

By: Senator(s) Smith

To: Juvenile Justice;  
Appropriations

## SENATE BILL NO. 3031

1 AN ACT TO BE ENTITLED THE "YOUTH COURT EMERGENCY RELIEF PILOT  
2 PROGRAM ACT"; TO ENACT LEGISLATIVE INTENT; TO CREATE AN  
3 ELEVEN-COUNTY PILOT PROJECT TO EXPIRE WITHIN FIVE YEARS THAT WILL  
4 ADD JUDGES AND PROSECUTORS TO THE YOUTH COURTS IN THE PILOT  
5 PROGRAM COUNTIES; TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF  
6 1972, TO PROVIDE FOR THE APPOINTMENT OF SPECIAL YOUTH COURT JUDGES  
7 BY THE CHIEF JUSTICE OF THE MISSISSIPPI SUPREME COURT; TO ENACT  
8 SECTION 7-5-14, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
9 ATTORNEY GENERAL TO APPOINT ASSISTANT ATTORNEYS GENERAL TO BE  
10 ASSIGNED TO THE HANDLING OF CERTAIN YOUTH COURT CASES; TO AMEND  
11 SECTION 43-21-117, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND  
12 FOR RELATED PURPOSES.

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

14 SECTION 1. This act may be cited as the "Youth Court  
15 Emergency Relief Pilot Program Act."

16 SECTION 2. The Legislature finds that the youth court system  
17 is in a crisis situation in some areas of this state due to an  
18 explosive increase in the number of youth court cases. The  
19 Legislature is committed to giving the judicial department of  
20 state government the resources needed to adequately handle those  
21 youth court caseloads.

22 SECTION 3. There is hereby created a state-funded youth  
23 court emergency relief pilot program in eleven (11) counties. The  
24 purpose of the program is to place additional judges and  
25 prosecutors in certain youth courts at state expense. The pilot  
26 program counties are: Coahoma, Grenada, Hancock, Harrison, Hinds,  
27 Jones, Lauderdale, Lee, Pike, Washington and Yazoo Counties.

28 SECTION 4. Section 9-1-105, Mississippi Code of 1972, is  
29 amended as follows:

30 9-1-105. (1) Whenever any judicial officer is unwilling or  
31 unable to hear a case or unable to hold or attend any of the  
32 courts at the time and place required by law by reason of the

33 physical disability or sickness of such judicial officer, by  
34 reason of the absence of such judicial officer from the state, by  
35 reason of the disqualification of such judicial officer pursuant  
36 to the provision of Section 165, Mississippi Constitution of 1890,  
37 or any provision of the Code of Judicial Conduct, or for any other  
38 reason, the Chief Justice of the Mississippi Supreme Court, with  
39 the advice and consent of a majority of the justices of the  
40 Mississippi Supreme Court, may appoint a person as a special judge  
41 to hear the case or attend and hold a court.

42 (2) Upon the request of the Chief Judge of the Court of  
43 Appeals or the senior judge of a chancery or circuit court  
44 district, the Chief Justice of the Mississippi Supreme Court, with  
45 the advice and consent of a majority of the justices of the  
46 Mississippi Supreme Court, shall have the authority to appoint a  
47 special judge to serve on an emergency basis in a circuit or  
48 chancery court. It shall be the duty of any special judge so  
49 appointed to assist the court to which he is assigned in the  
50 disposition of causes so pending in such court.

51 (3) (a) The Chief Justice of the Mississippi Supreme Court,  
52 with the advice and consent of a majority of the justices of the  
53 Mississippi Supreme Court, shall appoint, by order, special youth  
54 court judges to serve in any pilot program youth court or youth  
55 courts during the period of existence of the pilot program. It  
56 shall be the duty of any special judge so appointed to assist the  
57 youth court to which he is assigned in the disposition of the  
58 youth court cases pending or subsequently filed in that court as  
59 provided in paragraph (b) of this subsection. The order may  
60 provide that a special youth court judge shall serve in more than  
61 one (1) youth court for the duration of the appointment on a  
62 schedule to be specified in the order.

63 (b) Special youth court judges appointed pursuant to  
64 the provisions of this subsection shall be authorized to handle  
65 disposition of any cases on the same basis as any other youth  
66 court judge.

67 (c) The total number of special youth court judges  
68 appointed pursuant to this act shall not exceed eleven (11) at any  
69 one time.

70 (d) This subsection shall be effective from and after

71 the effective date of Senate Bill No. \_\_\_\_\_, 1999 Regular Session,  
72 and shall stand repealed from and after January 1, 2004.

