



The Judiciary, State of Hawaii

Testimony to the
Senate Committee on Judiciary and Labor
The Honorable Gilbert S.C. Gilbert Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair

Tuesday, February 3, 2015, 9:00 a.m.
State Capitol, Conference Room 016

by

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Bill No. and Title: Senate Bill No. 215, Relating to Jurors.

Purpose: Reduces the jury duty exemption age to seventy years of age or older.

Judiciary's Position:

The Judiciary respectfully opposes this legislation.

The selection of a jury from a representative cross-section of the population is critical to our justice system and is an essential component of the constitutional right to an impartial jury. Allowing persons who are seventy years or older to claim an exemption from jury service jeopardizes this right.

During 1998, Chief Justice Ronald T.Y. Moon convened the Hawai'i Committee on Jury Innovations for the 21st Century consisting of almost 30 judges, administrators, legislators, attorneys, and former jurors. A Sub-Committee on Juror Fees (the Committee) studied, among other things, the issue of juror exemptions pursuant to House Concurrent Resolution no. 107, Session Laws of Hawai'i 1998 and recommended that 612-6, HRS, should be amended be deleting all exemptions except for jurors who have served within the last year.



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In making its recommendation, the Committee found that the majority of the states have two or fewer juror exemptions. And of these states, at least 24 have no exemptions at all. In contrast, Hawai'i currently exempts elected officials; judges of the United States, State, or County; physicians; dentists; members of the armed forces or militia; active members of an emergency medical services agency; persons living more than 70 miles from the court requiring jury services; and people who have served as jurors within one year.

The Committee also found that in 1993 the American Bar Association (ABA) recommended that, "The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or any other factor that discriminates against a cognizable group in the jurisdiction."¹ To implement this, the ABA recommends that, "All automatic excuses or exemptions from jury service should be eliminated."²

Senate Bill No. 35 would add yet another exclusion to Hawai'i's already long list of exemptions. With all due respect, the proposed amendment assumes that no one over the age of 70 would actually choose to serve as a juror or that no one over the age of 70 has the desire or physical and cognitive ability to serve as a juror. Currently, physical infirmities that might justify being excused from jury duty are considered on a case by case basis without regard to age.

Our review of jury questionnaires indicates that approximately one third of eligible jurors range from the mid-sixties to late seventies. If the 70 and over age group is exempted a significant portion of the population would no longer be available to serve as jurors and an estimated 30% in additional juror questionnaires would need to be prepared and sent out in order to maintain a sufficient pool of jurors. The additional cost increase for this would be more than \$40,000.

Furthermore, in May 2012, the Judiciary was informed by the State Department of Taxation that we would no longer be able to use lists of taxpayers to create the courts' master list of prospective jurors because of federal laws that require federal tax information to be used solely for tax purposes. The master list has been reduced significantly as a result of this decision.

This proposed exemption combined with other current exemptions would severely impact the Judiciary's ability to maintain an adequate pool of qualified jurors. For example the Third Circuit sends out more qualification forms per capita than other Circuits because of the 70 mile exemption currently allowed in the statute. Summoning Kona jurors is especially difficult because the majority of eligible jurors reside on the East (Hilo) side of the island. It is estimated that sixty to seventy percent of the jurors summoned to Kona might claim the 70 mile exemption



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Therefore limiting to those under age 70 will further impact our selection efforts to put more qualified jurors in the pool.

Thank you for the opportunity to provide comments on this measure.

¹ Standards Relating to Juror Use and management, American Bar Association, Judicial Administration Division, Committee on Jury Standards, 1993, p. 3.

² Ibid p. 48