

By: Flagg, Howell, Lott, Zuber

To: Juvenile Justice;
Appropriations

HOUSE BILL NO. 1127

1 AN ACT TO AMEND SECTION 9-1-36, MISSISSIPPI CODE OF 1972, TO
2 ALLOW COUNTY COURT JUDGES TO BE APPROPRIATED AN OFFICE ALLOWANCE;
3 TO AMEND SECTION 43-21-111, MISSISSIPPI CODE OF 1972, TO PROVIDE
4 THAT STATE FUNDING TO A COUNTY SHALL BE CONTINGENT ON A COUNTY'S
5 REGULAR YOUTH COURT REFEREE COMPLYING WITH ANNUAL TRAINING
6 REQUIREMENTS; TO AMEND SECTION 43-21-123, MISSISSIPPI CODE OF
7 1972, TO PROVIDE FOR STATE AND COUNTY CONTRIBUTIONS TO THE YOUTH
8 COURT BUDGET; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 9-1-36, Mississippi Code of 1972, is
11 amended as follows:[LH1]

12 9-1-36. (1) Each circuit judge, county judge and chancellor
13 shall receive an office operating allowance for the expenses of
14 operating the office of such judge, including retaining a law
15 clerk, legal research, stenographic help, stationery, stamps,
16 furniture, office equipment, telephone, office rent and other
17 items and expenditures necessary and incident to maintaining the
18 office of judge. The allowance shall be paid only to the extent
19 of actual expenses incurred by any such judge as itemized and
20 certified by such judge to the Supreme Court and then in an amount
21 of Four Thousand Dollars (\$4,000.00) per annum; however, such
22 judge may expend sums in excess thereof from the compensation
23 otherwise provided for his office. No part of this expense or
24 allowance shall be used to pay an official court reporter for
25 services rendered to said court.

26 (2) In addition to the amounts provided for in subsection
27 (1), there is * * * created a separate office allowance fund for
28 the purpose of providing support staff to judges. This fund shall
29 be managed by the Administrative Office of Courts.

30 (3) Each judge who desires to employ support staff after
31 July 1, 1994, shall make application to the Administrative Office
32 of Courts by submitting to the Administrative Office of Courts a
33 proposed personnel plan setting forth what support staff is deemed
34 necessary. This plan may be submitted by a single judge or by any
35 combination of judges desiring to share support staff. In the
36 process of the preparation of the plan, the judges, at their
37 request, may receive advice, suggestions, recommendations and
38 other assistance from the Administrative Office of Courts. The
39 Administrative Office of Courts must approve the positions, job
40 descriptions and salaries before the positions may be filled. The
41 Administrative Office of Courts shall not approve any plan which
42 does not first require the expenditure of the funds in the support
43 staff fund for compensation of any of the support staff before
44 expenditure is authorized of county funds for that purpose. Upon
45 approval by the Administrative Office of Courts, the judge or
46 judges may appoint the employees to the position or positions, and
47 each employee so appointed will work at the will and pleasure of
48 the judge or judges who appointed him but will be employees of the
49 Administrative Office of Courts. Upon approval by the
50 Administrative Office of Courts, the appointment of any support
51 staff shall be evidenced by the entry of an order on the minutes
52 of the court. When support staff is appointed jointly by two (2)
53 or more judges, the order setting forth any appointment shall be
54 entered on the minutes of each participating court.

55 (4) The Administrative Office of Courts shall develop and
56 promulgate minimum qualifications for the certification of court
57 administrators. Any court administrator appointed on or after
58 October 1, 1996, shall be required to be certified by the
59 Administrative Office of Courts.

60 (5) Support staff shall receive compensation as provided by
61 personnel policies established by the Administrative Office of
62 Courts; however, beginning July 1, 1994, the Administrative Office

63 of Courts shall allocate from the support staff fund an amount of
64 Forty Thousand Dollars (\$40,000.00) per fiscal year (July 1
65 through June 30) per judge for whom support staff is approved for
66 the funding of support staff assigned to a judge or judges. Any
67 employment under this subsection shall be subject to the
68 provisions of Section 25-1-53.

69 The Administrative Office of Courts may approve expenditures
70 from the fund for additional equipment for support staff appointed
71 under this section in any year in which the allocation per judge
72 is sufficient to meet the equipment expense after provision for
73 the compensation of the support staff.