73 (4) When a vacancy exists for any of the reasons enumerated  
74 in Section 9-1-103, the vacancy has not been filled within seven  
75 (7) days by an appointment by the Governor, and there is a pending  
76 cause or are pending causes in the court where the vacancy exists  
77 that in the interests of justice and in the orderly dispatch of  
78 the court's business require the appointment of a special judge,  
79 the Chief Justice of the Supreme Court, with the advice and  
80 consent of a majority of the justices of the Mississippi Supreme  
81 Court, may appoint a qualified person as a special judge to fill  
82 the vacancy until the Governor makes his appointment and such  
83 appointee has taken the oath of office.

84 (5) If the Chief Justice pursuant to this section shall make  
85 an appointment within the authority vested in the Governor by  
86 reason of Section 165, Mississippi Constitution of 1890, the  
87 Governor may at his election appoint a person to so serve. In the  
88 event that the Governor makes such an appointment, any appointment  
89 made by the Chief Justice pursuant to this section shall be void  
90 and of no further force or effect from the date of the Governor's  
91 appointment.

92 (6) When a judicial officer is unwilling or unable to hear a  
93 case or unable or unwilling to hold court for a period of time not  
94 to exceed two (2) weeks, the trial judge or judges of the affected  
95 district or county and other trial judges may agree among  
96 themselves regarding the appointment of a person for such case or  
97 such limited period of time. The trial judges shall submit a  
98 notice to the Chief Justice of the Supreme Court informing him of  
99 their appointment. If the Chief Justice does not appoint another  
100 person to serve as special judge within seven (7) days after  
101 receipt of such notice, the person designated in such order shall  
102 be deemed appointed.

103 (7) A person appointed to serve as a special judge may be  
104 any presently sitting or retired chancery, circuit or county court

105 judge, Court of Appeals Judge or Supreme Court Justice, or any  
106 other person possessing the qualifications of the judicial office  
107 for which the appointment is made; provided, however, that a judge  
108 or justice who was retired from service at the polls shall not be  
109 eligible for appointment as a special judge in the district in  
110 which he served prior to his defeat.

111 (8) Except as otherwise provided in subsection (2) of this  
112 section, the need for an appointment pursuant to this section may  
113 be certified to the Chief Justice of the Mississippi Supreme Court  
114 by any attorney in good standing or other officer of the court.

115 (9) The order appointing a person as a special judge  
116 pursuant to this section shall describe as specifically as  
117 possible the duration of the appointment.

118 (10) A special judge appointed pursuant to this section  
119 shall take the oath of office, if necessary, and shall, for the  
120 duration of his appointment, enjoy the full power and authority of  
121 the office to which he is appointed.

122 (11) Any presently sitting justice or judge appointed as a  
123 special judge under this section shall receive no additional  
124 compensation for his or her service as special judge. Any other  
125 person appointed as a special judge hereunder shall, for the  
126 period of his service, receive compensation from the state for  
127 each day's service a sum equal to 1/260 of the current salary in  
128 effect for the judicial office; provided, however, that no retired  
129 chancery, circuit or county court judge, retired Court of Appeals  
130 Judge or any retired Supreme Court Justice appointed as a special  
131 judge pursuant to this section may, during any fiscal year,  
132 receive compensation in excess of twenty-five percent (25%) of the  
133 current salary in effect for a chancery or circuit court judge.  
134 Any person appointed as a special judge shall be reimbursed for  
135 travel expenses incurred in the performance of the official duties  
136 to which he may be appointed hereunder in the same manner as other  
137 public officials and employees as provided by Section 25-3-41,  
138 Mississippi Code of 1972.

139       (12) If any person appointed as such special judge is  
140 receiving retirement benefits by virtue of the provisions of the  
141 Public Employees' Retirement Law of 1952, appearing as Sections  
142 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits  
143 shall not be reduced in any sum whatsoever because of such  
144 service, nor shall any sum be deducted as contributions toward  
145 retirement under said law.

146       (13) The Supreme Court shall have authority to prescribe  
147 rules and regulations reasonably necessary to implement and give  
148 effect to the provisions of this section.

149       (14) Nothing in this section shall abrogate the right of  
150 attorneys engaged in a case to agree upon a member of the bar to  
151 preside in a case pursuant to Section 165 of the Mississippi  
152 Constitution of 1890.

153       (15) The Supreme Court shall prepare the necessary payroll  
154 for special judges appointed pursuant to this section and shall  
155 submit such payroll to the Department of Finance and  
156 Administration.

157       (16) Special judges appointed pursuant to this section shall  
158 direct requests for reimbursement for travel expenses authorized  
159 pursuant to this section to the Supreme Court and the Supreme  
160 Court shall submit such requests to the Department of Finance and  
161 Administration. The Supreme Court shall have the power to adopt  
162 rules and regulations regarding the administration of travel  
163 expenses authorized pursuant to this section.

