

By: Senator(s) Ross

To: Judiciary, Division A

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2646

1 AN ACT TO AMEND SECTIONS 13-5-23, 13-5-25, 13-5-34 AND  
2 25-7-61, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL AMENDMENTS TO  
3 THE JURY PATRIOT ACT AND TO DELAY THE EFFECTIVE DATE OF THE  
4 LENGTHY TRIAL FUND UNTIL SUCH TIME AS IT IS FULLY FUNDED; AND FOR  
5 RELATED PURPOSES.

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

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

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

10 13-5-23. All qualified persons shall be liable to serve as  
11 jurors, unless excused by the court for one (1) of the following  
12 causes:

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

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

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

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

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

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

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

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

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

47 13-5-23. (1) All qualified persons shall be liable to serve  
48 as jurors, unless excused by the court for one (1) of the  
49 following causes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

101 (4) \* \* \* A person is excused from jury service permanently  
102 only when the deciding judge determines that the underlying  
103 grounds for being excused are of a permanent nature. A person who  
104 has been summoned for jury duty who meets the age threshold for  
105 exemption from jury service shall have the option to be  
106 permanently excused from jury service due to age by filing with  
107 the circuit clerk a notarized request to be permanently excused.

108 (5) \* \* \* Grand jurors shall serve until discharged by the  
109 court.

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

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

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

125 Provided, however, that no person who has served on the  
126 regular panel as a juror in the actual trial of one or more

127 litigated cases in one (1) court may claim the exemption in any  
128 other court where he may be called to serve.

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

131 13-5-25. Every citizen over seventy (70) years of age, and  
132 everyone who has served \* \* \* as a grand juror or as a petit juror  
133 in the \* \* \* trial of \* \* \* a litigated case within two (2) years,  
134 shall be exempt from service if the juror claims the privilege;  
135 but the latter class shall serve as talesmen, and on special  
136 venire, and on the regular panel, if there be a deficiency of  
137 jurors. No qualified juror shall be excluded because of any such  
138 reasons, but the same shall be a personal privilege to be claimed  
139 by any person selected for jury duty. Any citizen over seventy  
140 (70) years of age may claim this personal privilege outside of  
141 open court by providing the clerk of court with information that  
142 allows the clerk to determine the validity of the claim.

143 Provided, however, that no person who has served \* \* \* as a  
144 grand juror or as a petit juror in a trial of a litigated case in  
145 one (1) court may claim the exemption in any other court where the  
146 juror may be called to serve.

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

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

150 13-5-28. If a grand, petit or other jury is ordered to be  
151 drawn, the clerk thereafter shall cause each person drawn for jury  
152 service to be served with a summons, either personally or by mail,  
153 addressed to the juror at the juror's usual residence, business or  
154 post office address, requiring the juror to report for jury  
155 service at a specified time and place.

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

158 13-5-28. If a grand, petit or other jury is ordered to be  
159 drawn, the clerk thereafter shall cause each person drawn for jury

160 service to be served with a summons, either personally or by mail,  
161 addressed to him at his usual residence, business or post office  
162 address, requiring him to report for jury service at a specified  
163 time and place. The summons shall include instructions to the  
164 potential jurors that explain, in layman's terms, the provisions  
165 of Section 13-5-23.

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

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

169 13-5-34. A person summoned for jury service who fails to  
170 appear or to complete jury service as directed shall be ordered by  
171 the court to appear forthwith and show cause for his failure to  
172 comply with the summons. If he fails to show good cause for  
173 noncompliance with the summons, he is guilty of criminal contempt  
174 and upon conviction may be fined not more than One Hundred Dollars  
175 (\$100.00) or imprisoned not more than three (3) days, or both.

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

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

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

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

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

198 **[Effective until January 1, 2008, or such time as the Lengthy**  
199 **Trial Fund is fully funded by a specific appropriation of the**  
200 **Legislature, whichever is later, this section shall read as**  
201 **follows:]**

202 25-7-61. (1) Fees of jurors shall be payable as follows:

203 (a) Grand jurors and petit jurors in the chancery,  
204 county, circuit and special eminent domain courts shall be paid an  
205 amount to be set by the board of supervisors, not to be less than  
206 Twenty-five Dollars (\$25.00) per day and not to be greater than  
207 Forty Dollars (\$40.00) per day, plus mileage authorized in Section  
208 25-3-41. In the trial of all cases where jurors are in charge of  
209 bailiffs and are not permitted to separate, the sheriff with the  
210 approval of the trial judge may pay for room and board of jurors  
211 on panel for actual time of trial.

