

By: Senator(s) Hewes, Pickering, Gollott, Chaney, King, Kirby, Mettetal, Jackson (15th), Clarke, Moffatt, Huggins, Robertson, Albritton, Doxey, Brown

To: Judiciary, Division A

SENATE BILL NO. 2165

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 provision shall be codified as  
120 Section 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 provision shall be codified as  
184 Section 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 Senate  
302 Bill No. 2165, 2004 Regular Session, may submit a request for  
303 payment from the Lengthy Trial Fund on a form that the  
304 administrator provides. Payment shall be limited to the  
305 difference between the state-paid jury fee and the actual amount  
306 of wages a juror earns, up to the maximum level payable, minus any  
307 amount the juror actually receives from the employer during the  
308 same time period.

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

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

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

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

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

328 (ii) Pro se litigants;

329 (iii) Cases in justice court; or

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

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

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

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

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

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