

Juror Compensation in the United States

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\$16.61

**Average amount
of juror fees on the
first day of service
in state courts**

The average maximum juror fee is \$27.31, just 20% of the daily per capita income in the respective states.

All states provide compensation to citizens called to serve on civil and criminal juries. However, there is no uniformity or consistency in the amount of compensation, and in almost all states, jurors' daily compensation is far below the respective federal or state minimum wage that could be earned by jurors in the course of their regular employment.

This state of affairs is not new, but inadequate juror compensation raises important questions for the effective administration of justice today. While jury service is often presented as the paradigm of "civic duty," that alone is insufficient to address the financial realities that jury service in contemporary times imposes on citizens. As one author has put it:

Jury duty, recognized as such, demands more of the citizen than the other duties that courts have allowed without compensation, and . . . courts should distinguish jury duty as a unique type of service worthy of at least subsistence compensation.¹

¹ Evan R. Seamone, *A Refreshing Jury COLA: Fulfilling the Duty to Compensate Jurors Adequately*, 5 N.Y.U. J. LEGIS. & PUB. POL'Y 239, 324 (2002).



The value of juror compensation is apparent: increases in class representation, enthusiasm and candor in participation, and increasing faith in the judiciary are all potential hallmarks of a judicial system that demonstrates — through adequate compensation consistent with prevailing wages — the value of the jury. Juror compensation is also a key driver of ensuring that inequities do not impact participation. Particularly for those already struggling with minimum wage positions, ensuring adequate compensation is crucial to their effective participation in the enterprise.

In a report issued more than 20 years ago, the NCSC offered this sobering assessment from a self-employed juror himself:

There was no consideration or compensation for the self-employed. We have no employer paying us while we do jury duty. If we don't work, we don't have money coming in. We have to do jury duty all day and then go and do our self-employ work at night. We still have due dates and people depending on us to get the work done and no one to fall back on.²

The American Bar Association has identified juror compensation as one of its key principles for juries and jury trials, noting that it is critical that persons called for service “be paid a fee that, at a minimum, defray routine expenses such as travel, parking, meals and child-care. Courts should be encouraged to increase the amount of the fee for persons serving on lengthy trials.”³

With all of these voices from the academy, policy makers, and professional development organizations, this is an issue that states can and should care about. At the very least, states should consider reviewing their rate in relation to the prevailing federal rate. The clearest metric, however, is likely tying juror service to the hourly minimum wage in each state or tying juror service compensation to a variable rate, such as inflation, to avoid the need to revise provisions and rules. A clear, consistent statutory scheme subject to regular review by the legislature would likewise ensure that juror compensation statutes keep pace with changing financial realities.

