

TESTIMONY OF
REGINA D. PETERSEN
ADMINISTRATOR OF COURTS
JUDICIAL BRANCH OF THE VIRGIN ISLANDS

ON

BILL NO. 35-0121

BEFORE THE COMMITTEE ON RULES AND JUDICIARY

THIRTY-FIFTH LEGISLATURE

MAY 24, 2023

Good day Chairman Capehart, Members of the Committee on Rules and Judiciary and other Members of the 35th Legislature present, Staff, and the listening public. I am Regina deChabert Petersen, Administrator of Courts, of the Judicial Branch of the Virgin Islands. I would like to take this opportunity to thank the Committee and the Bill Sponsor(s), Senators Novelle E. Francis Jr., and Senator Diane T. Capehart for the opportunity to appear before you and provide brief testimony concerning Bill No. 35-0121.

As this Committee is aware, all States and Territories provide compensation to citizens called to serve on civil and criminal juries, typically on a fixed flat rate or a graduated per diem rate.

While there is no uniformity nationally in the amount of juror compensation,

what is common across all jurisdictions is that jurors' daily compensation is far below the minimum wage, and certainly below the living wage, that any individual could expect to earn in the course of their regular employment. That fee would be considerably less for any juror that is self-employed. To be frank, inadequate compensation for juror service is a real concern for the effective and timely administration of justice.

As this Committee is aware, the local judiciary pays forty dollars (\$40) for a full day of service, twenty dollars (\$20) for a half day of services and (\$5) per day to defray the cost of transportation. These fees were set in 1976 by statute as part of the same legislation that created the Territorial Court of the Virgin Islands and have not been modified since despite substantial increases in inflation and the cost of living in the intervening decades.

Accordingly, the Judiciary fully supports the legislative effort to increase fees paid to jurors. With regard to the current bill before you for consideration we make the following observations and recommendations for technical amendments to resolve ambiguities and otherwise improve the legislation:

1. Bill No. 35-0121 would repeal and replace Section 482 of Title 4 of the Virgin Islands Code, but not change Section 81 of Title 4 of the Virgin Islands Code. Importantly section 81, in subsection (b) provides that "Jurors

shall be paid for each day of active service a fee equal to that paid to jurors in the district court pursuant to section 482 of this title.” Bill No. 35-0121 should be revised to repeal section 81(b).

2. Section 1 of Bill No. 35-0121 adds a new subsection (a) that fixes the fee of jurors at \$80.00 per day for a full day of service, including if selected to serve on a trial, but only \$40.00 for a half-day. Additionally, jurors who appear for jury selection but are not empaneled receive only \$20 for a full day, and \$10 for a half-day. These amounts, while an improvement over the fees currently in place, may also become insufficient due to inflation and changes to the cost of living. We recommend that Section 482(a) be amended to start with “Unless a higher rate is set by the Judicial Branch” which would set the fees in the Bill as a floor and provide the Judicial Branch authority to raise some or all of the rates at timely intervals based on inflation or other considerations without the need for further legislation.
3. Section 1 of Bill No. 35-0121 would, among other changes, add a new subsection (b) to section 482 that provides, in its present form, “Jurors shall be provided, if necessary, reasonable compensation for travel, parking, and a subsistence allowance covering meals and lodging as determined by the court.” The use of the word “court” creates an ambiguity because it is not

clear what the word refers to. Act No. 7888 vested the Judicial Branch Administrative Office with responsibility over court finances, subject to the retained authority of the Supreme Court. Section 514 of Title 4 also provides that “In all cases where fees are not specifically covered by this chapter, the Supreme Court shall fix the amount thereof by order or rule.” Therefore, if this language is intended to provide “the court” with the authority to provide compensation to all jurors for parking, meals, and the like, the phrase “the court” should be replaced with either “the Administrator of Courts” or “the Supreme Court.”

4. Section 1 of Bill No. 35-0121 would, among other changes, add a new subsection (c) to section 482, which provides that “Jurors employed by the federal or Government of the Virgin Islands and who receive regular compensation and benefits while serving jury service shall not be paid the fee described in subsection (a).” While the Legislature possesses the authority to mandate that employees of the Government of the Virgin Islands not receive a fee for jury service and instead receive their regular compensation, the Legislature cannot force the federal government to do the same, and vice versa; the federal District Court, for instance, pays juror fees to employees of the Virgin Islands government while withholding such

fees from federal employees.

5. Part of this is a record keeping issue. The Judicial Branch has no process to validate whether the federal government is or is not paying its employees while serving on a Superior Court Jury. We recommend that the reference to federal government be deleted and leave the federal government to determine whether or not their employees should be permitted to accept juror service fees. With regard to withholding juror payment based on employment status with the local government, the Judiciary will have to explore whether functionality exists in our current Jury Management System or whether further configuration or licensing may be required. The Judicial Branch's current policy is that employees who are summoned for jury duty are granted administrative leave for service, but any fee received other than that for travel or transportation must be tendered to the Judicial Branch. We make no recommendation in this regard and would make the necessary policy adjustments based on the law.
6. Finally, with respect to Section 2 of Bill No. 35-0121, it is important to note that fees paid to witnesses do not involve the Judicial Branch. Witnesses are, of course, crucial to the administration of justice and without them, very little could happen. But normally the courts do not pay the fees

of witnesses called to testify in court or to appear for a deposition.

In closing, with the increase in jury trials following the global pandemic, we are quickly approaching normal expenditure levels for jury service. In this regard, with the proposed increase, we are projecting that those costs could increase by 100% in FY 2025. This projection will be included in the Judiciary's FY 2025 budget submission.

Thank you for allowing me to provide testimony on this matter of great public importance.