Senate Judiciary Committee

Pete Mulvey 271-4063

HB 697-FN, relative to witness fees in criminal cases.

Hearing Date: April 3, 2025

Time Opened: 1:09 p.m. **Time Closed**: 1:19 p.m.

Members of the Committee Present: Senators Gannon, McConkey, Altschiller and Reardon

Members of the Committee Absent : Senator Abbas

Bill Analysis: This bill allows witness fees in criminal proceedings for civilian witnesses who appear in court at the place and time designated but are required to return another day to testify in the same proceeding.

Sponsors:

Rep. Potenza	Rep. Drago	Rep. Newell
Rep. Wheeler	Rep. Kuttab	Rep. Litchfield
Rep. Terry		

Who supports the bill: 5 individuals signed in support of HB 697-FN. Contact peter.mulvey@gc.nh.gov for further details.

Who opposes the bill: N/A
Who is neutral on the bill: N/A

Summary of testimony:

Representative Kelley Potenza

Strafford – District 19

- Representative Potenza introduced HB 697-FN, which is intended to assist the retention of witnesses.
- Rep. Potenza noted that prosecutors had difficulty retaining witnesses beyond their initial appearance as defendants would routinely no-show their hearing.
- Rep. Potenza contended with the expectation that a witness should take time off work and travel great distances to speak at a hearing in which the subject was routinely absent.
- HB 697-FN would provide monetary reimbursement to witnesses for mileage travel.

- Sen. Altschiller asked Rep. Potenza to elaborate on the costs of the bill and who would be responsible for such.
    - Rep. Potenza clarified that the federal mileage rate would be utilized for reimbursement and added that the State would pay for reimbursement.
- Sen. Altschiller pointed to language which indicated that witnesses shall be entitled to payment for each day of appearance and mileage.
    - Rep. Potenza said it was her understanding that mileage was the only thing being reimbursed.
- Sen. Altschiller reiterated language referring to payment for each day of attendance.
    - Rep. Potenza clarified that her intention was to reimburse mileage alone and indicated that it was her understanding that any additional mention of fees referred to mileage.
- Sen. Altschiller suggested that Rep. Potenza wanted to strike any mention of fees.
    - Rep. Potenza said that it was up to the committee and reiterated her intentions related to mileage.
- Sen. Reardon asked if in the current statute, individuals were not reimbursed for mileage or witness fees.
    - Rep. Potenza said that was correct.
- Sen. Reardon asked if a subpoena would be required to be reimbursed and officially considered a witness to the case.
    - Rep. Potenza said that was by default. If someone is called to court, and the defendant no-shows, the court will have another subpoena, and that was the stage where they lost witnesses.
    - Rep. Potenza described a case where a defendant had skipped their hearing seven times, and multiple witnesses had been lost due to the inconvenience and significance of travel.

Representative Jonah Wheeler

Hillsborough – District 33

- Rep. Wheeler spoke in support of the legislation.
- Rep. Wheeler offered an answer to Sen. Altschiller's question.
- Federal law provided a $40 daily witness fee, which was the reason for that term's inclusion in the language of HB 697 according to Rep. Wheeler.
- Sen. Reardon asked if fees were paid to witnesses in federal courts but not state courts.
    - Rep. Wheeler said that was correct.

Steven Endres

Assistant County Attorney, Merrimack County Attorney's Office.

- Mr. Endres referred to an older, now repealed statute, RSA 516:16, which provided a witness $12 for each half day and 17 cents per mile. Such fees were paid by the attorney general's office and approved by the judge presiding.
- The federal fee was $40 a day, and the mileage rate was the standard IRS reimbursement rate.

PM
Date Hearing Report completed: April 7, 2025