

By: Senator(s) Ross

To: Judiciary, Division A

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, whichever is later, this section shall**
200 **read as follows:]**

201 25-7-61. (1) Fees of jurors shall be payable as follows:

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

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

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

223 (c) Jurors in the justice courts shall be paid an
224 amount of not less than Ten Dollars (\$10.00) per day and not more
225 than Fifteen Dollars (\$15.00) per day, to be established by the

226 board of supervisors. In all criminal cases in the justice court
227 wherein the prosecution fails, the fees of jurors shall be paid by
228 the county treasurer on order of the board of supervisors on
229 certificate of the county attorney in all counties that have
230 county attorneys, otherwise by the justice court judge.

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

236 (a) The local public library;

237 (b) Local law enforcement;

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

240 (d) Any other governmental agency.

241 **[From and after January 1, 2008, or such time as the Lengthy**
242 **Trial Fund is fully funded, whichever is later, this section shall**
243 **read as follows:]**

244 25-7-61. (1) Fees of jurors shall be payable as follows:

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

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

258 subsection except mileage unless the juror shall have been sworn
259 as provided by Section 13-5-71.

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

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

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

279 (a) The local public library;

280 (b) Local law enforcement;

281 (c) The Mississippi Burn Care Fund created in Section
282 7-9-70, Mississippi Code of 1972; or

283 (d) Any other governmental agency.

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

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

290 (i) The selection and appointment of an
291 administrator for the fund.

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

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

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

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

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

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

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

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

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

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

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

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