

HB305 INTRODUCED



1 HB305
2 L5II1AY-1
3 By Representatives Brinyark, Faulkner
4 RFD: Judiciary
5 First Read: 21-Jan-26



SYNOPSIS:

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

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

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

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

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



HB305 INTRODUCED

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§12-16-100

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

(1) Upon the trial by jury in the circuit courts of any person charged with a felony, including a capital felony, a misdemeanor, or violation, the court shall require a strike list or lists to be compiled from the names appearing on the master strike list as established in Section 12-16-74, or alternatively, as provided in Sections 12-16-145 and 12-16-146. In compiling the list or lists, names of qualified jurors may be omitted on a nonselective basis. A strike list shall be furnished for the trial of any case at hand and a copy thereof given to all parties. The prospective jurors whose names appear thereon shall be brought into open court.



HB305 INTRODUCED

and the case shall be called. ~~and~~

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

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

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

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

(6) After the conclusion of the voir dire examination



HB305 INTRODUCED

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

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

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

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

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

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

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



HB305 INTRODUCED

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

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

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

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

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

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

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



HB305 INTRODUCED

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

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

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

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



HB305 INTRODUCED

from the remaining available petit jurors sworn for the week.

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

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

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

Section 2. This act shall become effective on October



HB305 INTRODUCED

197 1, 2026.