

By: Representative Blackmon

To: Judiciary A

HOUSE BILL NO. 1558

1 AN ACT TO AMEND SECTION 13-5-1, MISSISSIPPI CODE OF 1972, TO
 2 ELIMINATE CERTAIN JUROR DISQUALIFICATIONS; TO AMEND SECTION
 3 13-5-8, MISSISSIPPI CODE OF 1972, TO REVISE THE MAKE-UP OF THE
 4 MASTER LIST USED TO SELECT JURORS; TO AMEND SECTION 13-5-23,
 5 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JURORS CAN ONLY BE
 6 EXCUSED FROM SERVICE FOR ILLNESS OR UNDUE HARDSHIP; TO CODIFY
 7 SECTION 13-5-24, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JURORS
 8 CAN POSTPONE JURY SERVICE ONE TIME ONLY; TO AMEND SECTION 13-5-25,
 9 MISSISSIPPI CODE OF 1972, TO LIMIT THE FREQUENCY OF JURY SERVICE;
 10 TO AMEND SECTION 13-5-34, MISSISSIPPI CODE OF 1972, TO CHANGE THE
 11 PUNISHMENT FOR FAILURE TO APPEAR FOR JURY SERVICE; TO CODIFY
 12 SECTION 13-5-99, MISSISSIPPI CODE OF 1972, TO PROVIDE EMPLOYMENT
 13 PROTECTIONS FOR JURORS; TO AMEND SECTION 19-3-37, MISSISSIPPI CODE
 14 OF 1972, TO ELIMINATE CERTAIN JUROR EXEMPTIONS; TO AMEND SECTION
 15 25-7-61, MISSISSIPPI CODE OF 1972, TO REVISE COMPENSATION FOR
 16 JURORS; TO CREATE A LENGTHY TRIAL FUND; TO AMEND SECTION 33-1-5,
 17 MISSISSIPPI CODE OF 1972, TO ELIMINATE CERTAIN JUROR EXEMPTIONS;
 18 TO REPEAL SECTIONS 41-17-7 AND 47-5-55, MISSISSIPPI CODE OF 1972,
 19 WHICH PROVIDE CERTAIN EXEMPTIONS FROM JURY SERVICE; AND FOR
 20 RELATED PURPOSES.

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

22 **SECTION 1.** Section 13-5-1, Mississippi Code of 1972, is
 23 amended as follows:

24 13-5-1. Every citizen not under the age of twenty-one (21)
 25 years, who is either a qualified elector, or a resident freeholder
 26 of the county for more than one (1) year, is able to read and
 27 write, and has not been convicted of an infamous crime or the
 28 unlawful sale of intoxicating liquors within a period of five (5)
 29 years * * * is a competent juror. No person who is or has been
 30 within twelve (12) months the overseer of a public road or road
 31 contractor shall, however, be competent to serve as a grand juror.
 32 The lack of any such qualifications on the part of one or more
 33 jurors shall not, however, vitiate an indictment or verdict.
 34 Moreover, no talesman or tales juror shall be qualified who has
 35 served as such talesman or tales juror in the last preceding two
 36 (2) years, and no juror shall serve on any jury who has served as

37 such for the last preceding two (2) years. No juror * * * who has
38 a case of his own pending in that court shall serve in his own
39 case.

40 In order to determine that prospective jurors can read and
41 write, the presiding judge shall, with the assistance of the
42 clerk, distribute to the jury panel a form to be completed
43 personally by each juror prior to being empaneled as follows:

44 "1. Your name _____ Last _____ First _____ Middle
45 initial

46 2. Your home address _____

47 3. Your occupation _____

48 4. Your age _____

49 5. Your telephone number _____ If none, write 'None'

50 6. If you live outside the county seat, the number of miles
51 you live from the courthouse _____ miles

52 _____

53 Sign your name"

54 The judge shall personally examine the answers of each juror
55 prior to empaneling the jury and each juror who cannot complete
56 the above form shall be disqualified as a juror and discharged.

57 A list of any jurors disqualified for jury duty by reason of
58 inability to complete the form shall be kept by the circuit clerk
59 and their names shall not be placed in the jury box thereafter
60 until such person can qualify as above provided.

61 **SECTION 2.** Section 13-5-8, Mississippi Code of 1972, is
62 amended as follows:

63 13-5-8. (1) In April of each year, the jury commission for
64 each county shall compile and maintain a master list consisting of
65 the voter registration list for the county and a list of persons
66 with a driver's license in the county.

