

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 1060

1 AN ACT TO AMEND SECTIONS 13-5-23, 13-5-25, 13-5-28, 13-5-34  
2 AND 25-7-61, MISSISSIPPI CODE OF 1972, TO REVISE JUROR EXEMPTIONS,  
3 SUMMONING PROVISION AND PUNISHMENT FOR FAILURE TO APPEAR OR SERVE;  
4 TO CLARIFY CERTAIN LENGTHY TRIAL FUND PROVISIONS; TO CREATE A  
5 STUDY COMMITTEE TO STUDY METHODS TO ENLARGE AVAILABLE JURY POOLS;  
6 AND FOR RELATED PURPOSES.

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

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

10 [Until January 1, 2008, this section shall read as follows:]

11 13-5-23. All qualified persons shall be liable to serve as  
12 jurors, unless excused by the court for one (1) of the following  
13 causes:

14 (a) When the juror is ill, or when on account of  
15 serious illness in the juror's family, the presence of the juror  
16 is required at home,

17 (b) When the juror's attendance would cause a serious  
18 financial loss to the juror or to the juror's business,

19 (c) When the juror is under an emergency, fairly  
20 equivalent to those mentioned in the foregoing paragraphs (a) and  
21 (b), or

22 (d) When the potential juror is a breast-feeding  
23 mother.

24 An excuse of illness under paragraph (a) may be made to the  
25 clerk of court outside of open court by providing the clerk with  
26 either a certificate of a licensed physician or an affidavit of  
27 the juror, stating that the juror is ill or that there is a  
28 serious illness in the juror's family. The test of an excuse  
29 under paragraph (b) shall be whether, if the juror were

30 incapacitated by illness or otherwise for a week, some other  
31 persons would be available or could reasonably be procured to  
32 carry on the business for the week, and the test of an excuse  
33 under paragraph (c) shall be such as to be the fair equivalent,  
34 under the circumstances of that prescribed under paragraph (b).  
35 In cases under paragraphs (b), (c) and (d), the excuse must be  
36 made by the juror, in open court, under oath.

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

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

46 **[From and after January 1, 2008, this section shall read as**  
47 **follows:]**

48 13-5-23. (1) All qualified persons shall be liable to serve  
49 as jurors, unless excused by the court for one (1) of the  
50 following causes:

51 (a) When the juror is ill and, on account of the  
52 illness, is incapable of performing jury service;

53 (b) When the juror's attendance would cause undue or  
54 extreme physical or financial hardship to the prospective juror or  
55 a person under his or her care or supervision; or

56 (c) When the potential juror is a breast-feeding  
57 mother.

58 (2) An excuse of illness under subsection (1)(a) of this  
59 section may be made to the clerk of court outside of open court by  
60 providing the clerk with a certificate of a licensed physician,  
61 stating that the juror is ill and is unfit for jury service, in  
62 which case the clerk may excuse the juror. If the excuse of

63 illness is not supported by a physician's certificate, a judge of  
64 the court for which the individual was called to jury service  
65 shall decide whether to excuse an individual under subsection  
66 (1)(a) of this section.

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

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

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

78 (iii) Suffer physical hardship that would result  
79 in illness or disease.

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

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

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

92 (e) A person asking a judge to grant an excuse under  
93 subsection (1)(b) of this section may be required to provide the  
94 judge with documentation such as, but not limited to, federal and  
95 state income tax returns, medical statements from licensed

96 physicians, proof of dependency or guardianship and similar  
97 documents, which the judge finds to clearly support the request to  
98 be excused. Failure to provide satisfactory documentation may  
99 result in a denial of the request to be excused.

100 (f) In cases under subsection (1)(c) of this section,  
101 the excuse must be made by the juror in open court under oath.

