

By: Moak

To: Judiciary B

HOUSE BILL NO. 990

1 AN ACT TO AMEND SECTIONS 19-25-21, 19-25-23 AND 45-6-11,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE SHERIFFS TO APPOINT A
3 TEMPORARY DEPUTY SHERIFF; TO PROVIDE THAT SUCH TEMPORARY DEPUTY
4 SHERIFF SHALL BE EXEMPT FROM LAW ENFORCEMENT OFFICER TRAINING
5 REQUIREMENTS; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 19-25-21, Mississippi Code of 1972, is
8 amended as follows:[HS1]

9 19-25-21. The minimum number of deputies having law
10 enforcement duties for each sheriff shall be based upon the total
11 population of his county according to the latest federal decennial
12 census in the following categories:

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

16 (b) In counties with a total population of more than
17 thirty-five thousand (35,000), and not more than fifty thousand
18 (50,000), the sheriff shall regularly employ a minimum of four (4)
19 deputies having law enforcement duties;

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

24 (d) In counties with a total population of more than
25 fifteen thousand (15,000), and not more than twenty-five thousand
26 (25,000), the sheriff shall regularly employ a minimum of two (2)
27 deputies having law enforcement duties;

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

31 In those counties comprised of two (2) judicial
32 districts having a total population of thirty-five thousand
33 (35,000) or more, there shall be not less than two (2) deputies in
34 the judicial district in which the sheriff does not reside, one
35 (1) of whom shall be the chief deputy in charge of the office, all
36 of whom shall be subject to the direction of the sheriff. In
37 those counties comprised of two (2) judicial districts having a
38 total population of less than thirty-five thousand (35,000), there
39 shall be at least one (1) deputy in the judicial district in which
40 the sheriff does not reside who shall be subject to the direction
41 of the sheriff.

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

61 continuing basis, attend additional advanced courses in law
62 enforcement at said Academy in order that each deputy sheriff will
63 be properly informed and trained in the modern, technical advances
64 in the field of law enforcement.

65 Each sheriff may appoint a temporary deputy sheriff who shall
66 not serve for more than six (6) months and such temporary deputy
67 sheriff shall be exempt from the training requirements provided in
68 this section and in Section 45-6-11.

69 SECTION 2. Section 19-25-23, Mississippi Code of 1972, is
70 amended as follows:

71 19-25-23. Each sheriff shall maintain and cause to be paid a
72 sufficient number of regular deputies, properly trained and
73 adequately equipped, to insure the domestic tranquility within his
74 county. In addition thereto, each sheriff may maintain an
75 adequate number of properly trained auxiliary deputy sheriffs and
76 one (1) temporary deputy sheriff to be equipped, trained and paid
77 from the general county fund. The number of said auxiliary
78 deputies shall be approved by the board of supervisors and may be
79 increased or reduced from time to time by said board. All regular
80 and auxiliary deputies may serve in any other county of the state
81 when requested by the sheriff of such county to preserve law and
82 order therein, the expense thereof to be paid by the county in
83 which they serve. The request shall be made to the sheriff of the
84 county in which said deputies are located and said deputies shall
85 remain under the control of said sheriff except to the extent
86 delegated by said sheriff to the sheriff of the requesting county.

87 In addition, any sheriff may loan any regular or auxiliary deputy
88 to any law enforcement agency of the state or of any political
89 subdivision of the state for drug enforcement purposes, the
90 expense of the officer to be paid by the agency to which the
91 officer is assigned.

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

94 45-6-11. (1) Law enforcement officers already serving under
95 permanent appointment on July 1, 1981, and personnel of the
96 division of community services under Section 47-7-9, Mississippi
97 Code of 1972, serving on July 1, 1994, shall not be required to
98 meet any requirement of subsections (3) and (4) of this section as
99 a condition of continued employment; nor shall failure of any such
100 law enforcement officer to fulfill such requirements make that
101 person ineligible for any promotional examination for which that
102 person is otherwise eligible. Provided, however, if any law
103 enforcement officer certified under the provisions of this chapter
104 leaves his employment as such and does not become employed as a
105 law enforcement officer within two (2) years from the date of
106 termination of his prior employment, he shall be required to
107 comply with board policy as to rehiring standards in order to be
108 employed as a law enforcement officer; except, that, if any law
109 enforcement officer certified under this chapter leaves his
110 employment as such to serve as a sheriff, he may be employed as a
111 law enforcement officer after he has completed his service as a
112 sheriff without being required to comply with board policy as to
113 rehiring standards. Part-time law enforcement officers serving on
114 or before July 1, 1998, shall have until July 1, 2001, to obtain
115 certification as a part-time officer.