67 (2) The circuit clerk of the county and the registrar of
68 voters shall have the duty to certify to the commission during the

69 month of January of each year under the seal of his office the
70 voter registration and driver's license list for the county.

71 **SECTION 3.** Section 13-5-23, Mississippi Code of 1972, is
72 amended as follows:

73 13-5-23. (1) All qualified persons shall be liable to serve
74 as jurors, unless excused by the court for one (1) of the
75 following causes:

76 (a) When the juror is ill and is incapable of
77 performing jury service; or * * *

78 (b) When the juror's attendance would cause undue or
79 extreme physical or financial hardship to the prospective juror or
80 a person under his or her care or supervision.

81 (c) When the juror is under an emergency, fairly
82 equivalent to those mentioned in the foregoing clauses (a) and
83 (b).

84 An excuse of illness under clause (a) may be made to the
85 clerk of court outside of open court by providing the clerk with
86 either a certificate of a licensed physician or an affidavit of
87 the juror, stating that the juror is ill or that there is a
88 serious illness in the juror's family. The test of an excuse
89 under clause (b) shall be whether, if the juror were incapacitated
90 by illness or otherwise for a week, some other persons would be
91 available or could reasonably be procured to carry on the business
92 for the week, and the test of an excuse under clause (c) shall be
93 such as to be the fair equivalent, under the circumstances of that
94 prescribed under clause (b). In cases under clauses (b) and (c)
95 the excuse must be made by the juror, in open court, under oath.

96 It shall be unlawful for any employer or other person to
97 persuade or attempt to persuade any juror to avoid jury service,
98 or to intimidate or to threaten any juror in that respect. So to
99 do shall be deemed an interference with the administration of
100 justice and a contempt of court and punishable as such.

101 But a tales juror, save when drawn and retained for the week,
102 shall not be compelled to serve two (2) days successively unless
103 the case in which the juror is impaneled continues longer than one
104 (1) day. Grand jurors shall serve until discharged by the court.

105 **SECTION 4.** The following shall be codified as Section
106 13-5-24, Mississippi Code of 1972:

107 13-5-24. (1) Notwithstanding any other provisions of this
108 chapter, individuals scheduled to appear for jury service have the
109 right to postpone the date of their initial appearance for jury
110 service one (1) time only. Postponements shall be granted upon
111 request, provided that:

112 (a) The juror has not previously been granted a
113 postponement;

114 (b) The prospective juror appears in person or contacts
115 the clerk of the court by telephone, electronic mail or in writing
116 to request a postponement; and

117 (c) Prior to the grant of a postponement with the
118 concurrence of the clerk of the court, the prospective juror fixes
119 a date certain to appear for jury service that is not more than
120 six (6) months after the date on which the prospective juror
121 originally was called to serve and on which date the court will be
122 in session.

123 (2) A subsequent request to postpone jury service may be
124 approved by a judicial officer only in the event of an extreme
125 emergency, such as a death in the family, sudden illness, or a
126 natural disaster or a national emergency in which the prospective
127 juror is personally involved, that could not have been anticipated
128 at the time the initial postponement was granted. Prior to the
129 grant of a second postponement, the prospective juror must fix a
130 date certain on which the individual will appear for jury service
131 within six (6) months of the postponement on a date when the court
132 will be in session.

133 **SECTION 5.** Section 13-5-25, Mississippi Code of 1972, is
134 amended as follows:

135 13-5-25. Every citizen over sixty-five (65) years of age,
136 and everyone who has served on the regular panel as a juror in the
137 actual trial of one or more litigated cases within two (2) years,
138 shall be exempt from service if he claims the privilege * * *. No
139 qualified juror shall be excluded because of any such reasons, but
140 the same shall be a personal privilege to be claimed by any person
141 selected for jury duty. Any citizen over sixty-five (65) years of
142 age may claim this personal privilege outside of open court by
143 providing the clerk of court with information that allows the
144 clerk to determine the validity of the claim.

145 Provided, however, that no person who has served on the
146 regular panel as a juror in the actual trial of one or more
147 litigated cases in one (1) court may claim the exemption in any
148 other court where he may be called to serve.