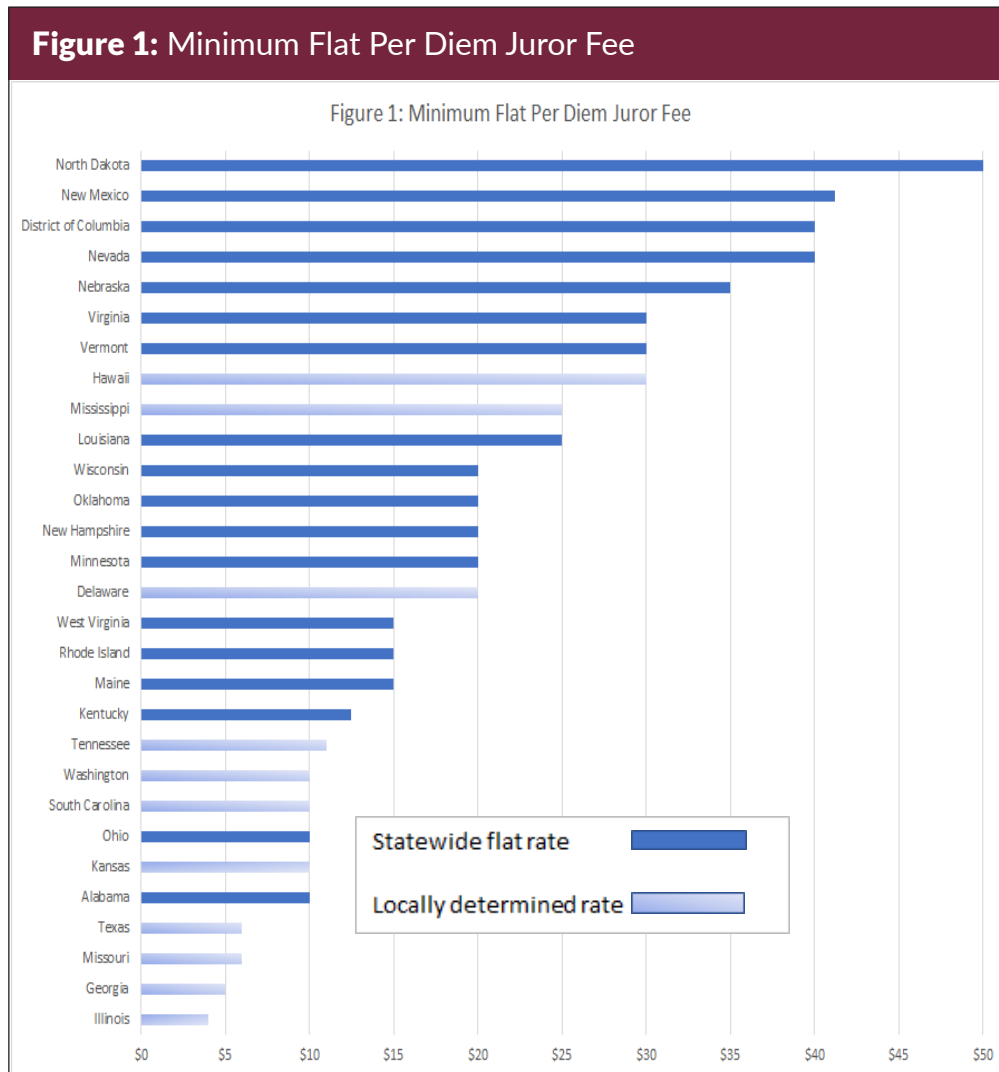
² NATIONAL CENTER FOR STATE COURTS, THROUGH THE EYES OF THE JUROR: A MANUAL FOR ADDRESSING JUROR STRESS 9 (1998).

³ AMERICAN BAR ASSOCIATION, PRINCIPLES FOR JURIES AND JURY TRIALS § 2(F)(1).

