

By: Representative McBride

To: Judiciary A

HOUSE BILL NO. 395
(As Passed the House)

1 AN ACT TO AMEND SECTION 13-5-67, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE METHOD FOR SELECTING ALTERNATE JURORS IN CIVIL AND
3 CRIMINAL CASES; TO INCLUDE COUNTY COURTS; AND FOR RELATED
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 13-5-67, Mississippi Code of 1972, is
7 amended as follows:

8 13-5-67. Except in cases in which jury selection and
9 selection of alternate jurors is governed by rules promulgated by
10 the Mississippi Supreme Court, * * * a circuit judge, county court
11 judge or chancellor presiding in a case in which a jury is to be
12 used, in exercising discretion, may direct that, in addition to
13 the regular panel, a sufficient number of jurors, as determined by
14 the trial judge, be impaneled to sit as alternate jurors. Such
15 alternate jurors, in the order in which they are impaneled, shall
16 replace regular trial jurors who * * * become unable or
17 disqualified to perform their duties. Alternate jurors shall be
18 drawn in the same manner, shall have the same qualifications,
19 shall be subject to the same examination and challenges for cause,
20 shall take the same oath and shall have the same functions,
21 powers, facilities and privileges as the regular jurors. * * *
22 Alternate jurors who have not replaced * * * regular jurors * * *
23 at the time the jury retires to consider its verdict may be
24 retained, subject to the trial judge's instructions to refrain
25 from discussion about the merits of the case, whether sequestered
26 within or without the jury room. If a regular juror has to be
27 excused after the jury has retired to consider its verdict, the

28 trial judge may, in exercising discretion, replace the excused
29 regular juror with an alternate juror; however, the trial judge
30 shall first voir dire the next available alternate juror to assure
31 that during the period of sequestration, the alternate juror has
32 not discussed with any one the merits of the case under
33 consideration, nor received any extraneous prejudicial information
34 about the case, and if so satisfied upon proper finding of record,
35 the trial judge may then place the duly qualified alternate juror
36 on the regular trial jury so that the jury may continue its
37 deliberation. This procedure of replacing a regular juror with an
38 alternate juror, in the discretion of the trial judge, may be
39 utilized in any trial, including either phase of a bifurcated
40 civil or criminal jury trial. The number and manner of exercising
41 peremptory challenges to alternate jurors shall be governed by
42 rules promulgated by the Mississippi Supreme Court.

43 SECTION 2. This act shall take effect and be in force from
44 and after July 1, 2001.