102 \* \* \*

103 **SECTION 2.** Section 13-5-25, Mississippi Code of 1972, is  
104 amended as follows:

105 **[Until January 1, 2008, this section shall read as follows:]**

106 13-5-25. Every citizen over sixty-five (65) years of age,  
107 and everyone who has served on the regular panel as a juror in the  
108 actual trial of one or more litigated cases within two (2) years,  
109 shall be exempt from service if he claims the privilege; but the  
110 latter class shall serve as talesmen, and on special venire, and  
111 on the regular panel, if there be a deficiency of jurors. No  
112 qualified juror shall be excluded because of any such reasons, but  
113 the same shall be a personal privilege to be claimed by any person  
114 selected for jury duty. Any citizen over sixty-five (65) years of  
115 age may claim this personal privilege outside of open court by  
116 providing the clerk of court with information that allows the  
117 clerk to determine the validity of the claim.

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

122 **[From and after January 1, 2008, this section shall read as**  
123 **follows:]**

124 13-5-25. Every citizen over seventy (70) years of age, and  
125 everyone who has served \* \* \* as a grand juror or petit juror in  
126 the \* \* \* trial of a litigated case within two (2) years, shall be  
127 exempt from service if he claims the privilege. No qualified  
128 juror shall be excluded because of any such reasons, but the same

129 shall be a personal privilege to be claimed by any person selected  
130 for jury duty. Any citizen over seventy (70) years of age may  
131 claim this personal privilege outside of open court by providing  
132 the clerk of court with information that allows the clerk to  
133 determine the validity of the claim.

134 Provided, however, that no person who has served as a grand  
135 juror or as a petit juror in a trial of a litigated case in one  
136 (1) court may claim the exemption in any other court where the  
137 juror may be called to serve.

138 **SECTION 3.** Section 13-5-28, Mississippi Code of 1972, is  
139 amended as follows:

140 **[Until January 1, 2008, this section shall read as follows:]**

141 13-5-28. If a grand, petit or other jury is ordered to be  
142 drawn, the clerk thereafter shall cause each person drawn for jury  
143 service to be served with a summons, either personally or by mail,  
144 addressed to him at his usual residence, business or post office  
145 address, requiring him to report for jury service at a specified  
146 time and place.

147 **[From and after January 1, 2008, this section shall read as**  
148 **follows:]**

149 13-5-28. If a grand, petit or other jury is ordered to be  
150 drawn, the clerk thereafter shall cause each person drawn for jury  
151 service to be served with a summons, either personally or by mail,  
152 addressed to the juror at the juror's usual residence, business or  
153 post office address, requiring the juror to report for jury  
154 service at a specified time and place. The summons shall include  
155 instructions to the potential jurors that explain, in layman's  
156 terms, the provisions of Section 13-5-23.

157 **SECTION 4.** Section 13-5-34, Mississippi Code of 1972, is  
158 amended as follows:

159 **[Until January 1, 2008, this section shall read as follows:]**

160 13-5-34. A person summoned for jury service who fails to  
161 appear or to complete jury service as directed shall be ordered by

162 the court to appear forthwith and show cause for his failure to  
163 comply with the summons. If he fails to show good cause for  
164 noncompliance with the summons, he is guilty of criminal contempt  
165 and upon conviction may be fined not more than One Hundred Dollars  
166 (\$100.00) or imprisoned not more than three (3) days, or both.

167 **[From and after January 1, 2008, this section shall read as**  
168 **follows:]**

169 13-5-34. (1) A person summoned for jury service who fails  
170 to appear or to complete jury service as directed, and who has  
171 failed to obtain a postponement in compliance with the provisions  
172 for requesting a postponement, or who fails to appear on the date  
173 set pursuant to Section 13-5-33, may be ordered by the court to  
174 appear \* \* \* and show cause for \* \* \* failure to comply with the  
175 summons. If the juror fails to show good cause for noncompliance  
176 with the summons, the juror may be held in civil contempt of court  
177 and may be fined not more than Five Hundred Dollars (\$500.00) or  
178 imprisoned not more than three (3) days, or both. The prospective  
179 juror may be excused from paying sanctions for good cause shown or  
180 in the interest of justice.

