

By: Representative Holland

To: Judiciary B

HOUSE BILL NO. 352

1 AN ACT TO AMEND SECTIONS 45-6-3, 45-6-7, 45-6-11, 45-6-13 AND
2 45-6-17, MISSISSIPPI CODE OF 1972, TO EXEMPT PART-TIME, RESERVE,
3 AUXILIARY AND VOLUNTEER LAW ENFORCEMENT OFFICERS FROM THOSE LAW
4 ENFORCEMENT OFFICERS WHO ARE REQUIRED TO RECEIVE TRAINING AND
5 OBTAIN CERTIFICATION FROM THE BOARD ON LAW ENFORCEMENT OFFICER
6 STANDARDS AND TRAINING; AND FOR RELATED PURPOSES. BE IT ENACTED BY
7 THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8
9 SECTION 1. Section 45-6-7, Mississippi Code of 1972, is
10 amended as follows:

11 45-6-7. In addition to the powers conferred upon the board
12 elsewhere in this chapter, the board shall have power to:

13 (a) Promulgate rules and regulations for the
14 administration of this chapter, including the authority to require
15 the submission of reports and information by law enforcement
16 agencies of the state and its political subdivisions.

17 (b) Establish minimum educational and training
18 standards for admission to employment or appointment as a law
19 enforcement officer * * * (i) in a permanent position, and (ii) in
20 a probationary status.

21 (c) Certify persons as being qualified under the
22 provisions of this chapter to be law enforcement officers * * *.

23 (d) Revoke certification for cause and in the manner
24 provided in this chapter.

25 (e) Establish minimum curriculum requirements for basic
26 and advanced courses and programs for schools operated by or for
27 the state or any political subdivision thereof for the specific
28 purpose of training police and other law enforcement officers
29 * * *.

30 (f) Consult and cooperate with counties,
31 municipalities, state agencies, other governmental agencies, and
32 with universities, colleges, junior colleges and other
33 institutions concerning the development of training schools,
34 programs or courses of instruction for personnel defined in this
35 chapter.

36 (g) Make recommendations concerning any matter within
37 its purview pursuant to this chapter.

38 (h) Make such inspection and evaluation as may be
39 necessary to determine if governmental units are complying with
40 the provisions of this chapter.

41 (i) Approve law enforcement officer training schools
42 for operation by or for the state or any political subdivision
43 thereof for the specific purpose of training personnel defined in
44 this chapter.

45 (j) Upon the request of agencies employing personnel
46 defined in this chapter, conduct surveys or aid municipalities and
47 counties to conduct surveys through qualified public or private
48 agencies and assist in the implementation of any recommendations
49 resulting from such surveys.

50 (k) Upon request of agencies within the purview of this
51 chapter, conduct general and specific management surveys and
52 studies of the operations of the requesting agencies at no cost to
53 those agencies. The role of the board under this subsection shall
54 be that of management consultant.

55 (l) Adopt and amend regulations consistent with law,
56 for its internal management and control of board programs.

57 (m) Enter into contracts or do such things as may be
58 necessary and incidental to the administration of this chapter.

59 SECTION 2. Section 45-6-3, Mississippi Code of 1972, is
60 amended as follows:

61 45-6-3. For the purposes of this chapter, the following
62 words shall have the meanings ascribed herein, unless the context

63 shall otherwise require:

64 (a) "Commission" means the Criminal Justice Planning
65 Commission.

66 (b) "Board" means the Board on Law Enforcement Officer
67 Standards and Training.

