

HB305 INTRODUCED



1 HB305
2 L5111AY-1
3 By Representatives Brinyark, Faulkner
4 RFD: Judiciary
5 First Read: 21-Jan-26



1

2

3

4 SYNOPSIS:

5 Under existing law, a court may not order, draw,
6 or summon a special venire for a capital felony trial.

7 This bill would remove the prohibition of
8 special venire in capital felony cases, granting courts
9 permissive authority to order, draw, or summon a
10 special venire.

11 This bill would require the courts to follow
12 specific procedures for voir dire questioning and
13 striking potential jurors for cause, to include
14 administering an oath to the potential jurors, ensuring
15 each party has an opportunity to question potential
16 jurors, and removing jurors for cause upon a motion
17 made by either party or the court.

18 This bill would further provide for the
19 procedures the courts must follow when retaining
20 alternate jurors, authorizing the courts to retain
21 alternate jurors after the jury retires to deliberate.

22 This bill would also establish the procedures
23 the courts must follow when there are not enough
24 qualified jurors in attendance to form the juries
25 required.

26

27

28



HB305 INTRODUCED

29 A BILL
30 TO BE ENTITLED
31 AN ACT

33 Relating to juries; to amend Section 12-16-100, Code of
34 Alabama 1975, to allow a special venire in certain criminal
35 cases; to require courts to follow certain procedures for voir
36 dire questioning and striking jurors for cause; to further
37 provide for alternate juror procedures; and to provide for
38 procedures when there are not enough qualified jurors in
39 attendance to form juries required.

40 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

41 Section 1. Section 12-16-100, Code of Alabama 1975, is
42 amended to read as follows:

43 "§12-16-100

44 (a) In every criminal case the jury shall be drawn,
45 selected, and empaneled as follows:



57 and the case shall be called ~~and~~

58 (2) Upon calling the case, the court shall administer
59 the oath of prospective jurors found in Rule 18.4(b), Alabama
60 Rules of Criminal Procedure, as adopted by the Supreme Court
61 of Alabama.

62 (3) ~~in~~ Following the administration of the oath of
63 prospective jurors, and in the presence of the district
64 attorney and the defendant and his or her attorney, the jurors
65 shall be examined on voir dire for the trial of the case at
66 hand.

67 (4) The court shall permit the parties or their
68 attorneys to conduct a reasonable examination of prospective
69 jurors. The court may also conduct an examination of
70 prospective jurors, and the court may direct that the
71 examination of one or more prospective jurors be separate and
72 apart from the other prospective jurors. Voir dire examination
73 of prospective jurors shall be limited to inquiries directed
74 to basis for challenge for cause or for obtaining information
75 enabling the parties to knowledgeably exercise their strikes.

76 (5) When a prospective juror is subject to challenge
77 for cause or it reasonably appears that the prospective juror
78 cannot or will not render a fair and impartial verdict, the
79 court, on its own initiative or on motion of any party, shall
80 excuse that juror from service in the case. Challenges for
81 cause shall be made before the parties begin striking the jury
82 and, in the discretion of the court, may be made out of
83 hearing of the prospective jurors but shall be on the record.

84 (6) After the conclusion of the voir dire examination



85 and the removal from the strike list of the names of those
86 jurors who were challenged or excused for good ~~reason~~ cause,
87 the district attorney shall be required first to strike from
88 the strike list the name of one juror, and the defendant shall
89 strike one, and they shall continue to strike off names
90 alternately until only 12 jurors remain on the strike list and
91 these 12 jurors thus selected shall be the jury charged with
92 the trial of the case. If any defendant shall refuse to
93 exercise a strike to which he or she is entitled, then the
94 judge presiding shall exercise that defendant's strike for him
95 or her.

96 (7) The number of names appearing on the strike list
97 upon commencement of striking, unless a lesser number is
98 agreed to by the parties, shall not be less than:

99 a. ~~36~~ Thirty-six if the offense charged is a capital
100 felony; ~~nor less than~~

101 b. ~~24~~ Twenty-four if the offense charged is a felony
102 not punished capitally; ~~and~~ ~~nor less than~~

103 c. ~~18~~ Eighteen if the offense charged is a misdemeanor
104 or violation.

105 (8) In the event the list of competent prospective
106 jurors is reduced to fewer than the number required by this
107 subsection, the court shall add prospective jurors in the
108 manner prescribed in Section 12-16-76. ~~No special venire shall~~
109 ~~be ordered, drawn, or summoned for the trial of any person~~
110 ~~indicted for a capital felony.~~

111 (b) (1) The court may ~~in its discretion~~ qualify ~~such~~
112 alternate jurors as it deems necessary, except that in capital



HB305 INTRODUCED

113 cases the court shall qualify at least two alternate jurors,
114 as required by law.

