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To: Judiciary A

HOUSE BILL NO. 295

1 AN ACT TO AMEND SECTION 13-5-1, MISSISSIPPI CODE OF 1972, TO
 2 ELIMINATE CERTAIN JUROR DISQUALIFICATIONS; 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 13-5-34, MISSISSIPPI CODE OF 1972, TO CHANGE THE
 9 PUNISHMENT FOR FAILURE TO APPEAR FOR JURY SERVICE; TO CODIFY
 10 SECTION 13-5-99, MISSISSIPPI CODE OF 1972, TO PROVIDE EMPLOYMENT
 11 PROTECTIONS FOR JURORS; TO AMEND SECTION 19-3-37, MISSISSIPPI CODE
 12 OF 1972, TO ELIMINATE CERTAIN JUROR EXEMPTIONS; TO AMEND SECTION
 13 25-7-61, MISSISSIPPI CODE OF 1972, TO CREATE A LENGTHY TRIAL FUND;
 14 TO AMEND SECTION 33-1-5, MISSISSIPPI CODE OF 1972, TO ELIMINATE
 15 CERTAIN JUROR EXEMPTIONS; TO REPEAL SECTIONS 41-17-7 AND 47-5-55,
 16 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN EXEMPTIONS FROM
 17 JURY SERVICE; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 13-5-1, Mississippi Code of 1972, is
 20 amended as follows:

21 13-5-1. Every citizen not under the age of twenty-one (21)
 22 years, who is either a qualified elector, or a resident freeholder
 23 of the county for more than one (1) year, is able to read and
 24 write, and has not been convicted of an infamous crime or the
 25 unlawful sale of intoxicating liquors within a period of five (5)
 26 years * * * is a competent juror. No person who is or has been
 27 within twelve (12) months the overseer of a public road or road
 28 contractor shall, however, be competent to serve as a grand juror.
 29 The lack of any such qualifications on the part of one or more
 30 jurors shall not, however, vitiate an indictment or verdict.
 31 Moreover, no talesman or tales juror shall be qualified who has
 32 served as such talesman or tales juror in the last preceding two
 33 (2) years, and no juror shall serve on any jury who has served as
 34 such for the last preceding two (2) years. No juror * * * who has

35 a case of his own pending in that court shall serve in his own
36 case.

37 In order to determine that prospective jurors can read and
38 write, the presiding judge shall, with the assistance of the
39 clerk, distribute to the jury panel a form to be completed
40 personally by each juror prior to being empaneled as follows:

41 "1. Your name _____ Last _____ First _____ Middle
42 initial

43 2. Your home address _____

44 3. Your occupation _____

45 4. Your age _____

46 5. Your telephone number _____ If none, write 'None'

47 6. If you live outside the county seat, the number of miles
48 you live from the courthouse _____ miles

49 _____

50 Sign your name"

51 The judge shall personally examine the answers of each juror
52 prior to empaneling the jury and each juror who cannot complete
53 the above form shall be disqualified as a juror and discharged.

54 A list of any jurors disqualified for jury duty by reason of
55 inability to complete the form shall be kept by the circuit clerk
56 and their names shall not be placed in the jury box thereafter
57 until such person can qualify as above provided.

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

60 13-5-23. (1) All qualified persons shall be liable to serve
61 as jurors, unless excused by the court for one (1) of the
62 following causes:

63 (a) When the juror is ill and is incapable of
64 performing jury service; or * * *

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

68 * * *

69 (2) An excuse of illness under paragraph (1)(a) of this
70 section may be made to the clerk of court outside of open court by
71 providing the clerk with * * * a certificate of a licensed
72 physician * * *, stating that the juror is ill and is unfit for
73 jury service for a period of up to two (2) years.

74 (3) (a) The test of an excuse under paragraph (1)(b) of
75 this section for undue or extreme physical or financial hardship
76 shall be whether the individual would either:

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

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

85 (iii) Suffer physical hardship that would result
86 in illness or disease.

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

90 (c) A judge of the court for which the individual was
91 called to jury service shall decide whether to excuse an
92 individual under paragraph (1)(b) of this section. The authority
93 to excuse is delegable only to court officials or members of the
94 judiciary.

