

1 SB145
2 165125-1
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 03-MAR-15

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8 SYNOPSIS: Under current law, all trials by jury are
9 tried by a twelve member jury. This bill would
10 provide that civil cases in which the amount in
11 controversy does not exceed \$50,000 and misdemeanor
12 criminal cases would be tried by a six member jury.
13 Additionally, this bill would provide for a six
14 member jury when a defendant pleads guilty to an
15 offense that falls under the presumptive sentencing
16 standards and the prosecutor chooses to pursue an
17 increased sentence due to aggravating
18 circumstances.

19 Under current law, there are no exemptions
20 for a person to be called to serve as a juror. This
21 bill would provide that a person 70 years of age or
22 older may request, in writing, to the jury
23 commission that he or she be excused from service
24 as a juror. This bill would also allow a person 70
25 years of age or older to request, in writing, to
26 the jury commission that he or she be removed from
27 the master list of potential jurors and to allow

1 the person to be reinstated on the master list upon
2 request.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Relating to jury trials and juries; to amend
9 Sections 12-16-100 and 12-16-101, Code of Alabama 1975, to
10 provide for a six member jury in certain criminal proceedings;
11 to amend Section 12-16-140, Code of Alabama 1975, to provide
12 for a six member jury in civil cases in which the amount in
13 controversy does not exceed \$50,000; to provide an exemption
14 from jury service for persons 70 years of age or older; to
15 provide for removal from the master list of potential jurors;
16 and to provide for reinstatement on the master list upon
17 request.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 12-16-100, 12-16-101, and
20 12-16-140, Code of Alabama 1975, are amended to read as
21 follows:

22 "§12-16-100.

23 "(a) In every criminal case the jury shall be drawn,
24 selected and empaneled as follows: Upon the trial by jury in
25 the circuit courts of any person charged with a felony,
26 including a capital felony, a misdemeanor, or violation, the
27 court shall require a strike list or lists to be compiled from

1 the names appearing on the master strike list as established
2 in Section 12-16-74. In compiling the list or lists, names of
3 qualified jurors may be omitted on a nonselective basis. A
4 strike list shall be furnished for the trial of any case at
5 hand and a copy thereof given to all parties. The jurors whose
6 names appear thereon shall be brought into open court, the
7 case shall be called and in the presence of the district
8 attorney and the defendant and his attorney, the jurors shall
9 be examined on voir dire for the trial of the case at hand.
10 After the conclusion of the voir dire examination and the
11 removal from the strike list of the names of those jurors who
12 were challenged or excused for good reason, the district
13 attorney shall be required first to strike from the strike
14 list the name of one juror, and the defendant shall strike
15 one, and they shall continue to strike off names alternately
16 until only 12 jurors remain on the strike list and these 12
17 jurors thus selected shall be the jury charged with the trial
18 of the case if the person is charged with a felony. If the
19 person is charged with a misdemeanor or violation, after the
20 conclusion of the voir dire examination and the removal from
21 the strike list of the names of those jurors who were
22 challenged or excused for good reason, the district attorney
23 shall be required first to strike from the strike list the
24 name of one juror, and the defendant shall strike one, and
25 they shall continue to strike off names alternately until only
26 6 jurors remain on the strike list and these 6 jurors thus
27 selected shall be the jury charged with the trial of the case.

1 If any defendant shall refuse to exercise a strike to which he
2 is entitled, then the judge presiding shall exercise that
3 defendant's strike for him. The number of names appearing on
4 the strike list upon commencement of striking, unless a lesser
5 number is agreed to by the parties, shall not be less than 36
6 if the offense charged is a capital felony nor less than 24 if
7 the offense charged is a felony not punished capitally nor
8 less than ~~18~~ 12 if the offense charged is a misdemeanor or
9 violation. In the event the list of competent prospective
10 jurors is reduced to fewer than the number required by this
11 subsection, the court shall add prospective jurors in the
12 manner prescribed in Section 12-16-76. No special venire shall
13 be ordered, drawn, or summoned for the trial of any person
14 indicted for a capital felony.

15 "(b) The court may in its discretion qualify such
16 alternate jurors as it deems necessary, except that in capital
17 cases the court shall qualify at least two alternate jurors,
18 as required by law. Alternate jurors shall be drawn from the
19 venire in the same manner, shall have the same qualifications,
20 shall be subject to the same examination and challenges, shall
21 take the same oath, and shall have the same functions, powers,
22 facilities, and privileges as the principal jurors, except
23 that they shall not deliberate with the jury or vote upon the
24 verdict unless designated to replace a principal juror. An
25 alternate juror who does not replace a principal juror shall
26 be discharged at the time the jury retires to consider its
27 verdict.