115 (2) Alternate jurors shall be drawn from the venire in
116 the same manner, shall have the same qualifications, shall be
117 subject to the same examination and challenges, shall take the
118 same oath, and shall have the same functions, powers,
119 facilities, and privileges as the principal jurors, except
120 that they shall not deliberate with the jury or vote upon the
121 verdict unless designated to replace a principal juror.

122 (3) The court may take either of the following actions
123 at the time the jury retires to consider its verdict:

124 a. An~~Discharge the~~ alternate juror who does not
125 replace a principal juror.~~shall be discharged at the time the~~
126 ~~jury retires to consider its verdict.~~

127 b. Retain the alternate juror after the jury retires to
128 deliberate.

129 (4) The court shall ensure that a retained alternate
130 juror does not discuss the case with anyone until that
131 alternate juror replaces a juror or is discharged. If an
132 alternate juror replaces a juror after deliberations have
133 begun, the court must instruct the jury to begin its
134 deliberations anew.

135 (c) (1) If the court determines that more than two
136 alternate jurors shall be selected in a capital case, or that
137 one or more alternate jurors shall be selected in a noncapital
138 case, upon commencement of striking, unless the parties
139 consent to the use of a lesser number, the minimum number of
140 names required on the strike list in subsection (a) shall be



141 increased by two for each alternate juror to be selected,✓
142 provided that such increase in names shall not apply for the
143 first two alternate jurors to be selected in a capital case.

144 (2) The parties shall then strike from the strike list
145 as herein provided until there remain 12 jurors. The last
146 juror or jurors struck shall be the alternate or alternates,
147 and if it becomes necessary for an alternate juror to replace
148 a principal juror, the last juror struck shall be designated.
149 The identity of alternate jurors shall not be divulged to the
150 jurors until the jury retires for deliberation.

151 (d) Whenever there are not enough qualified jurors in
152 attendance to form the juries required, the presiding judge
153 shall draw from the trial court jury box or from a list
154 compiled pursuant to the provisions of Sections 12-16-145 and
155 12-16-146, the names of as many prospective jurors as he or
156 she may deem necessary to complete the empaneling of all
157 juries then required. The court shall cause to be summoned
158 forthwith all prospective jurors thus selected, to attend
159 court when required, and the prospective jurors may be
160 summoned by personal service or by telephone. The court shall
161 then proceed to empanel or complete the empaneling of the
162 juries.

163 (e) (1) If, prior to the commencement of striking,
164 because of challenged for cause or for any other reason, the
165 number of names on the list from which the parties are to
166 strike is reduced to fewer names than the minimum established
167 in this section, then unless the parties consent to the use of
168 the lesser number, the court shall fill the deficiency first



169 from the remaining available petit jurors sworn for the week.

170 (2) If the number of available petit jurors sworn for
171 the week is insufficient to fill the deficiency, the remaining
172 deficiency shall be filled either by waiting until other petit
173 jurors sworn for the week become available or by randomly
174 drawing or causing to be drawn from the trial court jury box
175 at least twice the number of names needed to fill the
176 deficiency.

177 (3) The court shall cause to be summoned forthwith all
178 prospective jurors thus drawn, either by personal service or
179 by telephone. The names of those persons found competent to
180 hear the case shall be added to the list from which the
181 parties are to strike, in at least the number necessary to
182 fill the deficiency.

183 ~~(d) Any county having existing laws on April 15, 1982~~
184 ~~establishing procedures for the selection and use of alternate~~
185 ~~jurors, may at the election of the presiding circuit judge,~~
186 ~~continue to follow the provisions of such law with respect to~~
187 ~~the selection of alternate jurors. Such election must be made~~
188 ~~in writing within 30 days of April 15, 1982 and filed with the~~
189 ~~Secretary of State, the Clerk of the Supreme Court, the~~
190 ~~Administrative Office of Courts and the local bar of the~~
191 ~~county affected thereby. At any time after said election,~~
192 ~~either the presiding circuit judge, or a majority of the~~
193 ~~circuit judges in the circuit wherein the county is located,~~
194 ~~may elect to come under the provisions of this chapter by~~
195 ~~filling written notice as required above."~~

196 Section 2. This act shall become effective on October

HB305 INTRODUCED



197 1, 2026.