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

122 (3) (a) No person shall be appointed or employed as a law
123 enforcement officer or a part-time law enforcement officer unless
124 that person has been certified as being qualified under the
125 provisions of subsection (4) of this section.

126 (b) No person shall be appointed or employed as a law

127 enforcement trainee by any law enforcement unit for a period to
128 exceed two (2) years. The prohibition against the appointment or
129 employment of a law enforcement trainee for a period not to exceed
130 two (2) years may not be nullified by terminating the appointment
131 or employment of such a person before the expiration of the time
132 period and then rehiring the person for another period. Any
133 person, who, due to illness or other events beyond his control,
134 could not attend the required school or training as scheduled, may
135 serve with full pay and benefits in such a capacity until he can
136 attend the required school or training.

137 (c) No person shall serve as a law enforcement officer
138 in any full-time, part-time, reserve or auxiliary capacity during
139 a period when that person's certification has been suspended,
140 cancelled or recalled pursuant to the provisions of this chapter.

141 (4) In addition to the requirements of subsections (3), (7)
142 and (8) of this section, the board, by rules and regulations
143 consistent with other provisions of law, shall fix other
144 qualifications for the employment of law enforcement officers,
145 including minimum age, education, physical and mental standards,
146 citizenship, good moral character, experience and such other
147 matters as relate to the competence and reliability of persons to
148 assume and discharge the responsibilities of law enforcement
149 officers, and the board shall prescribe the means for presenting
150 evidence of fulfillment of these requirements. Additionally, the
151 board shall fix qualifications for the appointment or employment
152 of part-time law enforcement officers to essentially the same
153 standards and requirements as law enforcement officers. The board
154 shall develop and implement a part-time law enforcement officer
155 training program that meets the same performance objectives and
156 has essentially the same or similar content as the programs
157 approved by the board for full-time law enforcement officers and
158 the board shall provide that such training shall be available
159 locally and held at times convenient to the persons required to

160 receive such training.

161 (5) Any elected sheriff, constable, deputy or chief of
162 police may apply for certification. Such certification shall be
163 granted at the request of the elected official after providing
164 evidence of satisfaction of the requirements of subsections (3)
165 and (4) of this section. Certification granted to such elected
166 officials shall be granted under the same standards and conditions
167 as established by law enforcement officers and shall be subject to
168 recall as in subsection (7) of this section.

169 (6) The board shall issue a certificate evidencing
170 satisfaction of the requirements of subsections (3) and (4) of
171 this section to any applicant who presents such evidence as may be
172 required by its rules and regulations of satisfactory completion
173 of a program or course of instruction in another jurisdiction
174 equivalent in content and quality to that required by the board
175 for approved law enforcement officer education and training
176 programs in this state, and has satisfactorily passed any and all
177 diagnostic testing and evaluation as required by the board to
178 ensure competency.

179 (7) Professional certificates remain the property of the
180 board, and the board reserves the right to either reprimand the
181 holder of a certificate, suspend a certificate upon conditions
182 imposed by the board, or cancel and recall any certificate when:

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

184 (b) The certificate was obtained through
185 misrepresentation or fraud;

186 (c) The holder has been convicted of any crime
187 involving moral turpitude;

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

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

190 (8) When the board believes there is a reasonable basis for
191 either the reprimand, suspension, cancellation of, or recalling
192 the certification of a law enforcement officer or a part-time law

193 enforcement officer, notice and opportunity for a hearing shall be
194 provided in accordance with law prior to such reprimand,
195 suspension or revocation.

196 (9) Any full- or part-time law enforcement officer aggrieved
197 by the findings and order of the board may file an appeal with the
198 chancery court of the county in which such person is employed from
199 the final order of the board. Such appeals must be filed within
200 thirty (30) days of the final order of the board.

201 (10) Any full- or part-time law enforcement officer whose
202 certification has been cancelled pursuant to this chapter may
203 reapply for certification, but not sooner than two (2) years after
204 the date on which the order of the board cancelling such
205 certification becomes final.

206 (11) Any temporary deputy sheriffs appointed as provided in
207 Section 19-25-21 shall be exempt from the requirements in this
208 section.

209 SECTION 4. This act shall take effect and be in force from
210 and after July 1, 2000.