149 **SECTION 6.** Section 13-5-34, Mississippi Code of 1972, is
150 amended as follows:

151 13-5-34. (1) A person summoned for jury service who fails
152 to appear or to complete jury service as directed, and who has
153 failed to obtain a postponement in compliance with the provisions
154 for requesting a postponement, or who fails to appear on the date
155 set pursuant to Section 13-5-24 shall be ordered by the court to
156 appear forthwith and show cause for his failure to comply with the
157 summons. If he fails to show good cause for noncompliance with
158 the summons he is in civil contempt of court and * * * may be
159 finned not more than Five Hundred Dollars (\$500.00) or imprisoned
160 not more than three (3) days, or both. The prospective juror may
161 be excused from paying sanctions for good cause shown or in the
162 interest of justice.

163 (2) In addition to, or in lieu of, the fine or imprisonment
164 provided in subsection (1) of this section, the court may order
165 that the prospective juror complete a period of community service

166 for a period no less than if the prospective juror would have
167 completed jury service, and provide proof of completion of this
168 community service to the court.

169 **SECTION 7.** The following shall be codified as Section
170 13-5-99, Mississippi Code of 1972:

171 13-5-99. (1) It shall be unlawful for any employer or any
172 other person to persuade or attempt to persuade any juror to avoid
173 jury service; to intimidate or to threaten any juror in that
174 respect; or to remove or otherwise subject an employee to adverse
175 employment action as a result of jury service if the employee
176 notifies his or her employer that he or she has been summoned to
177 serve as a juror within a reasonable period of time after receipt
178 of a summons.

179 (2) It shall be unlawful for an employer to require or
180 request an employee to use annual, vacation or sick leave for time
181 spent responding to a summons for jury duty, time spent
182 participating in the jury selection process, or time spent
183 actually serving on a jury. Nothing in this provision shall be
184 construed to require an employer to provide annual, vacation or
185 sick leave to employees under the provisions of this statute who
186 otherwise are not entitled to such benefits under company
187 policies.

188 (3) Any violation of subsection (1) or (2) of this section
189 shall be deemed an interference with the administration of justice
190 and a contempt of court and punishable as such.

191 (4) A court shall automatically postpone and reschedule the
192 service of a summoned juror employed by an employer with five (5)
193 or fewer full-time employees, or their equivalent, if another
194 employee of that employer has previously been summoned to appear
195 during the same period. Such postponement will not constitute the
196 excused individual's right to one (1) automatic postponement under
197 Section 13-5-24.

198 **SECTION 8.** Section 19-3-37, Mississippi Code of 1972, is
199 amended as follows:

200 19-3-37. Each member of the board of supervisors shall,
201 during his term of office, be exempt from working on the roads and
202 from serving in the militia * * *.

203 **SECTION 9.** Section 25-7-61, Mississippi Code of 1972, is
204 amended as follows:

205 25-7-61. (1) Fees of jurors shall be payable as follows:

206 (a) Grand jurors and petit jurors in the chancery,
207 county, circuit and special eminent domain courts shall be paid an
208 amount to be set by the board of supervisors, not to be less than
209 Twenty-five Dollars (\$25.00) per day and not to be greater than
210 One Hundred Dollars (\$100.00) per day, plus mileage authorized in
211 Section 25-3-41. In the trial of all cases where jurors are in
212 charge of bailiffs and are not permitted to separate, the sheriff
213 with the approval of the trial judge may pay for room and board of
214 jurors on panel for actual time of trial.

215 No grand juror shall receive any compensation except mileage
216 unless he shall have been sworn as provided by Section 13-5-45;
217 and no petit juror except those jurors called on special venires
218 shall receive any compensation authorized under this subsection
219 except mileage unless he shall have been sworn as provided by
220 Section 13-5-71.

221 (b) Jurors making inquisitions of idiocy, lunacy or of
222 unsound mind and jurors on coroner's inquest shall be paid Five
223 Dollars (\$5.00) per day plus mileage authorized in Section 25-3-41
224 by the county treasurer on order of the board of supervisors on
225 certificate of the clerk of the chancery court in which such
226 inquisition is held.

227 (c) Jurors in the justice courts shall be paid an
228 amount of not less than Ten Dollars (\$10.00) per day and not more
229 than Fifteen Dollars (\$15.00) per day, to be established by the
230 board of supervisors. In all criminal cases in the justice court

231 wherein the prosecution fails, the fees of jurors shall be paid by
232 the county treasurer on order of the board of supervisors on
233 certificate of the county attorney in all counties that have
234 county attorneys, otherwise by the justice court judge.