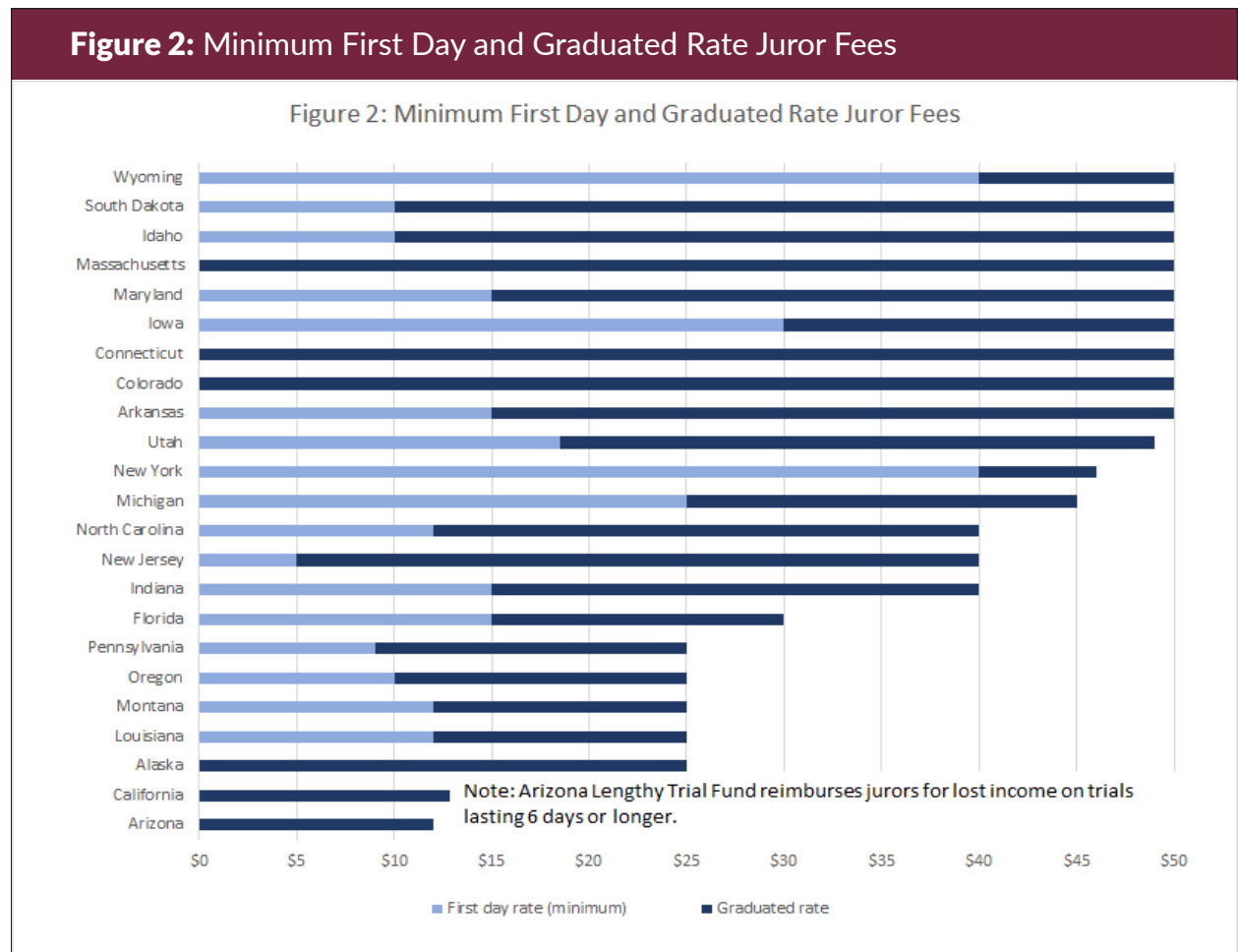
Juror Compensation Nationwide: Two Dominant Approaches

Juror compensation statutes in every jurisdiction are fixed by the legislature. Most states offer some form of compensation under two approaches: a fixed flat rate and a graduated *per diem* rate. Some United States territories follow the federal standard, although some set their own rates.

A flat rate *per diem* fee — similar to the form of the rate for federal courts — is affixed in 31 states and the District of Columbia. Flat rates range from a minimum of \$4 per day in Illinois to \$50 per day in North Dakota. The average rate across all 32 states is \$19.68. Eleven states establish a minimum daily rate but allow local courts or legislative bodies to set the per diem rate at a higher level.



Twenty-two states employ a graduated fee system in which jurors are paid a reduced flat rate fee on the first day of service and an increased fee either after being sworn as a trial juror (4 states) or after a predetermined number of days of service. The first day rates range from \$0 in six states to \$40 in New York and Wyoming while the graduated rates ranged from \$12 in Arizona to \$50 in eight states. See Figure 2. The average graduated rate across all 22 states is \$38.27.



Graduated rate statutes come predominately in two flavors. The first, in this example from Connecticut, splits the compensation obligation with the employer.⁴ It begins with a period of several days that imposes a duty on employers to continue to pay the employee's usual wages. For trials that exceed five days, the state will then begin to pay a flat rate:

Each full-time employed juror shall be paid regular wages by the juror's employer for the first five days, or part thereof, of jury service Each juror who serves more than five days shall be paid by the state for the sixth day and each day thereafter at a rate of fifty dollars per day of service.⁵

A graduated rate statute that offers direct compensation by the state from the beginning, followed by an increase over periods of time for service, is the second form of graduated fee system, as in this example from Oregon:

- (1) The fee of jurors in courts other than circuit courts is \$10 for each day that a juror is required to attend.
- (2) (a) The fee of jurors for the first two days of required attendance in circuit court during a term of service is \$10 for each day that a juror is required to attend.
(b) The fee of jurors for the third and subsequent days of required attendance in circuit court during a term of service is \$25 for each day that a juror is required to attend.⁶