74 (6) For the purposes of this section, the following terms
75 shall have the meaning ascribed herein unless the context clearly
76 requires otherwise:

77 (a) "Judges" means circuit judges, county judges and
78 chancellors, or any combination thereof;

79 (b) "Support staff" means court administrators, law
80 clerks, legal research assistants or secretaries, resource
81 administration or case managers, or both, appointed by a youth
82 court judge or any combination thereof, but shall not mean school
83 attendance officers;

84 (c) "Compensation" means the gross salary plus all
85 amounts paid for benefits or otherwise as a result of employment
86 or as required by employment; * * * however, * * * only salary
87 earned for services rendered shall be reported and credited for
88 Public Employees' Retirement System purposes. Amounts paid for
89 benefits or otherwise, including reimbursement for travel
90 expenses, shall not be reported or credited for retirement
91 purposes.

92 (7) Title to all tangible property, excepting stamps,
93 stationery and minor expendable office supplies, procured with
94 funds authorized by this section, shall be and forever remain in
95 the State of Mississippi to be used by the * * * judge * * *

96 during the term of his office and * * * by his successors during
97 their terms of office.

98 (8) Any * * * judge * * * who did not have a primary office
99 provided by the county on March 1, 1988, shall be allowed an
100 additional Four Thousand Dollars (\$4,000.00) per annum to defray
101 the actual expenses incurred * * * in maintaining an office;
102 however, any * * * judge * * * who had a primary office provided
103 by the county on March 1, 1988, and who vacated the office space
104 after such date for a legitimate reason, as determined by the
105 Department of Finance and Administration, shall be allowed the
106 additional office expense allowance provided under this
107 subsection.

108 (9) The Supreme Court, through the Administrative Office of
109 Courts, shall submit to the Department of Finance and
110 Administration the itemized and certified expenses for office
111 operating allowances that are directed to the court under this
112 section.

113 (10) The Supreme Court, through the Administrative Office of
114 Courts, shall have the power to adopt rules and regulations
115 regarding the administration of the office operating allowance
116 authorized under this section.

117 SECTION 2. Section 43-21-111, Mississippi Code of 1972, is
118 amended as follows:

119 43-21-111. (1) In any county not having a county
120 court, * * * the judge may appoint as provided in Section
121 43-21-123 regular or special referees who shall be attorneys at
122 law and members of the bar in good standing to act in cases
123 concerning children within the jurisdiction of the youth court,
124 and a regular referee shall hold office until removed by the
125 judge. The requirement that regular or special referees appointed
126 under this subsection be attorneys shall apply only to regular or
127 special referees who were not first appointed regular or special
128 referees before July 1, 1991.

129 (2) Any referee appointed under subsection (1) of this
130 section or subsection (3) of Section 43-21-107 shall be required
131 to receive judicial training approved by the Mississippi Judicial
132 College and shall be required to receive regular annual continuing
133 education in the field of juvenile justice. The * * * amount of
134 judicial training and annual continuing education which shall be
135 satisfactory to fulfill the requirements of this section shall
136 conform with the amount prescribed by the Rules and Regulation for
137 Mandatory Continuing Judicial Education promulgated by the Supreme
138 Court. The Administrative Office of Courts shall maintain a roll
139 of referees appointed under this section, shall enforce the
140 provisions of this subsection, shall maintain records on all such
141 referees regarding such training and shall not disburse funds to
142 any county for the budget of a youth court referee or municipal
143 youth court referee who is not in compliance with the judicial
144 training requirements. Should a referee miss two (2) consecutive
145 training sessions sponsored or approved by the Mississippi
146 Judicial College as required by this subsection or fail to attend
147 one (1) such training session within six (6) months of their
148 initial appointment as a referee, the referee shall be
149 disqualified to serve and be immediately removed as a referee and
150 another member of the bar shall be appointed as provided in this
151 section.

152 (3) The judge may direct that hearings in any case or class
153 of cases be conducted in the first instance by the referee. The
154 judge may also delegate his own administrative responsibilities to
155 the referee.

156 (4) All hearings authorized to be heard by a referee shall
157 proceed in the same manner as hearings before the youth court
158 judge. A referee shall possess all powers and perform all the
159 duties of the youth court judge in the hearings authorized to be
160 heard by the referee.

161 (5) An order entered by the referee shall be mailed

162 immediately to all parties and their counsel. A rehearing by the
163 judge shall be allowed if any party files a written motion for a
164 rehearing or on the court's own motion within three (3) days after
165 notice of referee's order. The youth court may enlarge the time
166 for filing a motion for a rehearing for good cause shown. Any
167 rehearing shall be upon the record of the hearing before the
168 referee, but additional evidence may be admitted in the discretion
169 of the judge. A motion for a rehearing shall not act as a
170 supersedeas of the referee's order, unless the judge shall so
171 order.

