

By: Senator(s) Ross

To: Judiciary, Division A

SENATE BILL NO. 2646  
(As Sent to Governor)

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 sixty-five (65) years of age,  
132 and everyone who has served \* \* \* as a grand juror or as a petit  
133 juror in the \* \* \* trial of \* \* \* a litigated case within two (2)  
134 years, shall be exempt from service if the juror claims the  
135 privilege \* \* \*. No qualified juror shall be excluded because of  
136 any such reasons, but the same shall be a personal privilege to be  
137 claimed by any person selected for jury duty. Any citizen over  
138 sixty-five (65) years of age may claim this personal privilege  
139 outside of open court by providing the clerk of court with  
140 information that allows the clerk to determine the validity of the  
141 claim.

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

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

148 **[Until January 1, 2008, this section shall read as 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.

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

157 13-5-28. If a grand, petit or other jury is ordered to be  
158 drawn, the clerk thereafter shall cause each person drawn for jury  
159 service to be served with a summons, either personally or by mail,

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

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

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

168 13-5-34. A person summoned for jury service who fails to  
169 appear or to complete jury service as directed shall be ordered by  
170 the court to appear forthwith and show cause for his failure to  
171 comply with the summons. If he fails to show good cause for  
172 noncompliance with the summons, he is guilty of criminal contempt  
173 and upon conviction may be fined not more than One Hundred Dollars  
174 (\$100.00) or imprisoned not more than three (3) days, or both.

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

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

189 (2) In addition to, or in lieu of, the fine or imprisonment  
190 provided in subsection (1) of this section, the court may order  
191 that the prospective juror complete a period of community service  
192 for a period no less than if the prospective juror would have

193 completed jury service, and provide proof of completion of this  
194 community service to the court.

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

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

245 25-7-61. (1) Fees of jurors shall be payable as follows:

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

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



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

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

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

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

280 (a) The local public library;

281 (b) Local law enforcement;

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

284 (d) Any other governmental agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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