

By: Representative Rogers

To: Judiciary B

## HOUSE BILL NO. 1344

1 AN ACT TO PROVIDE THAT THE DEPARTMENT OF AUDIT SHALL LICENSE  
2 AND REGULATE PRIVATE PROBATION COMPANIES; TO PROVIDE LICENSE FEES;  
3 TO REQUIRE UNIFORM FEES; TO AUTHORIZE PRIVATE PROBATION COMPANIES  
4 TO SERVE CONTEMPT OF COURT WARRANTS AND TO REQUIRE OFFICERS  
5 SERVING SUCH WARRANTS TO BE LICENSED; TO AMEND SECTIONS 7-7-211  
6 AND 9-1-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS  
7 OF THIS ACT; AND FOR RELATED PURPOSES.

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

9 SECTION 1. (1) All private probation companies providing  
10 services in the state shall be licensed by the Department of Audit  
11 as provided by this section. Private probation companies must be  
12 owned by persons who have been residents of the State of  
13 Mississippi for not less than one (1) year and such owners shall  
14 have no felony convictions. Private probation companies shall  
15 provide a certificate of general liability insurance for a minimum  
16 of One Million Dollars (\$1,000,000.00).

17 (2) Each private probation company shall pay a license fee  
18 of Five Hundred Dollars (\$500.00) to the Department of Audit which  
19 shall be placed in a special fund in the State Treasury for the  
20 purposes of carrying out the provisions of this section. At the  
21 end of a fiscal year any funds remaining in the fund shall not  
22 lapse into the General Fund but shall remain in the special fund  
23 and any interest accruing to such fund shall remain in the fund.

24 (3) The Department of Audit shall establish uniform fees to  
25 be charged by private probation companies.

26 (4) A private probation company may serve contempt of court  
27 warrants with the written permission of the sheriff in the county  
28 in which such company is located. Such written permission shall

29 be on file at the company's office. This authority shall not  
30 allow a private probation company to serve any other warrant. Any  
31 officer of a private probation company who serves contempt of  
32 court warrants shall pay a fee of Fifty Dollars (\$50.00) to the  
33 Department of Audit. The fees shall be placed in the special fund  
34 created in subsection (2) of this section. An officer serving  
35 such warrants may be an off-duty law enforcement officer but must  
36 be licensed as provided by this section. A fee of not less than  
37 Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00)  
38 may be charged for serving a contempt warrant.

39 (5) The Department of Audit may promulgate any rules and  
40 regulations necessary to carry out the provisions of this act.

41 SECTION 2. Section 7-7-211, Mississippi Code of 1972, is  
42 amended as follows:

43 7-7-211. The department shall have the power and it shall be  
44 its duty:

45 (a) To identify and define for all public offices of  
46 the state and its subdivisions generally accepted accounting  
47 principles as promulgated by nationally recognized professional  
48 organizations and to consult with the State Fiscal Officer in the  
49 prescription and implementation of accounting rules and  
50 regulations;

51 (b) To prescribe, for all public offices of regional  
52 and local subdivisions of the state, systems of accounting,  
53 budgeting and reporting financial facts relating to said offices  
54 in conformity with legal requirements and with generally accepted  
55 accounting principles as promulgated by nationally recognized  
56 professional organizations; to assist such subdivisions in need of  
57 assistance in the installation of such systems; to revise such  
58 systems when deemed necessary, and to report to the Legislature at  
59 periodic times the extent to which each office is maintaining such  
60 systems, along with such recommendations to the Legislature for  
61 improvement as seem desirable;

62 (c) To study and analyze existing managerial policies,  
63 methods, procedures, duties and services of the various state  
64 departments and institutions upon written request of the Governor,  
65 the Legislature or any committee or other body empowered by the

66 Legislature to make such request to determine whether and where  
67 operations can be eliminated, combined, simplified and improved;

68           (d) To postaudit each year and, when deemed necessary,  
69 preaudit and investigate the financial affairs of the departments,  
70 institutions, boards, commissions or other agencies of state  
71 government, as part of the publication of a comprehensive annual  
72 financial report for the State of Mississippi. In complying with  
73 the requirements of this subsection, the department shall have the  
74 authority to conduct all necessary audit procedures on an interim  
75 and year-end basis;