172 (6) The salary for the referee shall be * * * as provided in
173 Section 43-21-123 * * *.

174 (7) * * * The judge of the chancery court may appoint a
175 suitable person as referee to two (2) or more counties within his
176 district * * *.

177 SECTION 3. Section 43-21-123, Mississippi Code of 1972, is
178 amended as follows:

179 43-21-123. (1) Except for expenses provided by state
180 funds * * * or other monies, or both, the board of supervisors, or
181 the municipal governing board in which there is a municipal youth
182 court, shall adequately provide funds for the operation of the
183 youth court division of the appropriate court in conjunction with
184 the regular * * * court budget * * *. In preparation for the
185 funding, on an annual basis at the time requested, the youth court
186 judge, or regular youth court referee or administrator shall
187 prepare and submit to the board of supervisors, or the municipal
188 governing board of the youth court wherever the youth court is a
189 municipal court, an annual budget which will identify the number,
190 staff position, title and amount of annual or monthly compensation
191 of each position as well as provide for other expenditures
192 necessary to the functioning and operation of the youth court.
193 When the budget of the youth court or youth court judge is
194 approved by the board of supervisors of the governing authority of

195 the municipality, then the youth court or youth court judge,
196 regular youth court referee or administrator may employ such
197 persons as provided in the budget from time to time.

198 (2) The board of supervisors of any county in which there is
199 located a youth court, and the governing authority of any
200 municipality in which there is located a municipal youth court,
201 are each authorized to reimburse the youth court referees and
202 other county-employed youth court employees or personnel for
203 reasonable travel and expenses incurred in the performance of
204 their duties and in attending educational meetings offering
205 professional training to such persons as budgeted.

206 (3) (a) To ensure that all youth courts not served by a
207 county court shall have sufficient support funds to carry on the
208 business of the youth court, the Administrative Office of Courts
209 shall establish a formula for providing state support, payable
210 from the General Fund for the support of such youth courts. The
211 youth court support funds shall be available to each regular youth
212 court referee and municipal youth court referee, as long as the
213 senior chancellor does not elect to employ a youth court
214 administrator as set forth in subsection (3)(b) of this section,
215 and each regular youth court referee shall have the individual
216 discretion to appropriate those funds as expense monies to assist
217 in hiring secretarial staff and acquiring materials incident to
218 carrying on the business of the court within the referee's private
219 practice of law or may direct the use of those funds through the
220 county budget for court support supplies or services. The regular
221 youth court referee and municipal youth court referee shall be
222 accountable for assuring through private or county employees the
223 proper preparation and filing of all necessary tracking and other
224 documentation attendant to the administration of the youth court.
225 The formula developed by the Administrative Office of Courts for
226 providing youth court support funds shall be reviewed by the
227 Administrative Office of Courts every two (20 years to ensure that

228 the youth court support funds provided under this section are
229 proportional to each youth court's case load. Approval of the use
230 of any of the youth court support funds made under this subsection
231 shall be made by the Administrative Office of Courts in accordance
232 with procedures established by the Administrative Office of
233 Courts.

234 (b) In lieu of accepting any referee support funds as
235 provided in paragraph (b) of this subsection, when permitted by
236 the Administrative Office of Courts, the senior chancellors of
237 Chancery Districts One, Two, Three, Four, Six, Seven, Nine, Ten,
238 Thirteen, Fourteen, Fifteen and Eighteen may appoint a youth court
239 administrator for the district whose responsibility will be to
240 perform all reporting, tracking, and other duties of a court
241 administrator for all youth courts in the district which are under
242 the chancery court system. The Administrative Office of Courts
243 shall allocate to each chancellor so electing a sum not to exceed
244 Thirty Thousand Dollars (\$30,000.00) per year to cover the salary
245 fringe benefits and equipment of such administrator, and an
246 additional sum not to exceed One Thousand Nine Hundred Dollars
247 (\$1,900.00) to cover travel expense of the administrator.

248 SECTION 4. All new programs authorized under House Bill No.
249 _____, 2000 Regular Session, shall be subject to the availability
250 of funds specifically appropriated therefor by the Legislature
251 during the 2000 Regular Session or any subsequent session. It is
252 the intent of the Legislature that this act shall be codified but
253 that no amendment to a code section or repeal of a code section
254 enacted by House Bill No. _____, 2000 Regular Session, shall take
255 effect until the Legislature has funded any new programs
256 authorized under this act by line item appropriation, the line
257 item appropriation to be certified by the Legislative Budget
258 Office to the Secretary of State.

259 SECTION 5. This act shall take effect and be in force from
260 and after July 1, 2000.