

By: Senator(s) Ross

To: Judiciary

SENATE BILL NO. 2498

1 AN ACT TO INCREASE PARTICIPATION ON PETIT JURIES; TO DECLARE
 2 STATE POLICY; TO PROVIDE THAT INDIVIDUALS SCHEDULED TO APPEAR FOR
 3 JURY SERVICE HAVE THE RIGHT TO POSTPONE THE DATE OF THEIR INITIAL
 4 APPEARANCE FOR JURY SERVICE ONE TIME ONLY; TO PROVIDE THAT AN
 5 INDIVIDUAL MAY APPLY TO BE EXCUSED FROM JURY SERVICE INSTEAD OF
 6 SEEKING A POSTPONEMENT; TO PROVIDE FOR JOB PRESERVATION, BENEFITS
 7 PROTECTION AND WAGE PROTECTION FOR JURORS; TO REQUIRE THE
 8 MISSISSIPPI COURT TO ESTABLISH A LENGTHY TRIAL FUND TO BE USED FOR
 9 FULL WAGE REPLACEMENT OR WAGE SUPPLEMENT TO JURORS WHO SERVE ON
 10 TRIALS WHICH LAST 20 DAYS OR LONGER; TO REQUIRE EACH TRIAL COURT
 11 TO COLLECT FROM EACH ATTORNEY WHO ENTERS AN APPEARANCE IN A CIVIL
 12 CASE A FEE TO BE PAID INTO THE LENGTHY TRIAL FUND; TO PROVIDE
 13 EXEMPTIONS FROM PAYMENT OF SUCH FEE; TO REPEAL SECTIONS 13-5-23,
 14 13-5-25, 19-3-37 AND 41-17-7, MISSISSIPPI CODE OF 1972, WHICH
 15 PROVIDE EXEMPTIONS FROM JURY SERVICE; AND FOR RELATED PURPOSES.

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

17 **SECTION 1. Full participation of petit juries of all**

18 **citizens.** It is the policy of this state that all qualified
 19 citizens have an obligation to serve on petit juries when summoned
 20 by the courts of this state, unless excused.

21 **SECTION 2. Postponements of petit jury participation. (1)**

22 Individuals scheduled to appear for jury service have the right to
 23 postpone the date of their initial appearance for jury service one
 24 (1) time only. When requested, postponements shall be granted,
 25 provided that:

26 (a) The juror has not previously been granted a
 27 postponement;

28 (b) The prospective juror appears in person or contacts
 29 the circuit clerk or chancery court, as the case may be, by
 30 telephone, electronic mail or in writing to request a
 31 postponement; and

32 (c) Prior to the grant of a postponement with the
 33 concurrence of the circuit clerk or chancery court, as the case



34 may be, the prospective juror fixes a date certain on which he or
35 she will appear for jury service that is not more than six (6)
36 months after the date on which the prospective juror originally
37 was called to serve and on which date the court will be in
38 session.

39 (2) A subsequent request to postpone jury service may be
40 approved by a judicial officer only in the event of an extreme
41 emergency, such as a death in the family, sudden grave illness, a
42 natural disaster or a national emergency in which the prospective
43 juror is personally involved, that could not have been anticipated
44 at the time the initial postponement was granted. Prior to the
45 grant of a second postponement, the prospective juror must fix a
46 date certain on which the individual will appear for jury service
47 within six (6) months of the postponement on a date when the court
48 will be in session.

49 (3) An individual who fails to appear in person on the date
50 scheduled for jury service and who has failed to obtain a
51 postponement in compliance with the provisions for requesting a
52 postponement, or who fails to appear on the date set pursuant to
53 subsection (1)(c) or (2) of this section, shall have committed a
54 misdemeanor and shall be subject to zero (0) to six (6) months
55 imprisonment or a fine up to Five Thousand Dollars (\$5,000.00), or
56 both.

57 **SECTION 3. Excuses from petit jury service.** An individual
58 may apply to be excused from jury service for a period of up to
59 twenty-four (24) months, instead of seeking a postponement when
60 either:

61 (a) The prospective juror has a mental or physical
62 condition that causes him or her to be incapable of performing
63 jury service. The juror, or the juror's personal representative,
64 must provide the court with documentation from a physician
65 licensed to practice medicine verifying that a mental or physical
66 condition renders the person unfit for jury service for a period



67 of not less than the twenty-four-month period for which the excuse
68 is sought.

69 (b) Jury service would cause undue or extreme physical
70 or financial hardship to the prospective juror or a person under
71 his or her care or supervision:

72 (i) A judge of the court for which the individual
73 was called to jury service shall make undue or extreme physical or
74 financial hardship determinations. The authority to make these
75 determinations is delegable only to court officials or personnel
76 who are authorized by the laws of this state to function as
77 members of the judiciary.