68 (c) "Law enforcement officer" means any person
69 appointed or employed full time by the state or any political
70 subdivision thereof, who is duly sworn and vested with authority
71 to bear arms and make arrests, and whose primary responsibility is
72 the prevention and detection of crime, the apprehension of
73 criminals and the enforcement of the criminal and traffic laws of
74 this state and/or the ordinances of any political subdivision
75 thereof. The term "law enforcement officer" also includes
76 employees of the Department of Corrections who are designated as
77 law enforcement officers by the Commissioner of Corrections
78 pursuant to Section 47-5-54. However, the term "law enforcement
79 officer" shall not mean or include any elected official or any
80 person employed as an assistant to or investigator for a district
81 attorney in this state, compliance agents of the State Board of
82 Pharmacy, or any person or elected official who, subject to
83 approval by the board, provides some criminal justice related
84 services for a law enforcement agency. As used in this paragraph
85 "appointed or employed full time" means any person who is
86 receiving gross compensation for his duties as a law enforcement
87 officer of One Hundred Twenty-five Dollars (\$125.00) or more per
88 week or Five Hundred Dollars (\$500.00) or more per month.

89 * * *

90 SECTION 3. Section 45-6-11, Mississippi Code of 1972, is
91 amended as follows:

92 45-6-11. (1) Law enforcement officers already serving under
93 permanent appointment on July 1, 1981 and personnel of the
94 division of community services under Section 47-7-9, Mississippi
95 Code of 1972, serving on July 1, 1994, shall not be required to

96 meet any requirement of subsections (3) and (4) of this section as
97 a condition of continued employment; nor shall failure of any such
98 law enforcement officer to fulfill such requirements make that
99 person ineligible for any promotional examination for which that
100 person is otherwise eligible. Provided, however, if any law
101 enforcement officer certified under the provisions of this chapter
102 leaves his employment as such and does not become employed as a
103 law enforcement officer within two (2) years from the date of
104 termination of his prior employment, he shall be required to
105 comply with board policy as to rehiring standards in order to be
106 employed as a law enforcement officer; except, that, if any law
107 enforcement officer certified under this chapter leaves his
108 employment as such to serve as a sheriff, he may be employed as a
109 law enforcement officer after he has completed his service as a
110 sheriff without being required to comply with board policy as to
111 rehiring standards. * * *

112 (2) Any person who has twenty (20) years of law enforcement
113 experience and who is eligible to be certified under this section
114 shall be eligible for recertification after leaving law
115 enforcement on the same basis as someone who has taken the basic
116 training course. Application to the board to qualify under this
117 subsection shall be made no later than June 30, 1993.

118 (3) (a) No person shall be appointed or employed as a law
119 enforcement officer by any law enforcement unit for a period to
120 exceed one (1) year unless that person has been certified as being
121 qualified under the provisions of subsection (4) of this
122 section. * * * The prohibition against the appointment or
123 employment of a noncertified person as a law enforcement officer
124 for a period not to exceed one (1) year may not be nullified by
125 terminating the appointment or employment of such a person before
126 the expiration of the time period and then rehiring the person for
127 another period. Any person, who, due to illness or other events
128 beyond his control, could not attend the required school or

129 training as scheduled, may serve with full pay and benefits in
130 such a capacity until he can attend the required school or
131 training.

132 **(b)** No person shall serve as a law enforcement officer
133 in any full-time, part-time, reserve or auxiliary capacity during
134 a period when that person's certification has been suspended,
135 cancelled or recalled pursuant to the provisions of this chapter.

136 (4) In addition to the requirements of subsections (3), (7)
137 and (8) of this section, the board, by rules and regulations
138 consistent with other provisions of law, shall fix other
139 qualifications for the employment of law enforcement officers,
140 including minimum age, education, physical and mental standards,
141 citizenship, good moral character, experience and such other
142 matters as relate to the competence and reliability of persons to
143 assume and discharge the responsibilities of law enforcement
144 officers, and the board shall prescribe the means for presenting
145 evidence of fulfillment of these requirements. * * *

146 (5) Any elected sheriff, constable, deputy or chief of
147 police may apply for certification. Such certification shall be
148 granted at the request of the elected official after providing
149 evidence of satisfaction of the requirements of subsections (3)
150 and (4) of this section. Certification granted to such elected
151 officials shall be granted under the same standards and conditions
152 as established by law enforcement officers and shall be subject to
153 recall as in subsection (7) of this section.

