

One-Pager: The Disabled Jurors Nondiscrimination Act

28 U.S.C § 1862 prohibits exclusion from federal jury service “on account of race, color, religion, sex, national origin or economic status,” but not on account of disability. The Disabled Jurors Nondiscrimination Act would right this wrong by adding the word “disability” alongside the other protected characteristics.

Additionally, under 28 U.S.C. § 1865(b)(2) and (3), jurors are qualified to serve unless they are “unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form” or “unable to speak the English language.” The bill clarifies that no person may be disqualified from serving on a federal jury under those provisions on account of a physical disability. In other words, the bill clarifies that a person who is blind or hearing- or speech-impaired — and, for example, uses braille or sign language — is not “unable to read, write, and understand the English language” or “unable to speak the English language” within the meaning of the statute.

Twenty-three states have statutes that prohibit exclusion from state jury service on account of a disability (AZ, CA, CO, CT, FL, HI, ID, IN, IO, KY, ME, MD, MA, MN, NM, ND, OR, RI, TN, TX, UT, WV, and WI).

The Americans with Disabilities Act does not extend to the federal judiciary. Although the Judicial Conference of the United States has a policy to accommodate jurors with communication disabilities, discrimination against disabled persons in federal jury service has been, and remains, a problem. For example:

- In *United States v. Watson*, 483 F.3d 328 (D.C. Cir. 2007), the appeals court affirmed the peremptory striking of two visually impaired jurors because they were not members of a suspect class to which heightened scrutiny applied, rejecting the argument that such scrutiny “should be extended to the blind in view of the long history of prejudice and discrimination against the disabled and the Supreme Court’s suggestion . . . that jury service is a fundamental right.” *Id.* at 829.
- In, *De La Cruz v. United States*, 897 F. Supp. 199 (E.D. Pa. 1995), the court described its jury pool selection process, including explaining how it routinely excluded “persons who had certain types of physical . . . disabilities.” *Id.* at 201.

Representative Katie Porter (D-CA-45) is leading the House companion bill.

The bill is endorsed by the American Foundation for the Blind, the American Council of the Blind, the National Association of the Deaf, American Association for Justice, Alliance for Justice, National Association of Criminal Defense Attorneys, and Paralyzed Veterans of America.

No one should be excluded from federal jury service on the basis of a disability.