

1 SB112
2 154757-2
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 14-JAN-14
6 PFD: 01/13/2014

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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
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to jury trials; to amend Sections 12-16-100
25 and 12-16-101, Code of Alabama 1975, to provide for a six
26 member jury in certain criminal proceedings; and to amend
27 Section 12-16-140, Code of Alabama 1975, to provide for a six

1 member jury in civil cases in which the amount in controversy
2 does not exceed \$50,000.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 12-16-100, 12-16-101, and
5 12-16-140, Code of Alabama 1975, are amended to read as
6 follows:

7 "§12-16-100.

8 (a) In every criminal case the jury shall be drawn,
9 selected and empaneled as follows: Upon the trial by jury in
10 the circuit courts of any person charged with a felony,
11 including a capital felony, a misdemeanor, or violation, the
12 court shall require a strike list or lists to be compiled from
13 the names appearing on the master strike list as established
14 in Section 12-16-74. In compiling the list or lists, names of
15 qualified jurors may be omitted on a nonselective basis. A
16 strike list shall be furnished for the trial of any case at
17 hand and a copy thereof given to all parties. The jurors whose
18 names appear thereon shall be brought into open court, the
19 case shall be called and in the presence of the district
20 attorney and the defendant and his attorney, the jurors shall
21 be examined on voir dire for the trial of the case at hand.
22 After the conclusion of the voir dire examination and the
23 removal from the strike list of the names of those jurors who
24 were challenged or excused for good reason, the district
25 attorney shall be required first to strike from the strike
26 list the name of one juror, and the defendant shall strike
27 one, and they shall continue to strike off names alternately

1 until only 12 jurors remain on the strike list and these 12
2 jurors thus selected shall be the jury charged with the trial
3 of the case if the person is charged with a felony. If the
4 person is charged with a misdemeanor or violation, after the
5 conclusion of the voir dire examination and the removal from
6 the strike list of the names of those jurors who were
7 challenged or excused for good reason, the district attorney
8 shall be required first to strike from the strike list the
9 name of one juror, and the defendant shall strike one, and
10 they shall continue to strike off names alternately until only
11 6 jurors remain on the strike list and these 6 jurors thus
12 selected shall be the jury charged with the trial of the case.
13 If any defendant shall refuse to exercise a strike to which he
14 is entitled, then the judge presiding shall exercise that
15 defendant's strike for him. The number of names appearing on
16 the strike list upon commencement of striking, unless a lesser
17 number is agreed to by the parties, shall not be less than 36
18 if the offense charged is a capital felony nor less than 24 if
19 the offense charged is a felony not punished capitally nor
20 less than ~~18~~ 12 if the offense charged is a misdemeanor or
21 violation. In the event the list of competent prospective
22 jurors is reduced to fewer than the number required by this
23 subsection, the court shall add prospective jurors in the
24 manner prescribed in Section 12-16-76. No special venire shall
25 be ordered, drawn, or summoned for the trial of any person
26 indicted for a capital felony.

1 (b) The court may in its discretion qualify such
2 alternate jurors as it deems necessary, except that in capital
3 cases the court shall qualify at least two alternate jurors,
4 as required by law. Alternate jurors shall be drawn from the
5 venire in the same manner, shall have the same qualifications,
6 shall be subject to the same examination and challenges, shall
7 take the same oath, and shall have the same functions, powers,
8 facilities, and privileges as the principal jurors, except
9 that they shall not deliberate with the jury or vote upon the
10 verdict unless designated to replace a principal juror. An
11 alternate juror who does not replace a principal juror shall
12 be discharged at the time the jury retires to consider its
13 verdict.

14 (c) If the court determines that more than two
15 alternate jurors shall be selected in a capital case, or that
16 one or more alternate jurors shall be selected in a noncapital
17 case, upon commencement of striking, unless the parties
18 consent to the use of a lesser number, the minimum number of
19 names required on the strike list in subsection (a) shall be
20 increased by two for each alternate juror to be selected;
21 provided that such increase in names shall not apply for the
22 first two alternate jurors to be selected in a capital case.
23 The parties shall then strike from the strike list as herein
24 provided until there remain 12 jurors in a felony case or 6
25 jurors in a misdemeanor or violation case. The last juror or
26 jurors struck shall be the alternate or alternates, and if it
27 becomes necessary for an alternate to replace a principal

1 juror, the last juror struck shall be designated. The identity
2 of alternate jurors shall not be divulged to the jurors until
3 the jury retires for deliberation.

4 (d) Any county having existing laws on April 15,
5 1982 establishing procedures for the selection and use of
6 alternate jurors, may at the election of the presiding circuit
7 judge, continue to follow the provisions of such law with
8 respect to the selection of alternate jurors. Such election
9 must be made in writing within 30 days of April 15, 1982 and
10 filed with the Secretary of State, the Clerk of the Supreme
11 Court, the Administrative Office of Courts and the local bar
12 of the county affected thereby. At any time after said
13 election, either the presiding circuit judge, or a majority of
14 the circuit judges in the circuit wherein the county is
15 located, may elect to come under the provisions of this
16 chapter by filing written notice as required above.

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

24 "§12-16-101.

25 In case two or more persons are tried jointly, the
26 district attorney shall strike one, and each defendant shall
27 have the right to strike off one name, and they shall continue

1 thus to strike off names until only 12 jurors remain, and the
2 12 jurors thus selected shall be the jury charged with the
3 trial of the defendants in a felony case. In a misdemeanor
4 case, the district attorney shall strike one, and each
5 defendant shall have the right to strike off one name, and
6 they shall continue thus to strike off names until only 6
7 jurors remain, and the 6 jurors thus selected shall be the
8 jury charged with the trial of the defendants.

9 "§12-16-140.

10 In all civil actions triable by jury in which the
11 amount in controversy does not exceed \$50,000 at the time of
12 filing, either party may demand a struck jury and must
13 thereupon be furnished by the clerk with a list of ~~24~~ 12
14 jurors in attendance upon the court, from which a jury must be
15 obtained by the parties or their attorneys alternately
16 striking one from the list until ~~12~~ 6 are stricken off, the
17 party demanding the jury commencing. In all other civil
18 actions triable by jury, either party may demand a struck jury
19 and must thereupon be furnished by the clerk with a list of 24
20 jurors in attendance upon the court, from which a jury must be
21 obtained by the parties or their attorneys alternately
22 striking one from the list until 12 are stricken off, the
23 party demanding the jury commencing.

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

1 Section 2. 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.