In addition to juror fees, 31 states provide additional compensation to jurors for travel expenses to the courthouse, especially for jurors who must drive long distances. In most states, travel expenses are calculated as a mileage reimbursement based on the distance from the juror's home to the courthouse. Travel reimbursement in Alaska and Hawaii also includes travel by boat, airplane, or other forms of public transportation. In Idaho, however, the juror fee itself incorporates location-based factors into its graduated rate system by increasing the minimum per diem on the first day of service for jurors who must travel more than 30 miles from their residence.⁷

Juror compensation has traditionally been intended as reimbursement for out-of-pocket expenses and token monetary recognition of the value of jury service, but not as reimbursement for lost income. Across all

⁴ Eight states require employers to compensate employees with their regular wages or salaries for a predetermined number of days (usually 2 to 5 days) while serving as jurors: Alabama, Colorado, Connecticut, Georgia, Massachusetts, Nebraska, New York, and Tennessee.

⁵ CONN. GEN. STAT. § 51-247 (2022).

⁶ OR. REV. STAT. § 10.061 (2021).

⁷ IDAHO CODE § 2-215(1) (2013).

states, the average juror fee on the first day of service is \$16.61 and the maximum juror fee on average is \$27.31. Consequently, all states have sizeable gaps between their maximum allowable juror fee and the average daily per capita income in that state. For example, with a maximum juror fee of \$50 for sworn jurors, juror compensation in Arkansas is slightly less than half (47%) the average daily per capita income of \$106.63.⁸ On average, however, state juror fees are only 20% of daily per capita income in their respective states. Exacerbating the problem of inadequate juror compensation is the infrequency with it is increased. Although 20 states have raised juror fees since 2010, 14 states have not raised fees since 2000 when the cost of living was 39% less than today. Three states have not done so since the 1970s, and Washington State has not done so since 1957.

Recently, however, states have begun to recognize the relationship between the amount of juror fees, the proportion of jurors excused for financial hardship, and the demographic composition of the jury pool.⁹ Legislation to adjust juror compensation, in some form, is pending in eleven states, including Arizona, California, Louisiana, Missouri, New Jersey, New Mexico, Oklahoma, Pennsylvania, Virginia, Vermont, and West Virginia. The bills vary in their remedial approaches. Missouri, for instance, has three pending bills, including one that permits county commissions to bar compensation for the first two days of service on grand and petit juries, another that provides an across-the-board increase in juror compensation from \$6 to \$25, together with an employer payment requirement; and a third that permits some variance at the county level with compensation at \$10 for the first two days and \$50 for each subsequent day. Other states have proposed significant increases in compensation fees, including Oklahoma (increase from \$20 to \$75 per day), Pennsylvania (increase from \$9 to \$40 per day), Virginia (increase from \$30 to \$50), and West Virginia (increase from \$15 to \$80 per day). A Louisiana bill would increase rates from \$25 to \$50, but just for jurors empaneled in civil cases. New Jersey and New Mexico have both proposed legislation that tie the juror compensation rate to the prevailing state minimum wage and Vermont proposes an increase from a \$30 flat fee to a \$15 hourly fee. Arizona is considering legislation making petit jurors eligible for reimbursement of lost income after just one day of service instead of the current 5 days available from the Arizona Lengthy Trial Fund. California, meanwhile, is considering a pilot program that would provide for \$100 per day juror fee to low-income jurors in criminal cases.

Juror compensation is crucial to the proper and effective functioning of state judiciaries. The lack of clarity and consistent revision of the statutes among the legislatures results in inconsistent and inadequate information for jurors who answer the call to service. Importantly, too, jurors rely on accurate information, and its absence — on state websites — can pose a detriment to effective jury management. Judicial officials and legislators should regularly study and revise juror compensation in their states to account for the key role of juries in the administration of justice.

⁸ Calculations for the daily per capita income are based on U.S. Census Bureau, American Community Survey 5-Year Estimates (2016-2020), Table B19301, Per Capita Income in the Past 12 Months (in 2020 inflation-adjusted dollars) for each state divided by 260 (52 weeks x 5 work days).

⁹ Paula Hannaford-Agor, *Jury News: The Laborer is Worthy of His Hire and Jurors are Worthy of Their Jury Fees*, 21 CT. MGR. 38 (2006).



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