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

100 (e) A person asking a judge to grant an excuse under
101 paragraph (1)(b) of this section shall be required to provide the
102 judge with documentation such as, but not limited to, federal and
103 state income tax returns, medical statements from licensed
104 physicians, proof of dependency or guardianship and similar
105 documents, which the judge finds to clearly support the request to
106 be excused. Failure to provide satisfactory documentation shall
107 result in a denial of the request to be excused.

108 (4) After two (2) years, a person excused from jury service
109 shall become eligible once again for qualification as a juror
110 unless the person was excused from service permanently. A person
111 is excused from jury service permanently only when the deciding
112 judge determines that the underlying grounds for being excused are
113 of a permanent nature.

114 * * *

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

119 **SECTION 3.** The following shall be codified as Section
120 13-5-24, Mississippi Code of 1972:

121 13-5-24. (1) Notwithstanding any other provisions of this
122 chapter, individuals scheduled to appear for jury service have the
123 right to postpone the date of their initial appearance for jury
124 service one (1) time only. Postponements shall be granted upon
125 request, provided that:

126 (a) The juror has not previously been granted a
127 postponement;

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

131 (c) Prior to the grant of a postponement with the
132 concurrence of the clerk of the court, the prospective juror fixes

133 a date certain to appear for jury service that is not more than
134 six (6) months after the date on which the prospective juror
135 originally was called to serve and on which date the court will be
136 in session.

137 (2) A subsequent request to postpone jury service may be
138 approved by a judicial officer only in the event of an extreme
139 emergency, such as a death in the family, sudden illness, or a
140 natural disaster or a national emergency in which the prospective
141 juror is personally involved, that could not have been anticipated
142 at the time the initial postponement was granted. Prior to the
143 grant of a second postponement, the prospective juror must fix a
144 date certain on which the individual will appear for jury service
145 within six (6) months of the postponement on a date when the court
146 will be in session.

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

149 13-5-25. Every citizen over sixty-five (65) years of age,
150 and everyone who has served on the regular panel as a juror in the
151 actual trial of one or more litigated cases within two (2) years,
152 shall be exempt from service if he claims the privilege * * *. No
153 qualified juror shall be excluded because of any such reasons, but
154 the same shall be a personal privilege to be claimed by any person
155 selected for jury duty. Any citizen over sixty-five (65) years of
156 age may claim this personal privilege outside of open court by
157 providing the clerk of court with information that allows the
158 clerk to determine the validity of the claim.

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

163 **SECTION 5.** Section 13-5-34, Mississippi Code of 1972, is
164 amended as follows:

165 13-5-34. (1) A person summoned for jury service who fails
166 to appear or to complete jury service as directed, and who has
167 failed to obtain a postponement in compliance with the provisions
168 for requesting a postponement, or who fails to appear on the date
169 set pursuant to Section 13-5-24 shall be ordered by the court to
170 appear forthwith and show cause for his failure to comply with the
171 summons. If he fails to show good cause for noncompliance with
172 the summons he is in civil contempt of court and * * * may be
173 fined not more than Five Hundred Dollars (\$500.00) or imprisoned
174 not more than three (3) days, or both. The prospective juror may
175 be excused from paying sanctions for good cause shown or in the
176 interest of justice.

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

183 **SECTION 6.** The following shall be codified as Section
184 13-5-99, Mississippi Code of 1972:

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

193 (2) It shall be unlawful for an employer to require or
194 request an employee to use annual, vacation or sick leave for time
195 spent responding to a summons for jury duty, time spent
196 participating in the jury selection process, or time spent
197 actually serving on a jury. Nothing in this provision shall be

198 construed to require an employer to provide annual, vacation or
199 sick leave to employees under the provisions of this statute who
200 otherwise are not entitled to such benefits under company
201 policies.

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

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

212 **SECTION 7.** Section 19-3-37, Mississippi Code of 1972, is
213 amended as follows:

214 19-3-37. Each member of the board of supervisors shall,
215 during his term of office, be exempt from working on the roads and
216 from serving in the militia * * *.

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

219 25-7-61. (1) Fees of jurors shall be payable as follows:

220 (a) Grand jurors and petit jurors in the chancery,
221 county, circuit and special eminent domain courts shall be paid an
222 amount to be set by the board of supervisors, not to be less than
223 Twenty-five Dollars (\$25.00) per day and not to be greater than
224 Forty Dollars (\$40.00) per day, plus mileage authorized in Section
225 25-3-41. In the trial of all cases where jurors are in charge of
226 bailiffs and are not permitted to separate, the sheriff with the
227 approval of the trial judge may pay for room and board of jurors
228 on panel for actual time of trial.