76           (e) To postaudit and, when deemed necessary, preaudit  
77 and investigate separately the financial affairs of (i) the  
78 offices, boards and commissions of county governments and any  
79 departments and institutions thereof and therein; (ii) public  
80 school districts, departments of education and junior college  
81 districts; and (iii) any other local offices or agencies which  
82 share revenues derived from taxes or fees imposed by the state  
83 Legislature or receive grants from revenues collected by  
84 governmental divisions of the state; the cost of such audits,  
85 investigations or other services to be paid as follows: Such part  
86 shall be paid by the state from appropriations made by the  
87 Legislature for the operation of the State Department of Audit as  
88 may exceed the sum of One Hundred Dollars (\$100.00) per day for  
89 the services of each staff person engaged in performing the audit  
90 or other service, which sum shall be paid by the county, district,  
91 department, institution or other agency audited out of its general  
92 fund or any other available funds from which such payment is not  
93 prohibited by law;

94           (f) To postaudit and, when deemed necessary, preaudit  
95 and investigate the financial affairs of the levee boards;  
96 agencies created by the Legislature or by executive order of the  
97 Governor; profit or nonprofit business entities administering  
98 programs financed by funds flowing through the State Treasury or

99 through any of the agencies of the state, or its subdivisions; and  
100 all other public bodies supported by funds derived in part or  
101 wholly from public funds, except municipalities which annually  
102 submit an audit prepared by a qualified certified public  
103 accountant using methods and procedures prescribed by the  
104 department;

105 (g) To make written demand, when necessary, for the  
106 recovery of any amounts representing public funds improperly  
107 withheld, misappropriated and/or otherwise illegally expended by  
108 an officer, employee or administrative body of any state, county  
109 or other public office, and/or for the recovery of the value of  
110 any public property disposed of in an unlawful manner by a public  
111 officer, employee or administrative body, such demands to be made  
112 (i) upon the person or persons liable for such amounts and upon  
113 the surety on official bond thereof, and/or (ii) upon any  
114 individual, partnership, corporation or association to whom the  
115 illegal expenditure was made or with whom the unlawful disposition  
116 of public property was made, if such individual, partnership,  
117 corporation or association knew or had reason to know through the  
118 exercising of reasonable diligence that the expenditure was  
119 illegal or the disposition unlawful. Such demand shall be  
120 premised on competent evidence, which shall include at least one  
121 (1) of the following: (i) sworn statements, (ii) written  
122 documentation, (iii) physical evidence, or (iv) reports and  
123 findings of government or other law enforcement agencies. Other  
124 provisions notwithstanding, a demand letter issued pursuant to  
125 this subsection shall remain confidential by the State Auditor  
126 until the individual against whom the demand letter is being filed  
127 has been served with a copy of such demand letter. If, however,  
128 such individual cannot be notified within fifteen (15) days using  
129 reasonable means and due diligence, such notification shall be  
130 made to the individual's bonding company, if he or she is bonded.  
131 Each such demand shall be paid into the proper treasury of the

132 state, county or other public body through the office of the  
133 department in the amount demanded within thirty (30) days from the  
134 date thereof, together with interest thereon in the sum of one  
135 percent (1%) per month from the date such amount or amounts were  
136 improperly withheld, misappropriated and/or otherwise illegally  
137 expended. In the event, however, such person or persons shall  
138 refuse, neglect or otherwise fail to pay the amount demanded and  
139 the interest due thereon within the allotted thirty (30) days, the  
140 State Auditor shall have the authority and it shall be his duty to  
141 institute suit, and the Attorney General shall prosecute the same  
142 in any court of the state to the end that there shall be recovered  
143 the total of such amounts from the person or persons and surety on  
144 official bond named therein; and the amounts so recovered shall be  
145 paid into the proper treasury of the state, county or other public  
146 body through the State Auditor;

147 (h) To investigate any alleged or suspected violation  
148 of the laws of the state by any officer or employee of the state,  
149 county or other public office in the purchase, sale or the use of  
150 any supplies, services, equipment or other property belonging  
151 thereto; and in such investigation to do any and all things  
152 necessary to procure evidence sufficient either to prove or  
153 disprove the existence of such alleged or suspected violations.  
154 The Department of Investigation of the State Department of Audit  
155 may investigate, for the purpose of prosecution, any suspected  
156 criminal violation of the provisions of this chapter. For the  
157 purpose of administration and enforcement of this chapter, the  
158 enforcement employees of the Department of Investigation of the  
159 State Department of Audit have the powers of a peace officer of  
160 this state only over those persons under indictment or at the  
161 direction of another duly authorized law enforcement agency having  
162 jurisdiction over the case. All enforcement employees of the  
163 Department of Investigation of the State Department of Audit hired  
164 on or after July 1, 1993, shall be required to complete the Law

