. Even then, many locations are plagued by a shortage of banking services, making it extremely inconvenient for jurors to cash those checks. The implication is simple: not only are jurors paid a meager sum of money in the first place; they are also frequently required to wait lengthy periods of time to receive it. HB 2165 addresses this issue by setting forth alternative admissible payment methods, which include debit cards, bank transfers, and other appropriate methods chosen by the districts' county commissioners. The legislation also provides that no matter the payment *method*, the amount of compensation may not be affected.

Overall, HB 2165 would implement changes responsive to the suggestions recommended by the numerous reports on jury diversity and juror compensation that have been published in the Commonwealth over the past several years. By increasing the rate of juror compensation, Pennsylvania legislators would make jury service more accessible to and feasible for minority and indigent populations. This would ensure compliance with the constitutional guarantee to an impartial jury selected from a representative cross-section of the community.¹⁴ Further, by permitting more flexible *methods* of compensation, legislators would modernize the Commonwealth's jury system while also increasing public confidence in the judiciary.

Thank you for your consideration. We would welcome the opportunity to provide testimony on HB 2165 should the Judiciary Committee convene a hearing thereon. If you have any questions or comments, we would be happy to discuss them at your convenience.

Respectfully,



Lisette McCormick, Esq.
Executive Director



Lynn A. Marks, Esq.
Chair, Jury Service Committee

cc: Hon. Jason Dawkins, Prime Sponsor, HB 2165
Hon. Tim Briggs, Democratic Chair, House Judiciary Committee
Members of the House Judiciary Committee
Pennsylvania Interbranch Commission Members
Jury Service Committee Members, Interbranch Commission

¹⁴ Taylor v. Louisiana, 419 U.S. 522, 528 (1975).