

By: Representative Stevens

To: County Affairs;
Judiciary A

HOUSE BILL NO. 155

1 AN ACT TO AMEND SECTION 19-25-21, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE SHERIFF OF EACH COUNTY MAY EMPLOY THE COUNTY
3 MEDICAL EXAMINER OR THE COUNTY MEDICAL EXAMINER INVESTIGATOR
4 AND/OR DEPUTY EXAMINERS OR INVESTIGATORS AS DEPUTIES FOR THE
5 SHERIFF; TO AMEND SECTION 41-61-57, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT ANY SUCH MEDICAL EXAMINER OR INVESTIGATOR EMPLOYED AS
7 A DEPUTY FOR THE SHERIFF MAY PERFORM THE LAW ENFORCEMENT DUTIES OF
8 A REGULAR DEPUTY; TO AMEND SECTIONS 63-11-5 AND 63-11-19,
9 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A MEDICAL EXAMINER OR
10 INVESTIGATOR SERVING AS A DEPUTY FOR THE SHERIFF TO PERFORM
11 CHEMICAL TESTS OR BREATH, BLOOD OR URINE TESTS UNDER THE IMPLIED
12 CONSENT LAW; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 SECTION 1. Section 19-25-21, Mississippi Code of 1972, is
15 amended as follows:

16 19-25-21. The minimum number of deputies having law
17 enforcement duties for each sheriff shall be based upon the total
18 population of his county according to the latest federal decennial
19 census in the following categories:

20 (a) In counties with a total population of more than
21 fifty thousand (50,000), the sheriff shall regularly employ a
22 minimum of five (5) deputies having law enforcement duties;

23 (b) In counties with a total population of more than
24 thirty-five thousand (35,000), and not more than fifty thousand
25 (50,000), the sheriff shall regularly employ a minimum of four (4)
26 deputies having law enforcement duties;

27 (c) In counties with a total population of more than
28 twenty-five thousand (25,000), and not more than thirty-five
29 thousand (35,000), the sheriff shall regularly employ a minimum of
30 three (3) deputies having law enforcement duties;

31 (d) In counties with a total population of more than

32 fifteen thousand (15,000), and not more than twenty-five thousand
33 (25,000), the sheriff shall regularly employ a minimum of two (2)
34 deputies having law enforcement duties;

35 (e) In all other counties, the sheriff shall regularly
36 employ a minimum of one (1) deputy sheriff having law enforcement
37 duties.

38 In those counties comprised of two (2) judicial districts
39 having a total population of thirty-five thousand (35,000) or
40 more, there shall be not less than two (2) deputies in the
41 judicial district in which the sheriff does not reside, one (1) of
42 whom shall be the chief deputy in charge of the office, all of
43 whom shall be subject to the direction of the sheriff. In those
44 counties comprised of two (2) judicial districts having a total
45 population of less than thirty-five thousand (35,000), there shall
46 be at least one (1) deputy in the judicial district in which the
47 sheriff does not reside who shall be subject to the direction of
48 the sheriff.

49 Each deputy sheriff who shall have law enforcement duties
50 shall, at the expense of the county, attend and complete an
51 appropriate curriculum in the field of law enforcement at the
52 Mississippi Law Enforcement Officers' Academy within one (1) year
53 from the date of his appointment, excluding those who have
54 previously served as sheriff, or have had at least five (5) years'
55 experience as a full-time law enforcement officer, or have
56 previously successfully completed a course of training at the
57 Mississippi Law Enforcement Officers' Academy or at the Jackson
58 Police Academy. Any deputy sheriff exempted from attendance at
59 the initial course as herein provided because of previous service
60 as sheriff or having five (5) years' full-time law enforcement
61 experience must have served as sheriff or obtained such experience
62 within a period of ten (10) years prior to the date of his taking
63 the oath of office. Any deputy sheriff exempted from attendance
64 because of successful completion of a course of training at either

65 of the aforementioned academies must have completed such course
66 within five (5) years prior to the date of his taking the oath of
67 office. Each deputy sheriff shall thereafter, on a periodic and
68 continuing basis, attend additional advanced courses in law
69 enforcement at said academy in order that each deputy sheriff will
70 be properly informed and trained in the modern, technical advances
71 in the field of law enforcement.

72 In addition to any other deputies employed under this
73 section, the sheriff may employ as a deputy sheriff the county
74 medical examiner or the county medical examiner investigator
75 and/or one or more deputy county medical examiners or deputy
76 county medical examiner investigators of the county.

