

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 9

1 AN ACT TO AMEND SECTION 11-11-3, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE VENUE IN GENERAL CIVIL ACTIONS; TO AMEND SECTION
 3 13-5-23, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JURORS CAN ONLY
 4 BE EXCUSED FROM SERVICE FOR ILLNESS OR UNDUE HARDSHIP; TO CODIFY
 5 SECTION 13-5-24, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JURORS
 6 CAN POSTPONE JURY SERVICE ONE TIME ONLY; TO AMEND SECTION 13-5-25,
 7 MISSISSIPPI CODE OF 1972, TO LIMIT THE FREQUENCY OF JURY SERVICE;
 8 TO AMEND SECTION 13-5-28, MISSISSIPPI CODE OF 1972, TO REQUIRE
 9 NOTICE OF JURY SERVICE EXEMPTION ENTITLEMENT TO BE INCLUDED IN
 10 JUROR SUMMONSES; TO AMEND SECTION 13-5-34, MISSISSIPPI CODE OF
 11 1972, TO REVISE THE PUNISHMENT FOR FAILURE TO APPEAR FOR JURY
 12 SERVICE; TO CODIFY SECTION 13-5-99, MISSISSIPPI CODE OF 1972, TO
 13 PROVIDE EMPLOYMENT PROTECTIONS FOR JURORS; TO AMEND SECTION
 14 25-7-61, MISSISSIPPI CODE OF 1972, TO CREATE A LENGTHY TRIAL FUND;
 15 TO AMEND SECTION 33-1-5, MISSISSIPPI CODE OF 1972, TO ELIMINATE
 16 CERTAIN JUROR EXEMPTIONS; TO REPEAL SECTIONS 41-17-7 AND 47-5-55,
 17 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN EXEMPTIONS FROM
 18 JURY SERVICE; TO ALLOW BENCH TRIALS FOR CERTAIN CAUSES OF ACTION;
 19 AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 11-11-3, Mississippi Code of 1972, is
 22 amended as follows:

23 11-11-3. (1) (a) (i) Civil actions of which the circuit
 24 court has original jurisdiction shall be commenced in the county
 25 where the defendant resides, or, if a corporation, in the county
 26 of its principal place of business, or in the county where a
 27 substantial alleged act or omission occurred or where a
 28 substantial event that caused the injury occurred.

29 (ii) Civil actions alleging a defective product
 30 may also be commenced in the county where the plaintiff obtained
 31 the product.

32 (b) If venue in a civil action against a nonresident
 33 defendant cannot be asserted under paragraph (a) of this
 34 subsection (1), a civil action against a nonresident may be

35 commenced in the county where the plaintiff resides or is
36 domiciled.

37 (2) In any civil action where more than one (1) plaintiff is
38 joined, each plaintiff shall independently establish proper venue;
39 it is not sufficient that venue is proper for any other plaintiff
40 joined in the civil action.

41 **SECTION 2.** Section 13-5-23, Mississippi Code of 1972, is
42 amended as follows:

43 13-5-23. (1) All qualified persons shall be liable to serve
44 as jurors, unless excused by the court for one (1) of the
45 following causes:

46 (a) When the juror is ill and, on account of the
47 illness, is incapable of performing jury service; or

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

51 * * *

52 (2) An excuse of illness under subsection (1)(a) of this
53 section may be made to the clerk of court outside of open court by
54 providing the clerk with * * * a certificate of a licensed
55 physician * * *, stating that the juror is ill and is unfit for
56 jury service, in which case the clerk may excuse the juror. If
57 the excuse of illness is not supported by a physician's
58 certificate, a judge of the court for which the individual was
59 called to jury service shall decide whether to excuse an
60 individual under subsection (1)(a) of this section.

61 (3) (a) The test of an excuse under subsection (1)(b) of
62 this section for undue or extreme physical or financial hardship
63 shall be whether the individual would either:

64 (i) Be required to abandon a person under his or
65 her personal care or supervision due to the impossibility of
66 obtaining an appropriate substitute caregiver during the period of
67 participation in the jury pool or on the jury; or

68 (ii) Incur costs that would have a substantial
69 adverse impact on the payment of the individual's necessary daily
70 living expenses or on those for whom he or she provides the
71 principal means of support; or

72 (iii) Suffer physical hardship that would result
73 in illness or disease.

74 (b) "Undue or extreme physical or financial hardship"
75 does not exist solely based on the fact that a prospective juror
76 will be required to be absent from his or her place of employment
77 or business.

