

By: Ross

To: Judiciary

SENATE BILL NO. 3077

1 AN ACT TO AMEND SECTION 73-3-37, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY AN ATTORNEY'S RESPONSIBILITY TO REPRESENT AN INDIVIDUAL  
3 INSURED REGARDLESS OF WHETHER UNDERTAKEN UNDER A RESERVATION OF  
4 RIGHTS BY THE CARRIER; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 73-3-37, Mississippi Code of 1972, is  
7 amended as follows:[CSQ1]

8 73-3-37. It is the duty of attorneys:

9 (a) To support the Constitution and laws of this state  
10 and of the United States;

11 (b) To maintain the respect due to courts of justice  
12 and judicial officers;

13 (c) To employ for the purpose of maintaining the causes  
14 confided to them, such means only as are consistent with truth,  
15 and never to seek to mislead by any artifice or false statement of  
16 the law;

17 (d) To maintain inviolate the confidence and, at every  
18 peril to themselves, to preserve the secrets of their clients;

19 (e) To abstain from all offensive personalities, and to  
20 advance no fact prejudicial to the honor or reputation of a party  
21 or witness, unless required by the justice of the cause with which  
22 they are charged;

23 (f) To encourage neither the commencement nor  
24 continuance of an action or proceeding from any motives of passion  
25 or personal interest;

26 (g) Never to reject, for any consideration personal to  
27 themselves, the cause of the defenseless or oppressed;

28           (h) When an attorney is offered employment by an  
29 insurance carrier to defend a lawsuit under the terms of a policy  
30 of insurance, the following apply:

31           (i) The attorney's representation will be of the  
32 individual insured;

33           (ii) The attorney may share information with the  
34 insurance carrier only insofar as the information is not  
35 detrimental to his client, the insured;

36           (iii) The attorney can represent the individual  
37 insured as to all claims in the lawsuit arising under the same  
38 facts, even if the claims are not covered by the policy, and even  
39 under a reservation of rights by the insurance carrier; and

40           (iv) The insurance carrier has the right to have  
41 its own counsel present at all proceedings, including discovery,  
42 subject to the requirements of this paragraph (h).

43           SECTION 2. This act shall take effect and be in force from  
44 and after July 1, 2000.