235 (2) Any juror may return the fees provided as compensation
236 for service as a juror to the county which paid for such person's
237 service as a juror. The fees returned to the county may be
238 earmarked for a particular purpose to be selected by the juror,
239 including:

240 (a) The local public library;

241 (b) Local law enforcement;

242 (c) The Mississippi Fire Fighters Memorial Burn Center
243 Fund created in Section 7-9-70, Mississippi Code of 1972; or

244 (d) Any other governmental agency.

245 (3) The Administrative Office of Courts shall promulgate
246 rules to establish a Lengthy Trial Fund to be used to provide full
247 or partial wage replacement or wage supplementation to jurors who
248 serve as petit jurors in civil cases for more than ten (10) days.

249 (a) The court rules shall provide for the following:

250 (i) The selection and appointment of an
251 administrator for the fund.

252 (ii) Procedures for the administration of the
253 fund, including payments of salaries of the administrator and
254 other necessary personnel.

255 (iii) Procedures for the accounting, auditing and
256 investment of money in the Lengthy Trial Fund.

257 (iv) A report by the Administrative Office of
258 Courts on the administration of the Lengthy Trial Fund in its
259 annual report on the judicial branch, setting forth the money
260 collected for and disbursed from the fund.

261 (b) Notwithstanding any other fees required under state
262 law, each trial court shall collect from each attorney who files a
263 civil case, unless otherwise exempted under the provisions of this

264 section, a fee of Five Dollars (\$5.00) per case to be paid into
265 the Lengthy Trial Fund. A lawyer will be deemed to have "filed a
266 case" at the time the first pleading or other filing on which an
267 individual lawyer's name appears is submitted to the court for
268 filing and opens a new case. All such fees shall be forwarded to
269 the administrator of the Lengthy Trial Fund for deposit.

270 (c) The administrator shall use the fees deposited in
271 the Lengthy Trial Fund to pay full or partial wage replacement or
272 supplementation to jurors whose employers pay less than full
273 regular wages when the period of jury service lasts more than ten
274 (10) days.

275 (d) The court may pay replacement or supplemental wages
276 of up to Three Hundred Dollars (\$300.00) per day per juror
277 beginning on the eleventh day of jury service. In addition, for
278 any jurors who qualify for payment by virtue of having served on a
279 jury for more than ten (10) days, the court may, upon finding that
280 such service posed a significant financial hardship to a juror,
281 even in light of payments made with respect to jury service after
282 the tenth day, award replacement or supplemental wages of up to
283 One Hundred Dollars (\$100.00) per day from the fourth to the tenth
284 day of jury service.

285 (e) Any juror who is serving or has served on a jury
286 that qualifies for payment from the Lengthy Trial Fund, provided
287 the service commenced on or after the effective date of House Bill
288 No. _____, 2004 Regular Session, may submit a request for payment
289 from the Lengthy Trial Fund on a form that the administrator
290 provides. Payment shall be limited to the difference between the
291 state-paid jury fee and the actual amount of wages a juror earns,
292 up to the maximum level payable, minus any amount the juror
293 actually receives from the employer during the same time period.

294 (f) The following attorneys and causes of action are
295 exempt from payment of the Lengthy Trial Fund fee:

296 (i) Government attorneys entering appearances in
297 the course of their official duties;
298 (ii) Pro se litigants;
299 (iii) Cases in justice court; or
300 (iv) Claims seeking social security disability
301 determinations; individual veterans' compensation or disability
302 determinations; recoupment actions for government-backed
303 educational loans or mortgages; child custody and support cases;
304 actions brought in forma pauperis; and any other filings
305 designated by rule that involve minimal use of court resources and
306 that customarily are not afforded the opportunity for a trial by
307 jury.

308 **SECTION 10.** Section 33-1-5, Mississippi Code of 1972, is
309 amended as follows:

310 33-1-5. Any member of the Mississippi National Guard on
311 active duty shall be exempt from jury duty upon presenting a
312 current written statement from his superior officer that such jury
313 service will be likely to interfere with his military duties.

314 **SECTION 11.** Section 41-17-7, Mississippi Code of 1972, which
315 provides for the exemption from jury service of state insane
316 hospital personnel, is repealed.

317 **SECTION 12.** Section 47-5-55, Mississippi Code of 1972, which
318 provides for the exemption from jury service of state correctional
319 system employees and officers, is repealed.

320 **SECTION 13.** This act shall take effect and be in force from
321 and after July 1, 2004.