181 (2) In addition to, or in lieu of, the fine or imprisonment  
182 provided in subsection (1) of this section, the court may order  
183 that the prospective juror complete a period of community service  
184 for a period no less than if the prospective juror would have  
185 completed jury service, and provide proof of completion of this  
186 community service to the court.

187 **SECTION 5.** Section 25-7-61, Mississippi Code of 1972, is  
188 amended as follows:

189 **[Effective until January 1, 2008, this section shall read as**  
190 **follows:]**

191 25-7-61. (1) Fees of jurors shall be payable as follows:

192 (a) Grand jurors and petit jurors in the chancery,  
193 county, circuit and special eminent domain courts shall be paid an  
194 amount to be set by the board of supervisors, not to be less than

195 Twenty-five Dollars (\$25.00) per day and not to be greater than  
196 Forty Dollars (\$40.00) per day, plus mileage authorized in Section  
197 25-3-41. In the trial of all cases where jurors are in charge of  
198 bailiffs and are not permitted to separate, the sheriff with the  
199 approval of the trial judge may pay for room and board of jurors  
200 on panel for actual time of trial.

201 No grand juror shall receive any compensation except mileage  
202 unless he shall have been sworn as provided by Section 13-5-45;  
203 and no petit juror except those jurors called on special venires  
204 shall receive any compensation authorized under this subsection  
205 except mileage unless he shall have been sworn as provided by  
206 Section 13-5-71.

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

213 (c) Jurors in the justice courts shall be paid an  
214 amount of not less than Ten Dollars (\$10.00) per day and not more  
215 than Fifteen Dollars (\$15.00) per day, to be established by the  
216 board of supervisors. In all criminal cases in the justice court  
217 wherein the prosecution fails, the fees of jurors shall be paid by  
218 the county treasurer on order of the board of supervisors on  
219 certificate of the county attorney in all counties that have  
220 county attorneys, otherwise by the justice court judge.

221 (2) Any juror may return the fees provided as compensation  
222 for service as a juror to the county which paid for such person's  
223 service as a juror. The fees returned to the county may be  
224 earmarked for a particular purpose to be selected by the juror,  
225 including:

226 (a) The local public library;

227 (b) Local law enforcement;

228 (c) The Mississippi Burn Care Fund created in Section  
229 7-9-70, Mississippi Code of 1972; or

230 (d) Any other governmental agency.

231 **[Effective from and after January 1, 2008, this section shall**  
232 **read as follows:]**

233 25-7-61. (1) Fees of jurors shall be payable as follows:

234 (a) Grand jurors and petit jurors in the chancery,  
235 county, circuit and special eminent domain courts shall be paid an  
236 amount to be set by the board of supervisors, not to be less than  
237 Twenty-five Dollars (\$25.00) per day and not to be greater than  
238 Forty Dollars (\$40.00) per day, plus mileage authorized in Section  
239 25-3-41. In the trial of all cases where jurors are in the charge  
240 of bailiffs and are not permitted to separate, the sheriff with  
241 the approval of the trial judge may pay for room and board of  
242 jurors on panel for actual time of trial.

243 No grand juror shall receive any compensation except mileage  
244 unless the juror shall have been sworn as provided by Section  
245 13-5-45; and no petit juror except those jurors called on special  
246 venires shall receive any compensation authorized under this  
247 subsection except mileage unless the juror shall have been sworn  
248 as provided by Section 13-5-71.

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

255 (c) Jurors in the justice courts shall be paid an  
256 amount of not less than Ten Dollars (\$10.00) per day and not more  
257 than Fifteen Dollars (\$15.00) per day, to be established by the  
258 board of supervisors. In all criminal cases in the justice court  
259 wherein the prosecution fails, the fees of jurors shall be paid by  
260 the county treasurer on order of the board of supervisors on



261 certificate of the county attorney in all counties that have  
262 county attorneys, otherwise by the justice court judge.