78 (c) A judge of the court for which the individual was
79 called to jury service shall decide whether to excuse an
80 individual under subsection (1)(b) of this section.

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

86 (e) A person asking a judge to grant an excuse under
87 subsection (1)(b) of this section shall be required to provide the
88 judge with documentation such as, but not limited to, federal and
89 state income tax returns or other information which verifies
90 income, medical statements from licensed physicians, proof of
91 dependency or guardianship and similar documents, which the judge
92 finds to clearly support the request to be excused. Failure to
93 provide satisfactory documentation shall result in a denial of the
94 request to be excused. Any documentation produced under this
95 paragraph shall not be a public record.

96 (4) After two (2) years, a person excused from jury service
97 shall become eligible once again for qualification as a juror
98 unless the person was excused from service permanently. A person
99 is excused from jury service permanently only when the deciding

100 judge determines that the underlying grounds for being excused are
101 of a permanent nature.

102 (5) * * * A tales juror * * * shall not be compelled to
103 serve two (2) days successively unless the case in which the juror
104 is impaneled continues longer than one (1) day. Grand jurors
105 shall serve until discharged by the court.

106 **SECTION 3.** The following provision shall be codified as
107 Section 13-5-24, Mississippi Code of 1972:

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

113 (a) The juror has not been granted a postponement
114 within the past two (2) years;

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

118 (c) Prior to the grant of a postponement with the
119 concurrence of the clerk of the court, the prospective juror fixes
120 a date certain to appear for jury service that is within the next
121 two (2) terms of court but not more than twelve (12) months after
122 the date on which the prospective juror originally was called to
123 serve and on which date the court will be in session.

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

132 within twelve (12) months of the postponement on a date when the
133 court will be in session.

134 **SECTION 4.** Section 13-5-25, Mississippi Code of 1972, is
135 amended as follows:

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

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

150 **SECTION 5.** Section 13-5-28, Mississippi Code of 1972, is
151 amended as follows:

152 13-5-28. If a grand, petit or other jury is ordered to be
153 drawn, the clerk thereafter shall cause each person drawn for jury
154 service to be served with a summons, either personally or by mail,
155 addressed to him at his usual residence, business or post office
156 address, requiring him to report for jury service at a specified
157 time and place. The summons shall include instructions to the
158 potential jurors that explain, in layman's terms, the provisions
159 of Sections 13-5-23 and 13-5-99.

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

162 13-5-34. (1) A person summoned for jury service who fails
163 to appear or to complete jury service as directed, and who has
164 failed to obtain a postponement in compliance with the provisions

165 for requesting a postponement, or who fails to appear on the date
166 set pursuant to Section 13-5-24 shall be ordered by the court to
167 appear forthwith and show cause for his failure to comply with the
168 summons. If he fails to show good cause for noncompliance with
169 the summons he is in civil contempt of court and * * * may be
170 fined not more than Five Hundred Dollars (\$500.00) or imprisoned
171 not more than three (3) days, or both. The prospective juror may
172 be excused from paying sanctions for good cause shown or in the
173 interest of justice.

174 (2) In addition to, or in lieu of, the fine or imprisonment
175 provided in subsection (1) of this section, the court may order
176 that the prospective juror complete a period of community service
177 for a period no less than if the prospective juror would have
178 completed jury service, and provide proof of completion of this
179 community service to the court.

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

182 13-5-99. (1) It shall be unlawful for any employer or any
183 other person to persuade or attempt to persuade any juror to avoid
184 jury service; to intimidate or to threaten any juror in that
185 respect; or to remove or otherwise subject an employee to adverse
186 employment action as a result of jury service if the employee
187 notifies his or her employer that he or she has been summoned to
188 serve as a juror within a reasonable period of time after receipt
189 of a summons.

190 (2) It shall be unlawful for an employer to require or
191 request an employee to use annual, vacation or sick leave for time
192 spent responding to a summons for jury duty, time spent
193 participating in the jury selection process, or time spent
194 actually serving on a jury. Nothing in this provision shall be
195 construed to require an employer to provide annual, vacation or
196 sick leave to employees under the provisions of this statute who

197 otherwise are not entitled to such benefits under company
198 policies.

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

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

209 **SECTION 8.** Section 25-7-61, Mississippi Code of 1972, is
210 amended as follows:

211 25-7-61. (1) Fees of jurors shall be payable as follows:

212 (a) Grand jurors and petit jurors in the chancery,
213 county, circuit and special eminent domain courts shall be paid an
214 amount to be set by the board of supervisors, not to be less than
215 Twenty-five Dollars (\$25.00) per day and not to be greater than
216 Forty Dollars (\$40.00) per day, plus mileage authorized in Section
217 25-3-41. In the trial of all cases where jurors are in charge of
218 bailiffs and are not permitted to separate, the sheriff with the
219 approval of the trial judge may pay for room and board of jurors
220 on panel for actual time of trial.