229 No grand juror shall receive any compensation except mileage
230 unless he shall have been sworn as provided by Section 13-5-45;

231 and no petit juror except those jurors called on special venires
232 shall receive any compensation authorized under this subsection
233 except mileage unless he shall have been sworn as provided by
234 Section 13-5-71.

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

241 (c) Jurors in the justice courts shall be paid an
242 amount of not less than Ten Dollars (\$10.00) per day and not more
243 than Fifteen Dollars (\$15.00) per day, to be established by the
244 board of supervisors. In all criminal cases in the justice court
245 wherein the prosecution fails, the fees of jurors shall be paid by
246 the county treasurer on order of the board of supervisors on
247 certificate of the county attorney in all counties that have
248 county attorneys, otherwise by the justice court judge.

249 (2) Any juror may return the fees provided as compensation
250 for service as a juror to the county which paid for such person's
251 service as a juror. The fees returned to the county may be
252 earmarked for a particular purpose to be selected by the juror,
253 including:

254 (a) The local public library;

255 (b) Local law enforcement;

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

258 (d) Any other governmental agency.

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

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

264 (i) The selection and appointment of an
265 administrator for the fund.

266 (ii) Procedures for the administration of the
267 fund, including payments of salaries of the administrator and
268 other necessary personnel.

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

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

275 (b) Notwithstanding any other fees required under state
276 law, each trial court shall collect from each attorney who files a
277 civil case, unless otherwise exempted under the provisions of this
278 section, a fee of Ten Dollars (\$10.00) per case to be paid into
279 the Lengthy Trial Fund. A lawyer will be deemed to have "filed a
280 case" at the time the first pleading or other filing on which an
281 individual lawyer's name appears is submitted to the court for
282 filing and opens a new case. All such fees shall be forwarded to
283 the administrator of the Lengthy Trial Fund for deposit.

284 (c) The administrator shall use the fees deposited in
285 the Lengthy Trial Fund to pay full or partial wage replacement or
286 supplementation to jurors whose employers pay less than full
287 regular wages when the period of jury service lasts more than ten
288 (10) days.

289 (d) The court may pay replacement or supplemental wages
290 of up to Three Hundred Dollars (\$300.00) per day per juror
291 beginning on the eleventh day of jury service. In addition, for
292 any jurors who qualify for payment by virtue of having served on a
293 jury for more than ten (10) days, the court may, upon finding that
294 such service posed a significant financial hardship to a juror,
295 even in light of payments made with respect to jury service after
296 the tenth day, award replacement or supplemental wages of up to

297 One Hundred Dollars (\$100.00) per day from the fourth to the tenth
298 day of jury service.

299 (e) Any juror who is serving or has served on a jury
300 that qualifies for payment from the Lengthy Trial Fund, provided
301 the service commenced on or after the effective date of House Bill
302 No. _____, 2004 Regular Session, may submit a request for payment
303 from the Lengthy Trial Fund on a form that the administrator
304 provides. Payment shall be limited to the difference between the
305 state-paid jury fee and the actual amount of wages a juror earns,
306 up to the maximum level payable, minus any amount the juror
307 actually receives from the employer during the same time period.

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

313 (ii) The juror also shall be required to submit
314 verification from the employer as to the wage information provided
315 to the administrator, for example, the employee's most recent
316 earnings statement or similar document, prior to initiation of
317 payment from the fund.

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

323 (f) The following attorneys and causes of action are
324 exempt from payment of the Lengthy Trial Fund fee:

325 (i) Government attorneys entering appearances in
326 the course of their official duties;

327 (ii) Pro se litigants;

328 (iii) Cases in justice court; or

329 (iv) Claims seeking social security disability
330 determinations; individual veterans' compensation or disability
331 determinations; recoupment actions for government-backed
332 educational loans or mortgages; child custody and support cases;
333 actions brought in forma pauperis; and any other filings
334 designated by rule that involve minimal use of court resources and
335 that customarily are not afforded the opportunity for a trial by
336 jury.

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

339 33-1-5. Any member of the Mississippi National Guard on
340 active duty shall be exempt from jury duty upon presenting a
341 current written statement from his superior officer that such jury
342 service will be likely to interfere with his military duties.

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

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

349 **SECTION 12.** This act shall take effect and be in force from
350 and after July 1, 2004.