165 Enforcement Officers Training Program and shall meet the standards  
166 of the program.

167 (i) To issue subpoenas, with the approval of, and  
168 returnable to, a judge of a chancery or circuit court, in termtime  
169 or in vacation, to examine the records, documents or other  
170 evidence of persons, firms, corporations or any other entities  
171 insofar as such records, documents or other evidence relate to  
172 dealings with any state, county or other public entity. The  
173 circuit or chancery judge must serve the county in which the  
174 records, documents or other evidence is located; or where all or  
175 part of the transaction or transactions occurred which are the  
176 subject of the subpoena;

177 (j) In any instances in which the State Auditor is or  
178 shall be authorized or required to examine or audit, whether  
179 preaudit or postaudit, any books, ledgers, accounts or other  
180 records of the affairs of any public hospital owned or owned and  
181 operated by one or more political subdivisions or parts thereof or  
182 any combination thereof, or any school district, including  
183 activity funds thereof, it shall be sufficient compliance  
184 therewith, in the discretion of the State Auditor, that such  
185 examination or audit be made from the report of any audit or other  
186 examination certified by a certified public accountant and  
187 prepared by or under the supervision of such certified public  
188 accountant. Such audits shall be made in accordance with  
189 generally accepted standards of auditing, with the use of an audit  
190 program prepared by the State Auditor, and final reports of such  
191 audits shall conform to the format prescribed by the State  
192 Auditor. All files, working papers, notes, correspondence and all  
193 other data compiled during the course of the audit shall be  
194 available, without cost, to the State Auditor for examination and  
195 abstracting during the normal business hours of any business day.  
196 The expense of such certified reports shall be borne by the  
197 respective hospital, or any available school district funds other

198 than minimum program funds, subject to examination or audit. The  
199 State Auditor shall not be bound by such certified reports and  
200 may, in his or their discretion, conduct such examination or audit  
201 from the books, ledgers, accounts or other records involved as may  
202 be appropriate and authorized by law.

203           (k) The State Auditor shall have the authority to  
204 contract with qualified public accounting firms to perform  
205 selected audits required in subsections (d), (e) and (f) of this  
206 section, if funds are made available for such contracts by the  
207 Legislature, or if funds are available from the governmental  
208 entity covered by subsections (d), (e) and (f). Such audits shall  
209 be made in accordance with generally accepted standards of  
210 auditing, with the use of an audit program prepared by the State  
211 Auditor, and final reports of such audits shall conform to the  
212 format prescribed by the State Auditor. All files, working  
213 papers, notes, correspondence and all other data compiled during  
214 the course of the audit shall be available, without cost, to the  
215 State Auditor for examination and abstracting during the normal  
216 business hours of any business day.

217           (l) The State Auditor shall have the authority to  
218 establish training courses and programs for the personnel of the  
219 various state and local governmental entities under the  
220 jurisdiction of the office of the State Auditor. The training  
221 courses and programs shall include, but not be limited to, topics  
222 on internal control of funds, property and equipment control and  
223 inventory, governmental accounting and financial reporting, and  
224 internal auditing. The State Auditor is authorized to charge a  
225 fee from the participants of these courses and programs, which fee  
226 shall be deposited into the Department of Audit Special Fund.  
227 State and local governmental entities are authorized to pay such  
228 fee and any travel expenses out of their general funds or any  
229 other available funds from which such payment is not prohibited by  
230 law.

231           (m) Upon written request by the Governor or any member  
232 of the state Legislature, the State Auditor may audit any state  
233 funds and/or state and federal funds received by any nonprofit  
234 corporation incorporated under the laws of this state.

235           (n) To conduct performance audits of personal or  
236 professional service contracts by state agencies on a random  
237 sampling basis, or upon request of the State Personal Service  
238 Contract Review Board under Section 25-9-120(3).

239           (o) To license and regulate private probation companies  
240 as provided in Section 1 of this act.

241           SECTION 3. Section 9-1-17, Mississippi Code of 1972, is  
242 amended as follows:

243           9-1-17. The Supreme, circuit, chancery and county courts and  
244 the Court of Appeals shall have power to fine and imprison any  
245 person guilty of contempt of the court while sitting, but the fine  
246 shall not exceed One Hundred Dollars (\$100.00) for each offense,  
247 nor shall the imprisonment continue longer than thirty (30) days.  
248 If any witness refuse to be sworn or to give evidence, or if any  
249 officer or person refuse to obey or perform any rules, order, or  
250 judgment of the court, such court shall have power to fine and  
251 imprison such officer or person until he shall give evidence, or  
252 until the rule, order, or judgment shall be complied with. A  
253 private probation company licensed under Section 1 of this act may  
254 serve contempt warrants.

255           SECTION 3. This act shall take effect and be in force from  
256 and after July 1, 1999.