164       SECTION 5. The following provision shall be codified as  
165 Section 7-5-14, Mississippi Code of 1972:

166       7-5-14. (1) The Attorney General shall, with the approval  
167 of the Chief Justice of the Supreme Court, appoint not more than  
168 eleven (11) competent attorneys, each of whom shall be designated  
169 assistant attorney general, who shall be assigned specifically to  
170 the handling of the prosecution of youth court cases to be heard  
171 in any of the eleven (11) pilot program counties created by Senate  
172 Bill No. \_\_\_\_\_, 1999 Regular Session. Said assistants shall

173 possess all of the qualifications required by law of the Attorney  
174 General, shall have power and authority under the direction and  
175 supervision of the Attorney General to perform all the duties  
176 required under this section, and shall be liable to all the pains  
177 and penalties to which the Attorney General is liable. The  
178 Attorney General may discharge any such assistant at his pleasure  
179 and appoint another in his stead. The attorney shall fix the  
180 annual salary of each of the attorneys appointed under this  
181 section as he may deem proper, but not to exceed Forty-Five  
182 Thousand Dollars (\$45,000.00). The assistants appointed under  
183 this section shall devote their entire time and attention to the  
184 duties pertaining to the prosecution of youth court cases in youth  
185 courts participating in the pilot program created by Senate Bill  
186 No. \_\_\_\_\_, 1999 Regular Session.

187 SECTION 6. Section 43-21-117, Mississippi Code of 1972, is  
188 amended as follows:

189 43-21-117. (1) The youth court prosecutor shall represent  
190 the petitioner in all proceedings in the youth court.

191 (2) Except as provided in Senate Bill No. \_\_\_\_\_, 1999 Regular  
192 Session, the county prosecuting attorney shall serve as the youth  
193 court prosecutor; however, if funds are available pursuant to  
194 Section 43-21-123, the court may designate, as provided in  
195 subsection (3) of this section, a prosecutor or prosecutors in  
196 lieu of or in addition to the county prosecuting attorney. Where  
197 there is a municipal youth court division, the city prosecutor  
198 shall serve as youth court prosecutor; provided that the district  
199 attorney may participate in transfer proceedings.

200 (3) The judge may designate as provided in Section 43-21-123  
201 some suitable attorney or attorneys to serve as youth court  
202 prosecutor or prosecutors in lieu of or in conjunction with the  
203 youth court prosecutor provided in subsection (2) of this section.

204 The designated youth court prosecutor or prosecutors shall be  
205 paid a fee or salary fixed on order of the judge as provided in  
206 Section 43-21-123 and shall be paid by the county out of any

207 available funds budgeted for the youth court by the board of  
208 supervisors, unless the designated youth court prosecutor or  
209 prosecutors serves in a municipal youth court division, in which  
210 case he shall be paid a fee or salary fixed on order of the judge  
211 from the funds available to the municipality.

212 (4) All youth court prosecutors and county prosecuting  
213 attorneys who serve as youth court prosecutors shall be required  
214 to receive juvenile justice training approved by the Mississippi  
215 Attorney General's office and regular annual continuing education  
216 in the field of juvenile justice. The Mississippi Attorney  
217 General's office shall determine the amount of juvenile justice  
218 training and annual continuing education which shall be  
219 satisfactory to fulfill the requirements of this subsection. The  
220 Administrative Office of Courts shall maintain a roll of youth  
221 court prosecutors, shall enforce the provisions of this subsection  
222 and shall maintain records on all such youth court prosecutors  
223 regarding such training. Should a youth court prosecutor miss two  
224 (2) consecutive training sessions sponsored by the Mississippi  
225 Attorney General's office as required by this subsection or fail  
226 to attend one (1) such training session within six (6) months of  
227 their designation as youth court prosecutor, the youth court  
228 prosecutor shall be disqualified to serve and be immediately  
229 removed from the office of youth court prosecutor and another  
230 youth court prosecutor shall be designated.

231 SECTION 7. The Attorney General of the State of Mississippi  
232 is hereby directed to submit this act, immediately upon approval  
233 by the Governor, or upon approval by the Legislature subsequent to  
234 a veto, to the Attorney General of the United States or to the  
235 United States District Court for the District of Columbia in  
236 accordance with the provisions of the Voting Rights Act of 1965,  
237 as amended and extended.

238 SECTION 8. This act shall take effect and be in force from  
239 and after the date it is effectuated under Section 5 of the Voting  
240 Rights Act of 1965, as amended and extended.