

1 HB259
2 181567-1
3 By Representatives Greer, Mooney, Hanes, Butler, Patterson,
4 Wood, Ledbetter, Rowe, South, Faulkner, Nordgren, Collins,
5 Lee, Crawford, Brown, Wingo and Fincher
6 RFD: Judiciary
7 First Read: 16-FEB-17

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8 SYNOPSIS: Under existing law, a party is not
9 prohibited from contacting a juror in a criminal
10 case after the jury in the case has been dismissed
11 from further service.

12 This bill would prohibit an attorney or
13 party in a criminal proceeding, or anyone acting
14 for him or her or on his or her behalf, from
15 disclosing any identifying or personal information
16 obtained from the juror during the jury voir dire
17 process after the close of trial.

18 This bill would prohibit an attorney or
19 party in a criminal case, or anyone acting on his
20 or her behalf, from contacting a juror for the
21 purpose of developing or investigating issues
22 related to an appeal, post-trial motion, or
23 collateral proceeding unless permitted by the court
24 once a final verdict has been reached and accepted
25 by the court.

26 This bill would require a party to file a
27 motion under seal with the trial judge requesting

1 contact with a juror for inquiry, would require
2 notice to other parties, and would establish
3 procedures for the consideration of the motion.

4 This bill would also allow jurors to refuse
5 to consent to contact and inquiry and would provide
6 remedies for violations.

7 Amendment 621 of the Constitution of Alabama
8 of 1901, now appearing as Section 111.05 of the
9 Official Recompilation of the Constitution of
10 Alabama of 1901, as amended, prohibits a general
11 law whose purpose or effect would be to require a
12 new or increased expenditure of local funds from
13 becoming effective with regard to a local
14 governmental entity without enactment by a 2/3 vote
15 unless: it comes within one of a number of
16 specified exceptions; it is approved by the
17 affected entity; or the Legislature appropriates
18 funds, or provides a local source of revenue, to
19 the entity for the purpose.

20 The purpose or effect of this bill would be
21 to require a new or increased expenditure of local
22 funds within the meaning of the amendment. However,
23 the bill does not require approval of a local
24 governmental entity or enactment by a 2/3 vote to
25 become effective because it comes within one of the
26 specified exceptions contained in the amendment.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 Relating to jurors; to prohibit an attorney or party
6 in a criminal proceeding, or anyone acting for him or her or
7 on his or her behalf, from disclosing any identifying or
8 personal information obtained from the juror during the jury
9 voir dire process; to prohibit an attorney or party in a
10 criminal case from contacting a juror in a case in which a
11 final verdict was reached under certain conditions; to
12 establish procedures for filing a motion under seal to make
13 contact with a juror; to require notice to all parties; to
14 establish procedures for consideration of the motion; to
15 provide for the rights of jurors; to provide penalties for
16 violations; and in connection therewith would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds within the meaning of Amendment 621
19 of the Constitution of Alabama of 1901, now appearing as
20 Section 111.05 of the Official ReCompilation of the
21 Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. An attorney for a party or a party in a
24 criminal proceeding, or anyone acting for him or her or on his
25 or her behalf, may not disclose any identifying or personal
26 information about the juror obtained during the jury voir dire
27 process after the jury is dismissed from further service.

1 Section 2. (a) In a criminal case in which a jury
2 renders a verdict, the court accepts the verdict, and the jury
3 is dismissed from further service, an attorney for a party or
4 a party, or anyone acting for him or her or on his or her
5 behalf, may not contact a juror who participated in the
6 verdict for an inquiry relating to the development or
7 investigation of a potential post-trial motion, appeal, or
8 collateral proceeding, unless a motion is filed under seal
9 with the court in which the case was heard requesting contact
10 and inquiry with a specific juror.

11 (b) If the sitting judge for the relevant case is
12 unable to review or hear a motion filed under subsection (a),
13 the presiding judge of the relevant judicial circuit shall
14 hear the motion or assign another judge to hear the motion.

15 (c) A motion filed under subsection (a) shall
16 contain both of the following:

17 (1) The initials or number of the juror with whom
18 contact is desired.

19 (2) The clear and specific purpose of the contact
20 and inquiry as it relates to post-trial, appellate, or
21 collateral issues. A general averment that there is a need to
22 investigate potential or possible claims is not sufficient.

23 Section 3. (a) A motion filed under Section 2 shall
24 be served on each party to the case and the court shall give
25 each party up to seven days to respond to the motion.

26 (b) If a motion filed under subsection (a) is
27 granted, the court shall notify the juror with whom contact is

1 desired by whatever means the court deems proper and
2 necessary. The notice provided by the court shall include all
3 of the following:

4 (1) The name of the case.

5 (2) The date of the verdict and date of the
6 sentence, if applicable.

7 (3) The name of the attorney or party in the
8 criminal proceeding desiring contact and inquiry.

9 (4) A statement that the contact is voluntary on the
10 part of the juror and may be withdrawn at any time by the
11 juror.

12 (5) A statement that the juror may speak with the
13 prosecutor, district attorney, Attorney General, or another
14 attorney prior to making a decision regarding consent to
15 contact and inquiry.

16 (c) Upon receipt of the notice under subsection (b),
17 the juror may either agree to the requested contact and
18 inquiry or reject the request. If a juror rejects or withdraws
19 from making contact with the requesting party at any time, all
20 contact shall cease until otherwise permitted by the court and
21 the requested juror.

22 (d) If a juror voluntarily agrees to contact under
23 this section, the inquiry shall be made before a judge at a
24 time convenient to the parties to the criminal proceeding and
25 the judge. The court shall notify the parties to the criminal
26 case of the time set and who shall be afforded the opportunity
27 to be present.

1 Section 4. Prior to commencing an inquiry pursuant
2 to Section 3, the judge shall do all of the following:

3 (1) Introduce all persons present.

4 (2) State the reason for the meeting and scope of
5 inquiry.

6 (3) Advise the juror that he or she may cancel the
7 meeting at any time.

8 (4) Advise the juror that he or she has no duty to
9 respond to any inquiry.

10 Section 5. (a) If attempts by the court to contact a
11 juror fail, the court shall presume that the juror does not
12 desire contact with the requesting party and contact is not
13 permitted.

14 (b) If the court successfully makes contact with the
15 juror, but the juror fails to attend a scheduled meeting for
16 inquiry without notice or explanation, the court shall presume
17 that the juror has withdrawn his or her prior consent to
18 contact and inquiry and contact may not be permitted.

19 Section 6. A juror may not be contacted after the
20 juror refuses contact, withdraws from contact, or is
21 nonresponsive to attempts of contact.

22 Section 7. (a) A court may not command a juror to
23 appear for a hearing on a post-trial motion, appeal, or
24 collateral proceeding without issuing a subpoena properly
25 served consistent with the laws of this state.

1 (b) This subsection does not apply to the subpoena
2 of a witness by a party in a criminal proceeding consistent
3 with the laws of this state.

4 Section 8. (a) A violation of this act is harassment
5 or a harassing communication under Section 13A-11-8, Code of
6 Alabama 1975.

7 (b) An attorney licensed in this state who violates
8 this act shall be reported to the Alabama State Bar. An
9 attorney who is admitted to practice in this state pro hac
10 vice shall have his or her admission revoked upon a violation
11 of this section.

12 Section 9. All costs associated with the contact and
13 inquiry of a juror shall be paid by the party requesting
14 contact and includes any costs, lost wages, or expenses
15 incurred by the participating juror.

16 Section 10. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 11. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.