

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF ALABAMA

113 ST. JOSEPH STREET
MOBILE, AL 36602

CHARLES R. DIARD, JR.
CLERK

(251) 690-2371

To Whom It May Concern:

Please find enclosed a copy of both the federal and state laws regarding the protection of jurors' employment per your request.

Under the federal Jury Protection Act, "No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States." 28 U.S.C. § 1875(a). Failure to abide by this statute is deemed a violation of federal law, and an employer may be subject to sanctions which include damages for lost wages or other benefits suffered by the employee, injunctive relief, a civil penalty of \$5,000 for each violation as to each employee, and may be ordered to perform community service. See 28 U.S.C. § 1875(b)(3) attached. Moreover, discharge or termination of an employee solely based upon jury duty in state or federal court is a violation of Alabama law and may subject an employer to civil liability, including actual and punitive damages. ALA. CODE § 12-16-8.1 (1975) .

Also, Alabama law mandates that employers must provide to any full-time employee serving on state or federal jury duty his or her "usual compensation received from such employment" for serving as a juror. ALA. CODE § 12-16-8 (1975) . Thus, an employer has a duty under Alabama law to compensate a juror by paying their salary without any deductions for the \$40.00 per day they receive for jury service. These statutes were enacted to ensure that jurors do not lose salary or stature in their employment when they are called to jury duty.

Very truly yours,



Charles R. Diard, Jr.
Clerk of Court

Enc. (1) 28 U.S.C.A. § 1875
(2) ALA. Code 1975 § 12-16-8; 1975 § 12-16-8.1

28 U.S.C.A. § 1875

United States Code Annotated Currentness

Title 28. Judiciary and Judicial Procedure (Refs & Annos)

Part V. Procedure

Chapter 121. Juries; Trial by Jury (Refs & Annos)

§ 1875. Protection of jurors' employment

- (a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.
- (b) Any employer who violates the provisions of this section—
 - (1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;
 - (2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and
 - (3) shall be subject to a civil penalty of not more than \$5,000 for each violation as to each employee, and may be ordered to perform community service.
- (c) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.
- (d)
 - (1) An individual claiming that his employer has violated the provisions of this section may make application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by section 3006A of title 18, United States Code.
 - (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.

ALA.Code 1975 § 12-16-8

Code of Alabama Currentness (Refs & Annos)

Title 12. Courts. (Refs & Annos)

Chapter 16. Juries. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

§ 12-16-8. Employees excused from employment; compensation; postponement of service.

- (a) Upon receiving a summons to report for jury duty, any employee on the next day he or she is engaged in his or her employment shall exhibit the summons to his or her immediate supervisor, and the employee shall thereupon be excused from his or her employment for the day or days required of him or her in serving as a juror in any court created by the constitutions of the United States or of the State of Alabama or the laws of the United States or of the State of Alabama.
- (b) Any employee may not be required or requested to use annual, vacation, unpaid leave, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or for time spent actually serving on a jury. Nothing in this subsection shall be construed to require an employer to provide annual, vacation, or sick leave to employees who otherwise are not entitled to the benefits under policies of the employer.
- (c) Notwithstanding the excused absence provided in subsection (a), any full-time employee shall be entitled to his or her usual compensation received from such employment.
- (d) It shall be the duty of all persons paying jurors their fee or compensation for services to issue to each juror a statement showing the daily fee or compensation and the total fee or compensation received by the juror.
- (e) Notwithstanding subsection (a), a court shall automatically postpone and reschedule the service of a summoned juror who is an employee of an employer with five or fewer full-time employees, or their equivalent, if another employee of that employer also has been summoned to appear during the same period. A postponement pursuant to this section shall not affect an individual's right to one automatic postponement under Section 12-16-63.1.

(Acts 1969, No. 619, p. 1126; Act 2005-311, 1st Sp. Sess., §1.)

ALA. Code 1975 § 12-16-8.1

Code of Alabama Currentness (Refs & Annos)

Title 12. Courts. (Refs & Annos)

Chapter 16. Juries. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

§ 12-16-8.1. Discharge of employee or adverse employee action.

- (a) No employer in this state may discharge any employee or subject any employee to an adverse employment action solely because he or she serves on any jury empanelled under any state or federal statute; provided, however, that the employee reports for work on his or her next regularly scheduled hour after being dismissed from any jury.
- (b) Any employee who is so discharged or subjected to an adverse employment action shall have a cause of action against the employer for the discharge or adverse employment action in any court of competent jurisdiction in this state and shall be entitled to recover both actual and punitive damages.
- (c) The provisions of this section are supplemental to any statutes, existing or to be enacted in the future, that are designed to protect and safeguard a citizen's right and duty to serve on a lawful jury, and the provisions of this section shall not repeal or supersede the provisions of any law not directly inconsistent herewith.

(Acts 1980, No. 80-747, p. 1520; Act 2005-311, 1st Sp. Sess., §1.)