263 (2) Any juror may return the fees provided as compensation  
264 for service as a juror to the county which paid for such person's  
265 service as a juror. The fees returned to the county may be  
266 earmarked for a particular purpose to be selected by the juror,  
267 including:

268 (a) The local public library;

269 (b) Local law enforcement;

270 (c) The Mississippi Burn Care Fund created in Section  
271 7-9-70, Mississippi Code of 1972; or

272 (d) Any other governmental agency.

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

277 (a) The Uniform Circuit and County Court rules shall  
278 provide for the following:

279 (i) The selection and appointment of an  
280 administrator for the fund.

281 (ii) Procedures for the administration of the  
282 fund, including payments of salaries of the administrator and  
283 other necessary personnel.

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

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

290 (v) The Lengthy Trial Fund administrator and all  
291 other necessary personnel shall be employees of the Administrative  
292 Office of Courts.

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

298           (c) To the extent funds are available in the Lengthy  
299 Trial Fund, and in accordance with any rules or regulations  
300 promulgated by the Administrative Office of Courts, the court may  
301 pay replacement or supplemental wages out of the Lengthy Trial  
302 Fund not to exceed Three Hundred Dollars (\$300.00) per day per  
303 juror beginning on the eleventh day of jury service. In addition,  
304 for any jurors who qualify for payment by virtue of having served  
305 on a jury for more than ten (10) days, the court, upon finding  
306 that such service posed a significant financial hardship to a  
307 juror, even in light of payments made with respect to jury service  
308 after the tenth day, may award replacement or supplemental wages  
309 out of the Lengthy Trial Fund not to exceed One Hundred Dollars  
310 (\$100.00) per day from the fourth to the tenth day of jury  
311 service.

312           (d) Any juror who is serving or has served on a jury  
313 that qualifies for payment from the Lengthy Trial Fund, provided  
314 the service commenced on or after January 1, 2008, may submit a  
315 request for payment from the Lengthy Trial Fund on a form that the  
316 administrator provides. Payment shall be limited to the  
317 difference between the jury fee specified in subsection (1) of  
318 this section and the actual amount of wages a juror earns, up to  
319 the maximum level payable, minus any amount the juror actually  
320 receives from the employer during the same time period.

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

326 (ii) The juror also shall be required to submit  
327 verification from the employer as to the wage information provided  
328 to the administrator, for example, the employee's most recent  
329 earnings statement or similar document, prior to initiation of  
330 payment from the fund.

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

336 (4) Nothing in this section shall be construed to impose an  
337 obligation on any county to place monies in the Lengthy Trial Fund  
338 or to pay replacement or supplemental wages to any juror from  
339 county funds.

340 (5) The amendments herein as they pertain to the Lengthy  
341 Trial Fund shall not become effective until the fund has been  
342 fully funded.

343 **SECTION 6.** (1) There is created a committee that shall  
344 study methods to enlarge the available jury pools in the State of  
345 Mississippi and make the appropriate recommendations to the  
346 Supreme Court and the Legislature for consideration and  
347 implementation as deemed appropriate. The committee shall be  
348 comprised of the following:

349 (a) The Chief Justice of the Supreme Court or his  
350 designee;

351 (b) One (1) circuit judge appointed by the Conference  
352 of Circuit Judges;

353 (c) One (1) county judge appointed by the Conference of  
354 County Judges;

355 (d) One (1) prosecutor appointed by the Mississippi  
356 Prosecutors Association;

357 (e) One (1) civil attorney appointed by The Mississippi  
358 Bar;

359                   (f) One (1) criminal attorney appointed by The  
360 Mississippi Bar; and

361                   (g) One (1) circuit clerk appointed by the Circuit  
362 Clerks Association.

363           (2) The committee shall elect a chairman and other necessary  
364 officers at its initial meeting.

365           (3) The members of the committee shall be reimbursed for  
366 travel expenses as provided in Section 25-3-41 and those members  
367 who are not elected officials or state employees shall be entitled  
368 to per diem as provided in Section 25-3-69 for the performance of  
369 their official duties on the committee.

370           **SECTION 7.** This act shall take effect and be in force from  
371 and after July 1, 2007.