77 SECTION 2. Section 41-61-57, Mississippi Code of 1972, is
78 amended as follows:

79 41-61-57. (1) There are hereby created the positions of
80 county medical examiners and county medical examiner
81 investigators, to be established as herein provided through
82 successful completion of the death investigation training school
83 provided for in subsection (5) of this section. Each county
84 medical examiner (CME) shall be a doctor of medicine (M.D.) or
85 osteopathic medicine (D.O.) licensed in the State of Mississippi.
86 Each county medical examiner investigator (CMEI) shall be a
87 nonphysician who shall, as a minimum, possess a high school
88 graduation diploma or its equivalent. Extra consideration for the
89 CMEI position may be given for experience and/or training in
90 health-related fields and medicolegal death investigations.

91 (2) Each coroner elected in the 1987 general election and
92 thereafter, upon successful completion of the death investigation
93 training school provided for in subsection (5) of this section,
94 shall be recognized as a county medical examiner or county medical
95 examiner investigator, according to the qualifications set out in
96 subsection (1) of this section, and shall be designated the chief
97 for the county in which he was elected. If the elected or

98 appointed coroner fails to successfully complete the death
99 investigation training school, and thus is unable to take the oath
100 of office, as provided in Section 19-21-105, there shall promptly
101 be appointed a coroner pro tempore in the manner prescribed by
102 Section 9-1-27, and that person shall be designated the chief
103 county medical examiner or county medical examiner investigator
104 until the time of the next death investigation training school,
105 which he must successfully complete or be removed from office. Any
106 elected coroner who has failed to successfully complete the death
107 investigation training school may attend any subsequent death
108 investigation training school conducted during the term for which
109 he was elected, and upon the successful completion thereof, he
110 shall become the chief CME or CMEI for the county in which he was
111 elected. The coroner pro tempore then shall become a deputy CME
112 or CMEI, provided he has successfully completed the death
113 investigation training school. Notwithstanding anything in this
114 section to the contrary, each coroner holding office on July 1,
115 1986, shall be the chief CME or CMEI for the county in which he
116 was elected through the expiration of his term in January 1988
117 without having to attend the death investigation training school;
118 however, he may voluntarily attend any such school conducted prior
119 to that time.

120 (3) There shall be at least one (1) county medical examiner
121 and/or county medical examiner investigator for each county, and
122 one (1) county medical examiner or county medical examiner
123 investigator shall be designated as the chief for each county,
124 except as otherwise provided in subsection (4) of this section.
125 Any county may have deputy county medical examiners or deputy
126 county medical examiner investigators as deemed necessary who
127 shall be appointed jointly by the board of supervisors and the CME
128 or CMEI. However, when the population of a county reaches a total
129 of twenty thousand (20,000) or greater, there shall be one or more
130 officially appointed deputies. Deputies shall be subject to the

131 same qualifications, training and certification requirements, and
132 shall possess the same authority and discharge the same duties, as
133 other county medical examiners or county medical examiner
134 investigators, and shall receive fees and expenses as provided in
135 Sections 41-61-69 and 41-61-75. Any CME or CMEI may be removed by
136 the State Medical Examiner prior to the expiration of his term as
137 CME or CMEI for inefficiency, or other good cause, after written
138 notice and a hearing in compliance with due process law.

139 (4) One (1) person may serve as the chief CME or CMEI for
140 two (2) or more adjacent counties when that person consents and
141 the boards of supervisors of each county involved and the State
142 Medical Examiner consent in writing. Each respective county
143 involved shall be responsible for payment for the services given
144 to that county by the chief CME or CMEI.

145 (5) Chief and deputy CME's and CMEI's shall attend the death
146 investigation training school provided by the Mississippi Crime
147 Laboratory and the State Medical Examiner, and shall successfully
148 complete subsequent testing on the subject material by the State
149 Medical Examiner at least once every four (4) years. Room, board
150 and transportation expenses for attending the school shall be
151 borne by the county in which the CME or CMEI is serving. In
152 addition to the above training, the individual shall receive at
153 least twenty-four (24) hours annually of continuing education as
154 prescribed and certified by the State Medical Examiner. If the
155 above requirements for training or continuing education are not
156 met, the individual immediately shall be disqualified and removed
157 from office as CME and/or CMEI. Reapplication for the office may
158 be made the following year after removal.

159 (6) The CME or CMEI and/or a deputy CME or CMEI may be
160 employed by the sheriff of the county as a deputy sheriff under
161 Section 19-25-21, and when so employed may perform any of the law
162 enforcement duties of a regular deputy sheriff as provided by
163 Section 19-25-19.

