

Public Law 97-463  
97th Congress

An Act

To amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail.

Jan. 12, 1983  
[S. 2863]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1875(d) of title 28, United States Code, is amended—

- (1) by inserting "(1)" immediately after "(d)"; and
- (2) by amending paragraph (2) to read as follows:

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney's fee as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith."

Jurors and attorneys for Federal cases, protection and compensation. Attorneys' fees.

SEC. 2. (a) The second paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his usual residence or business address."

(b) The fourth paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"If such service is made by mail, the summons may be served by the marshal or by the clerk, the jury commission or their duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee for a registered or certified summons."

SEC. 3. Chapter 121 of title 28, United States Code, is amended—

- (1) by adding at the end thereof the following:

**"§ 1877. Protection of jurors**

28 USC 1877.

"(a) Subject to the provisions of this section and title 5 of the United States Code, subchapter 1 of chapter 81, title 5, United States Code, applies to a Federal grand or petit juror, except that entitlement to disability compensation payments does not commence until the day after the date of termination of service as a juror.

5 USC 8101.

"(b) In administering this section with respect to a juror covered by this section—

"(1) a juror is deemed to receive monthly pay at the minimum rate for grade GS-2 of the General Schedule unless his actual pay as a Government employee while serving on court leave is higher, in which case monthly pay is determined in accordance with section 8114 of title 5, United States Code, and

Pay rate.  
5 USC 5332 note.

"(2) performance of duty as a juror includes that time when a juror is (A) in attendance at court pursuant to a summons, (B) in

deliberation, (C) sequestered by order of a judge, or (D) at a site, by order of the court, for the taking of a view.”; and

(2) by amending the table of sections for such chapter by adding after the item relating to section 1876, the following:

“1877. Protection of jurors.”

SEC. 4. Section 8101 of title 5, United States Code, is amended in paragraph (F) of subsection (1) by striking out “juror” through the end of such paragraph and inserting in lieu thereof “juror;”.

Approved January 12, 1983.

(3) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retaining a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney fee and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney's fee as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith.

(4) The fourth paragraph of section 1888(b) of title 28, United States Code, is amended to read as follows:

“Each person drawn for jury service may be served personally or by registered certified or first-class mail addressed to such person at his usual residence or business address.”

(5) The fourth paragraph of section 1888(b) of title 28, United States Code, is amended to read as follows:

“If such service is made by mail, the summons may be served by the marshal or by the clerk, the jury commissioner or their duly designated deputies, who shall make affidavit of service and shall attach thereon any receipt from the addressee for a registered or certified summons.”

Sec. 3. Chapter 121 of title 28, United States Code, is amended— (1) by adding at the end thereof the following:

“1877. Protection of jurors

(a) Subject to the provisions of this section and title 5 of the United States Code, subsection 1 of chapter 81, title 5, United States Code, applies to a Federal grand or petit juror, except that entitlement to disability compensation payments does not commence until the day after the date of termination of service as a juror.

(b) In administering this section with respect to a juror covered by this section—

(1) a juror is deemed to receive monthly pay at the minimum rate for grade GS-2 of the General Schedule unless his actual pay as a Government employee while serving on court leave is higher, in which case monthly pay is determined in accordance with section 5114 of title 5, United States Code; and (2) performance of duty as a juror includes that time when a juror is (A) in attendance at court pursuant to a summons (B) in

LEGISLATIVE HISTORY—S. 2863:

SENATE REPORT No. 97-674 (Comm. on the Judiciary). CONGRESSIONAL RECORD, Vol. 128 (1982): Dec. 21, considered and passed Senate and House.