1 "(c) If the court determines that more than two
2 alternate jurors shall be selected in a capital case, or that
3 one or more alternate jurors shall be selected in a noncapital
4 case, upon commencement of striking, unless the parties
5 consent to the use of a lesser number, the minimum number of
6 names required on the strike list in subsection (a) shall be
7 increased by two for each alternate juror to be selected;
8 provided that such increase in names shall not apply for the
9 first two alternate jurors to be selected in a capital case.
10 The parties shall then strike from the strike list as herein
11 provided until there remain 12 jurors in a felony case or 6
12 jurors in a misdemeanor or violation case. The last juror or
13 jurors struck shall be the alternate or alternates, and if it
14 becomes necessary for an alternate to replace a principal
15 juror, the last juror struck shall be designated. The identity
16 of alternate jurors shall not be divulged to the jurors until
17 the jury retires for deliberation.

18 "(d) Any county having existing laws on April 15,
19 1982 establishing procedures for the selection and use of
20 alternate jurors, may at the election of the presiding circuit
21 judge, continue to follow the provisions of such law with
22 respect to the selection of alternate jurors. Such election
23 must be made in writing within 30 days of April 15, 1982 and
24 filed with the Secretary of State, the Clerk of the Supreme
25 Court, the Administrative Office of Courts and the local bar
26 of the county affected thereby. At any time after said
27 election, either the presiding circuit judge, or a majority of

1 the circuit judges in the circuit wherein the county is
2 located, may elect to come under the provisions of this
3 chapter by filing written notice as required above.

4 "(e) In any criminal case in which the defendant
5 pleads guilty to a nonviolent offense which is subject to the
6 presumptive sentencing standards adopted by the Alabama
7 Sentencing Commission pursuant to Section 12-25-34.2 and the
8 prosecutor chooses to pursue an increased sentence due to
9 aggravating circumstances, the jury shall consist of 6 members
10 selected in the same manner as provided in subsection(a).

11 "§12-16-101.

12 "In case two or more persons are tried jointly, the
13 district attorney shall strike one, and each defendant shall
14 have the right to strike off one name, and they shall continue
15 thus to strike off names until only 12 jurors remain, and the
16 12 jurors thus selected shall be the jury charged with the
17 trial of the defendants in a felony case. In a misdemeanor
18 case, the district attorney shall strike one, and each
19 defendant shall have the right to strike off one name, and
20 they shall continue thus to strike off names until only 6
21 jurors remain, and the 6 jurors thus selected shall be the
22 jury charged with the trial of the defendants.

23 "§12-16-140.

24 "In all civil actions triable by jury in which the
25 amount in controversy does not exceed \$50,000 at the time of
26 filing, either party may demand a struck jury and must
27 thereupon be furnished by the clerk with a list of ~~24~~ 12

1 jurors in attendance upon the court, from which a jury must be
2 obtained by the parties or their attorneys alternately
3 striking one from the list until ~~12~~ 6 are stricken off, the
4 party demanding the jury commencing. In all other civil
5 actions triable by jury, either party may demand a struck jury
6 and must thereupon be furnished by the clerk with a list of 24
7 jurors in attendance upon the court, from which a jury must be
8 obtained by the parties or their attorneys alternately
9 striking one from the list until 12 are stricken off, the
10 party demanding the jury commencing.

11 "The jury thus obtained must not be challenged for
12 any cause, except bias or interest as to the particular case."

13 Section 2. (a) A person 70 years of age or older
14 shall be excused from being called to jury service upon
15 written request to the jury commission in the county in which
16 he or she is requested to serve.

17 (b) (1) A person 70 years of age or older may
18 request, in writing, to the jury commission that he or she be
19 removed from the master list of potential jurors. Upon
20 verification of the person's age, the jury commission shall
21 remove the person from the master list of potential jurors.

22 (2) A person who has been removed from the master
23 list pursuant to subdivision (1) may request to be reinstated
24 on the master list provided that he or she satisfies the
25 qualifications required by Article 2A, Chapter 16, Title 12,
26 Code of Alabama 1975.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.