164 SECTION 3. Section 63-11-5, Mississippi Code of 1972, is
165 amended as follows:

166 63-11-5. (1) Any person who operates a motor vehicle upon
167 the public highways, public roads and streets of this state shall
168 be deemed to have given his consent, subject to the provisions of
169 this chapter, to a chemical test or tests of his breath for the
170 purpose of determining alcohol concentration. A person shall give
171 his consent to a chemical test or tests of his breath, blood or
172 urine for the purpose of determining the presence in his body of
173 any other substance which would impair a person's ability to
174 operate a motor vehicle. The test or tests shall be administered
175 at the direction of any highway patrol officer, any sheriff or his
176 duly commissioned deputies, any county medical examiner or county
177 medical examiner investigator or any deputy county medical
178 examiner or deputy county examiner investigator serving as a
179 deputy sheriff under Section 19-25-21, any police officer in any
180 incorporated municipality, any national park ranger, any officer
181 of a state-supported institution of higher learning campus police
182 force if such officer is exercising this authority in regard to a
183 violation that occurred on campus property, or any security
184 officer appointed and commissioned pursuant to the Pearl River
185 Valley Water Supply District Security Officer Law of 1978 if such
186 officer is exercising this authority in regard to a violation that
187 occurred within the limits of the Pearl River Valley Water Supply
188 District, when such officer has reasonable grounds and probable
189 cause to believe that the person was driving or had under his
190 actual physical control a motor vehicle upon the public streets or
191 highways of this state while under the influence of intoxicating
192 liquor or any other substance which had impaired such person's
193 ability to operate a motor vehicle. No such test shall be
194 administered by any person who has not met all the educational and
195 training requirements of the appropriate course of study
196 prescribed by the Board on Law Enforcement Officers Standards and

197 Training; provided, however, that sheriffs and elected chiefs of
198 police shall be exempt from such educational and training
199 requirement. No such tests shall be given by any officer or any
200 agency to any person within fifteen (15) minutes of consumption of
201 any substance by mouth.

202 (2) If the officer has reasonable grounds and probable cause
203 to believe such person to have been driving a motor vehicle upon
204 the public highways, public roads, and streets of this state while
205 under the influence of intoxicating liquor, such officer shall
206 inform such person that his failure to submit to such chemical
207 test or tests of his breath shall result in the suspension of his
208 privilege to operate a motor vehicle upon the public streets and
209 highways of this state for a period of ninety (90) days in the
210 event such person has not previously been convicted of a violation
211 of Section 63-11-30, or, for a period of one (1) year in the event
212 of any previous conviction of such person under Section 63-11-30.

213 (3) The traffic ticket, citation or affidavit issued to a
214 person arrested for a violation of this chapter shall conform to
215 the requirements of Section 63-9-21(3)(b).

216 (4) Any person arrested under the provisions of this chapter
217 shall be informed that he has the right to telephone for the
218 purpose of requesting legal or medical assistance immediately
219 after being booked for a violation under this chapter.

220 (5) The Commissioner of Public Safety and the State Crime
221 Laboratory created pursuant to Section 45-1-17 are hereby
222 authorized from and after the passage of this section to adopt
223 procedures, rules and regulations, applicable to the Implied
224 Consent Law.

225 SECTION 4. Section 63-11-19, Mississippi Code of 1972, is
226 amended as follows:

227 63-11-19. A chemical analysis of the person's breath, blood
228 or urine, to be considered valid under the provisions of this
229 section, shall have been performed according to methods approved

230 by the State Crime Laboratory created pursuant to Section 45-1-17
231 and the Commissioner of Public Safety and performed by an
232 individual possessing a valid permit issued by the State Crime
233 Laboratory for making such analysis. The State Crime Laboratory
234 and the Commissioner of Public Safety are authorized to approve
235 satisfactory techniques or methods, to ascertain the
236 qualifications and competence of individuals to conduct such
237 analyses, and to issue permits which shall be subject to
238 termination or revocation at the discretion of the State Crime
239 Laboratory. The State Crime Laboratory shall not approve the
240 permit required herein for any law enforcement officer other than
241 a member of the State Highway Patrol, a sheriff or his deputies, a
242 county medical examiner or county medical examiner investigator or
243 any deputy county medical examiner or deputy county medical
244 examiner investigator serving as a deputy sheriff under Section
245 19-25-21, a city policeman, an officer of a state-supported
246 institution of higher learning campus police force, a security
247 officer appointed and commissioned pursuant to the Pearl River
248 Valley Water Supply District Security Officer Law of 1978, a
249 national park ranger, a national park ranger technician, a
250 military policeman stationed at a United States military base
251 located within this state other than a military policeman of the
252 Army or Air National Guard or of Reserve Units of the Army, Air
253 Force, Navy or Marine Corps, or a conservation officer employed by
254 the Mississippi Department of Wildlife, Fisheries and Parks. The
255 permit given a conservation officer shall authorize such officer
256 to administer tests only for violations of Sections 59-23-1
257 through 59-23-7.

258 The State Crime Laboratory shall make periodic, but not less
259 frequently than quarterly, tests of the methods, machines or
260 devices used in making chemical analysis of a person's breath as
261 shall be necessary to ensure the accuracy thereof, and shall issue
262 its certificate to verify the accuracy of the same.

263 SECTION 5. This act shall take effect and be in force from
264 and after July 1, 1999.