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

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

224 (c) Jurors in the justice courts shall be paid an  
225 amount of not less than Ten Dollars (\$10.00) per day and not more

226 than Fifteen Dollars (\$15.00) per day, to be established by the  
227 board of supervisors. In all criminal cases in the justice court  
228 wherein the prosecution fails, the fees of jurors shall be paid by  
229 the county treasurer on order of the board of supervisors on  
230 certificate of the county attorney in all counties that have  
231 county attorneys, otherwise by the justice court judge.

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

237 (a) The local public library;

238 (b) Local law enforcement;

239 (c) The Mississippi Burn Care Fund created in Section  
240 7-9-70, Mississippi Code of 1972; or

241 (d) Any other governmental agency.

242 **[From and after January 1, 2008, or such time as the Lengthy**  
243 **Trial Fund is fully funded by a specific appropriation of the**  
244 **Legislature, whichever is later, this section shall read as**  
245 **follows:]**

246 25-7-61. (1) Fees of jurors shall be payable as follows:

247 (a) Grand jurors and petit jurors in the chancery,  
248 county, circuit and special eminent domain courts shall be paid an  
249 amount to be set by the board of supervisors, not to be less than  
250 Twenty-five Dollars (\$25.00) per day and not to be greater than  
251 Forty Dollars (\$40.00) per day, plus mileage authorized in Section  
252 25-3-41. In the trial of all cases where jurors are in the charge  
253 of bailiffs and are not permitted to separate, the sheriff with  
254 the approval of the trial judge may pay for room and board of  
255 jurors on panel for actual time of trial.

256 No grand juror shall receive any compensation except mileage  
257 unless the juror shall have been sworn as provided by Section  
258 13-5-45; and no petit juror except those jurors called on special

259 venires shall receive any compensation authorized under this  
260 subsection except mileage unless the juror shall have been sworn  
261 as provided by Section 13-5-71.

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

268 (c) Jurors in the justice courts shall be paid an  
269 amount of not less than Ten Dollars (\$10.00) per day and not more  
270 than Fifteen Dollars (\$15.00) per day, to be established by the  
271 board of supervisors. In all criminal cases in the justice court  
272 wherein the prosecution fails, the fees of jurors shall be paid by  
273 the county treasurer on order of the board of supervisors on  
274 certificate of the county attorney in all counties that have  
275 county attorneys, otherwise by the justice court judge.

276 (2) Any juror may return the fees provided as compensation  
277 for service as a juror to the county which paid for such person's  
278 service as a juror. The fees returned to the county may be  
279 earmarked for a particular purpose to be selected by the juror,  
280 including:

281 (a) The local public library;

282 (b) Local law enforcement;

283 (c) The Mississippi Burn Care Fund created in Section  
284 7-9-70, Mississippi Code of 1972; or

285 (d) Any other governmental agency.

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

290 (a) The Uniform Circuit and County Court Rules shall  
291 provide for the following:

292 (i) The selection and appointment of an  
293 administrator for the fund.

294 (ii) Procedures for the administration of the  
295 fund, including payments of salaries of the administrator and  
296 other necessary personnel.

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

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

303 (v) The Lengthy Trial Fund Administrator and all  
304 other necessary personnel shall be employees of the Administrative  
305 Office of Courts.

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

311 (c) To the extent funds are available in the Lengthy  
312 Trial Fund, and in accordance with any rules or regulations  
313 promulgated by the Administrative Office of Courts, the court may  
314 pay replacement or supplemental wages out of the Lengthy Trial  
315 Fund not to exceed Three Hundred Dollars (\$300.00) per day per  
316 juror beginning on the eleventh day of jury service. In addition,  
317 for any jurors who qualify for payment by virtue of having served  
318 on a jury for more than ten (10) days, the court, upon finding  
319 that such service posed a significant financial hardship to a  
320 juror, even in light of payments made with respect to jury service  
321 after the tenth day, may award replacement or supplemental wages  
322 out of the Lengthy Trial Fund not to exceed One Hundred Dollars  
323 (\$100.00) per day from the fourth to the tenth day of jury  
324 service.

325           (d) Any juror who is serving or has served on a jury  
326 that qualifies for payment from the Lengthy Trial Fund, provided  
327 the service commenced on or after January 1, 2008, may submit a  
328 request for payment from the Lengthy Trial Fund on a form that the  
329 administrator provides. Payment shall be limited to the  
330 difference between the jury fee specified in subsection (1) of  
331 this section and the actual amount of wages a juror earns, up to  
332 the maximum level payable, minus any amount the juror actually  
333 receives from the employer during the same time period.

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

339           (ii) The juror also shall be required to submit  
340 verification from the employer as to the wage information provided  
341 to the administrator, for example, the employee's most recent  
342 earnings statement or similar document, prior to initiation of  
343 payment from the fund.

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

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

353           **SECTION 6.** This act shall take effect and be in force from  
354 and after January 1, 2008.