78 (ii) A person asking to be excused on a finding of
79 undue or extreme physical or financial hardship must take all
80 actions necessary to have obtained a ruling on that request by no
81 later than the date on which the individual is scheduled to appear
82 for jury duty.

83 (iii) For purposes of this act, "undue or extreme
84 physical or financial hardship" is limited to circumstances in
85 which an individual would:

86 1. Be required to abandon a person under his
87 or personal care or supervision due to the impossibility of
88 obtaining an appropriate substitute caregiver during the period of
89 participation in the jury pool or on the jury; or

90 2. Incur costs that would have a substantial
91 adverse impact on the payment of the individual's necessary daily
92 living expenses or on those for whom he or she provides the
93 principle means of support; or

94 3. Suffer physical hardship that would result
95 in illness or disease.

96 (iv) "Undue or extreme physical or financial
97 hardship" does not exist solely based on the fact that a
98 prospective juror will be required to be absent from his or her
99 place of employment.



100 (v) A person asking a judge to grant an excuse
101 based on "undue or extreme physical or financial hardship" shall
102 be required to provide the judge with documentation, such as, but
103 not limited to, federal and state income tax returns, medical
104 statements from licensed physicians, proof of dependency or
105 guardianship and similar documents, which the judge finds to
106 clearly support the request to be excused. Failure to provide
107 satisfactory documentation shall result in a denial of the request
108 to be excused.

109 (vi) After twenty-four (24) months, a person
110 excused from jury service shall become eligible once again for
111 qualification as a juror unless the person was excused from
112 service permanently. A person is excused from jury service
113 permanently only when the deciding judge determines that the
114 underlying grounds for being excused are of a permanent nature.

115 **SECTION 4. Rights of petit jurors.** (1) **Jobs preservation.**
116 Any person who is summoned to serve as a juror and who notifies
117 his or her employer of such summons within a reasonable period of
118 time after receipt of a summons and prior to his or her appearance
119 for jury duty may not be removed or otherwise be subject to any
120 adverse employment action as a result of such service.

121 (2) **Benefits protection.** An employee may not be required or
122 requested to use annual, vacation or sick leave for time spent
123 responding to a summons for jury duty, time spent participating in
124 the jury selection process or for time spent actually serving on a
125 jury. Nothing in this provision shall be construed to require an
126 employer to provide annual, vacation or sick leave to employees
127 under the provisions of this statute who otherwise are not
128 entitled to such benefits under company policies.

129 (3) **Wage protection.** An employer, other than an employer as
130 defined in subsection (6) of this section, shall continue to pay
131 an employee called to serve on jury duty at the same rate paid
132 when the employee is regularly working for the employer for the



133 first ten (10) regularly scheduled working days that the employee
134 serves on jury duty. An employer may deduct the daily fee a court
135 actually pays as compensation to an employee serving as a juror or
136 prospective juror from the employee's daily regular pay, but may
137 not make any deduction for court paid jury service fees that are
138 in excess of the employee's regular wage.

139 (4) **Length of service.** Service of prospective jurors shall
140 be for no more than one (1) court day in actual attendance, unless
141 a prospective juror is selected to serve in a trial or is under
142 consideration to serve on a trial and such consideration covers a
143 period of two (2) or more days. Once selected, a juror shall
144 serve on the jury for the duration of the trial unless excused by
145 the presiding judge.

146 (5) **Frequency of service.** A juror who has served on a petit
147 jury in this state shall not be summoned to serve again as a petit
148 juror in any court of this state for two (2) years following the
149 last day of such service.

150 (6) **Small business protection.** An employer with five (5) or
151 fewer full-time employees, or their equivalent, is exempt from the
152 obligation to pay employee wages to employees serving on jury duty
153 set forth in subsection (3) above. Notwithstanding this, such
154 employers are encouraged voluntarily to comply with the
155 requirements of subsection (3) above. A court shall automatically
156 postpone and reschedule the service of a summoned juror of an
157 employer with five (5) or fewer full-time employees, or their
158 equivalent, if another employee of that employer is summoned to
159 appear during the same period. Such postponement will not effect
160 an individual's right to one (1) automatic postponement under
161 Section 2(2) of this act.

162 **SECTION 5. Lengthy Trial Fund.** (1) The Mississippi Supreme
163 Court shall promulgate rules to establish a Lengthy Trial Fund
164 that shall be used to provide full-wage replacement or wage
165 supplement to jurors who serve on a petit juries in civil



166 litigation for which a jury trial has been requested and which
167 lasts twenty (20) days or longer. The court rules shall provide
168 for the following:

169 (a) The selection and appointment of an administrator
170 for the fund.