221 No grand juror shall receive any compensation except mileage
222 unless he shall have been sworn as provided by Section 13-5-45;
223 and no petit juror except those jurors called on special venires
224 shall receive any compensation authorized under this subsection
225 except mileage unless he shall have been sworn as provided by
226 Section 13-5-71.

227 (b) Jurors making inquisitions of idiocy, lunacy or of
228 unsound mind and jurors on coroner's inquest shall be paid Five
229 Dollars (\$5.00) per day plus mileage authorized in Section 25-3-41

230 by the county treasurer on order of the board of supervisors on
231 certificate of the clerk of the chancery court in which such
232 inquisition is held.

233 (c) Jurors in the justice courts shall be paid an
234 amount of not less than Ten Dollars (\$10.00) per day and not more
235 than Fifteen Dollars (\$15.00) per day, to be established by the
236 board of supervisors. In all criminal cases in the justice court
237 wherein the prosecution fails, the fees of jurors shall be paid by
238 the county treasurer on order of the board of supervisors on
239 certificate of the county attorney in all counties that have
240 county attorneys, otherwise by the justice court judge.

241 (2) Any juror may return the fees provided as compensation
242 for service as a juror to the county which paid for such person's
243 service as a juror. The fees returned to the county may be
244 earmarked for a particular purpose to be selected by the juror,
245 including:

246 (a) The local public library;

247 (b) Local law enforcement;

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

250 (d) Any other governmental agency.

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

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

256 (i) The selection and appointment of an
257 administrator for the fund.

258 (ii) Procedures for the administration of the
259 fund, including payments of salaries of the administrator and
260 other necessary personnel.

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

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

267 (b) The administrator shall use any monies deposited in
268 the Lengthy Trial Fund to pay full or partial wage replacement or
269 supplementation to jurors whose employers pay less than full
270 regular wages when the period of jury service lasts more than ten
271 (10) days.

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

282 (d) Any juror who is serving or has served on a jury
283 that qualifies for payment from the Lengthy Trial Fund, provided
284 the service commenced on or after the July 1, 2004, may submit a
285 request for payment from the Lengthy Trial Fund on a form that the
286 administrator provides. Payment shall be limited to the
287 difference between the state-paid jury fee and the actual amount
288 of wages a juror earns, up to the maximum level payable, minus any
289 amount the juror actually receives from the employer during the
290 same time period.

291 (i) The form shall disclose the juror's regular
292 wages, the amount the employer will pay during the term of jury
293 service starting on the eleventh day and thereafter, the amount of
294 replacement or supplemental wages requested, and any other
295 information the administrator deems necessary for proper payment.

296 (ii) The juror also shall be required to submit
297 verification from the employer as to the wage information provided
298 to the administrator, for example, the employee's most recent
299 earnings statement or similar document, prior to initiation of
300 payment from the fund.

301 (iii) If an individual is self-employed or
302 receives compensation other than wages, the individual may provide
303 a sworn affidavit attesting to his or her approximate gross weekly
304 income, together with such other information as the administrator
305 may require, in order to verify weekly income.

306 **SECTION 9.** Section 33-1-5, Mississippi Code of 1972, is
307 amended as follows:

308 33-1-5. Any member of the Mississippi National Guard on
309 active duty shall be exempt from jury duty upon presenting a
310 current written statement from his superior officer that such jury
311 service will be likely to interfere with his military duties.

312 **SECTION 10.** Section 41-17-7, Mississippi Code of 1972, which
313 provides for the exemption from jury service of state insane
314 hospital personnel, is repealed.

315 **SECTION 11.** Section 47-5-55, Mississippi Code of 1972, which
316 provides for the exemption from jury service of state correctional
317 system employees and officers, is repealed.

318 **SECTION 12.** If the parties to a cause of action agree, any
319 claim filed alleging damages of Fifty Thousand Dollars
320 (\$50,000.00) or less may receive a bench trial which shall be
321 conducted in two hundred seventy (270) days or less after the
322 cause of action has been filed. The cause of action shall be a
323 priority item in the court.

324 **SECTION 13.** This act shall take effect and be in force from
325 and after July 1, 2004, and Section 1 of this act shall apply to
326 all causes of action filed on or after that date.