154 (6) The board shall issue a certificate evidencing
155 satisfaction of the requirements of subsections (3) and (4) of
156 this section to any applicant who presents such evidence as may be
157 required by its rules and regulations of satisfactory completion
158 of a program or course of instruction in another jurisdiction
159 equivalent in content and quality to that required by the board
160 for approved law enforcement officer education and training
161 programs in this state, and has satisfactorily passed any and all

162 diagnostic testing and evaluation as required by the board to
163 ensure competency.

164 (7) Professional certificates remain the property of the
165 board, and the board reserves the right to either reprimand the
166 holder of a certificate, suspend a certificate upon conditions
167 imposed by the board, or cancel and recall any certificate when:

168 (a) The certificate was issued by administrative error;

169 (b) The certificate was obtained through
170 misrepresentation or fraud;

171 (c) The holder has been convicted of any crime
172 involving moral turpitude;

173 (d) The holder has been convicted of a felony; or

174 (e) Other due cause as determined by the board.

175 (8) When the board believes there is a reasonable basis for
176 either the reprimand, suspension, cancellation of, or recalling
177 the certification of a law enforcement officer, * * * notice and
178 opportunity for a hearing shall be provided in accordance with law
179 prior to such reprimand, suspension or revocation.

180 (9) Any * * * law enforcement officer aggrieved by the
181 findings and order of the board may file an appeal with the
182 chancery court of the county in which such person is employed from
183 the final order of the board. Such appeals must be filed within
184 thirty (30) days of the final order of the board.

185 (10) Any * * * law enforcement officer whose certification
186 has been cancelled pursuant to this chapter may reapply for
187 certification, but not sooner than two (2) years after the date on
188 which the order of the board cancelling such certification becomes
189 final.

190 SECTION 4. Section 45-6-13, Mississippi Code of 1972, is
191 amended as follows:

192 45-6-13. (1) The board shall establish, provide or maintain
193 law enforcement training programs through such agencies and
194 institutions as the board may deem appropriate.

195 (2) The board shall authorize, but only from such funds
196 authorized and appropriated by the Legislature, the reimbursement
197 to each political subdivision and to state agencies of at least
198 fifty percent (50%) of the allowable salary and allowable tuition,
199 living and travel expense incurred by law enforcement officers in
200 attendance at approved training programs, provided said political
201 subdivisions and state agencies do in fact adhere to the selection
202 and training standards established by the board. * * *

203 (3) The board is authorized to expend funds for the purpose
204 of providing a professional library and training aids that will be
205 available to state agencies and political subdivisions.

206 (4) If any * * * law enforcement officer in this state who
207 is employed by a municipality, county or other governmental entity
208 shall, within three (3) years after the date of his employment,
209 resign from, or be terminated from, employment by such entity and
210 immediately become employed by another governmental entity in a
211 law enforcement capacity, then the governmental entity by which
212 the resigned or terminated officer is employed shall reimburse the
213 governmental entity from which the officer resigned or was
214 terminated a proportionate share of the officer's law enforcement
215 training expenses which were incurred by such entity, if any.

216 SECTION 5. Section 45-6-17, Mississippi Code of 1972, is
217 amended as follows:

218 45-6-17. (1) Any * * * law enforcement officer who does not
219 comply with the provisions of this chapter, or whose certificate
220 has been suspended or revoked under provisions of this chapter,
221 shall not be authorized to exercise the powers of law enforcement
222 officers generally, and particularly shall not be authorized to
223 exercise the power of arrest.

224 (2) Any state agency or political subdivision that employs a
225 person as a * * * law enforcement officer who does not meet the
226 requirements of this chapter, or who employs a person whose
227 certificate has been suspended or revoked under provisions of this

228 chapter, is prohibited from paying the salary of such person, or
229 providing any public monies for the equipment or support of the
230 law enforcement activities of such person and any person violating
231 this subsection shall be personally liable for making such
232 payment.

233 SECTION 6. This act shall take effect and be in force from
234 and after July 1, 1999.