171 (b) Procedures for its administration that provide that
172 monies in the fund shall be used to make as provided in this
173 section to jurors participating on juries in trials that last
174 twenty (20) days or longer and to cover all the costs of
175 administering the fund, including payments of salaries of the
176 administrator and other necessary personnel.

177 (c) The court rules shall provide for the accounting,
178 auditing and investment of money in the Lengthy Trial Fund in
179 accordance with state law pertaining to similar funds.

180 (d) The Mississippi Supreme Court shall report on the
181 administration of the Lengthy Trial Fund in its annual report,
182 setting forth the money collected for and disbursed from the fund.

183 (2) Each trial court in the state shall collect from each
184 attorney who enters an appearance in a civil case, unless
185 otherwise exempted under the provisions of this section, a fee of
186 Ten Dollars (\$10.00) per entry of appearance to be paid into the
187 Lengthy Trial Fund. A lawyer will be deemed to have "entered an
188 appearance" at the time the first pleading or other filing on
189 which an individual lawyer's name appears is submitted to the
190 court for filing. All such fees shall be forwarded to the
191 Administrator of the Lengthy Trial Fund for deposit.

192 (3) The administrator shall use the fees deposited in the
193 Lengthy Trial Fund to pay supplemental or full wage replacement to
194 jurors whose employers' pay less than full regular wages when the
195 period of jury service reaches the twentieth day and thereafter.

196 (4) The court may pay replacement or supplemental wages of
197 up to Five Hundred Dollars (\$500.00) per day per juror.



198 (5) At the conclusion of a trial, the court may order the
199 losing party to reimburse as part of the chargeable costs the fees
200 the prevailing party paid into the Lengthy Trial Fund.

201 (6) Any juror who is serving or has served on a jury that
202 qualifies for payment from the Lengthy Trial Fund, provided the
203 service commenced on or after the effective date of this act, may
204 submit a request for payment from the Lengthy Trial Fund on a form
205 that the administrator provides. Payment shall be limited to the
206 difference between the state paid jury fee and the actual amount
207 of wages a juror earns, up to the maximum level payable, minus any
208 amount the juror actually receives from the employer during the
209 same time period. The form shall disclose the juror's regular
210 wages, the amount the employer will pay during the term of jury
211 service starting on the twentieth day and thereafter, the amount
212 of replacement or supplemental wages requested, and any other
213 information the administrator deems necessary for proper payment.
214 The juror also shall be required to submit verification from the
215 employer as to the wage information provided to the administrator,
216 for example, the employee's most recent earnings statement or
217 similar document, prior to initiation of payment from the fund.
218 If an individual is self-employed or receives compensation other
219 than wages, the individual may provide a sworn affidavit attesting
220 to his or her approximate gross weekly income, together with such
221 other information as the administrator may require, in order to
222 verify weekly income.

223 (7) The following attorneys and causes of action are exempt
224 from payment of the Lengthy Trial Fund fee:

225 (a) Government attorneys entering appearances in the
226 course of their official duties;

227 (b) Pro se litigants;

228 (c) Cases in small claims court or the state equivalent
229 thereof; or



230 (d) Claims seeking social security disability
231 determinations; individual veterans' compensation or disability
232 determinations; recoupment actions for government backed
233 educational loans or mortgages; child custody and support cases;
234 actions brought in forma pauperis; and any other filings
235 designated by rule that involve minimal use of court resources and
236 that customarily are not afforded the opportunity for a trial by
237 jury.

238 **SECTION 6. Severability.** The provisions of this act are
239 severable. If any portion of this act is declared
240 unconstitutional or the application of any part of this act to any
241 person or circumstance is held invalid, the remaining portions of
242 the act and their applicability to any person or circumstance
243 shall remain valid and enforceable.

244 **SECTION 7.** Sections 13-5-23 and 13-5-25, Mississippi Code of
245 1972, which provide for exemptions from jury service as personal
246 privilege, are hereby repealed.

247 **SECTION 8.** Section 19-3-37, Mississippi Code of 1972, which
248 provides for the exemption from jury service of county supervisors
249 during term in office, is hereby repealed.

250 **SECTION 9.** Section 41-17-7, Mississippi Code of 1972, which
251 provides for the exemption from jury service of state insane
252 hospital personnel, is hereby repealed.

253 **SECTION 10.** This act shall take effect and be in force from
254 and after July 1, 2003.

