

By: Representative Compretta

To: Judiciary A

HOUSE BILL NO. 864

1 AN ACT TO AMEND SECTION 7-5-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT INVESTIGATORS OF THE OFFICE OF THE ATTORNEY GENERAL
3 ARE LAW ENFORCEMENT OFFICERS; TO AUTHORIZE RETIRING INVESTIGATORS
4 TO RETAIN A SIDEARM; TO AMEND SECTIONS 45-6-3 AND 99-3-1,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
6 ACT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 7-5-7, Mississippi Code of 1972, is
9 amended as follows:

10 7-5-7. The Governor may engage counsel to assist the
11 Attorney General in cases to which the state is a party when, in
12 his opinion, the interest of the state requires it, subject to the
13 action of the Legislature in providing compensation for such
14 services.

15 The Attorney General is hereby authorized and empowered to
16 appoint and employ special counsel, on a fee or salary basis, to
17 assist the Attorney General in the preparation for, prosecution,
18 or defense of any litigation in the state or federal courts or
19 before any federal commission or agency in which the state is a
20 party or has an interest.

21 The Attorney General may designate such special counsel as
22 special assistant attorney general, and may pay such special
23 counsel reasonable compensation to be agreed upon by the Attorney
24 General and such special counsel, in no event to exceed recognized
25 bar rates for similar services.

26 The Attorney General may also employ special investigators on
27 a per diem or salary basis, to be agreed upon at the time of
28 employment, for the purpose of interviewing witnesses,

29 ascertaining facts, or rendering any other services that may be
30 needed by the Attorney General in the preparation for and
31 prosecution of suits by or against the State of Mississippi, or in
32 suits in which the Attorney General is participating on account of
33 same being of statewide interest. Investigators shall be
34 designated law enforcement officers and shall be subject to the
35 training requirements or the Law enforcement Officers' Training
36 Academy. Each investigator who retires under the Public
37 Employees' Retirement System shall be allowed to retain, as his
38 personal property, one (1) sidearm which was issued by the
39 Attorney General.

40 The Attorney General may pay travel and other expenses of
41 employees and appointees made hereunder in the same manner and
42 amount as authorized by law for the payment of travel and expenses
43 of state employees and officials.

44 The compensation of appointees and employees made hereunder
45 shall be paid out of the Attorney General's Contingent Fund, or
46 out of any other funds appropriated to the Attorney General's
47 Office.

48 SECTION 2. Section 45-6-3, Mississippi Code of 1972, is
49 amended as follows:

50 45-6-3. For the purposes of this chapter, the following
51 words shall have the meanings ascribed herein, unless the context
52 shall otherwise require:

53 (a) "Commission" means the Criminal Justice Planning
54 Commission.

55 (b) "Board" means the Board on Law Enforcement Officer
56 Standards and Training.

57 (c) "Law enforcement officer" means any person
58 appointed or employed full time by the state or any political
59 subdivision thereof, who is duly sworn and vested with authority
60 to bear arms and make arrests, and whose primary responsibility is
61 the prevention and detection of crime, the apprehension of

62 criminals and the enforcement of the criminal and traffic laws of
63 this state and/or the ordinances of any political subdivision
64 thereof. The term "law enforcement officer" also includes
65 employees of the Department of Corrections who are designated as
66 law enforcement officers by the Commissioner of Corrections
67 pursuant to Section 47-5-54 and investigators of the Office of the
68 Attorney General. However, the term "law enforcement officer"
69 shall not mean or include any elected official or any person
70 employed as an assistant to or investigator for a district
71 attorney in this state, compliance agents of the State Board of
72 Pharmacy, or any person or elected official who, subject to
73 approval by the board, provides some criminal justice related
74 services for a law enforcement agency. As used in this paragraph
75 "appointed or employed full time" means any person who is
76 receiving gross compensation for his duties as a law enforcement
77 officer of One Hundred Twenty-five Dollars (\$125.00) or more per
78 week or Five Hundred Dollars (\$500.00) or more per month.

79 (d) "Part-time law enforcement officer" shall mean any
80 person appointed or employed in a part-time, reserve or auxiliary
81 capacity by the state or any political subdivision thereof who is
82 duly sworn and vested with authority to bear arms and make
83 arrests, and whose primary responsibility is the prevention and
84 detection of crime, the apprehension of criminals and the
85 enforcement of the criminal and traffic laws of this state or the
86 ordinances of any political subdivision thereof. However, the
87 term "part-time law enforcement officer" shall not mean or include
88 any person or elected official who, subject to approval by the
89 board, provides some criminal justice related services for a law
90 enforcement agency. As used in this paragraph "appointed or
91 employed" means any person who is performing such duties at any
92 time whether or not they receive any compensation for duties as a
93 law enforcement officer provided that such compensation is less

94 than One Hundred Twenty-five Dollars (\$125.00) per week or Five
95 Hundred Dollars (\$500.00) per month.

96 (e) "Law enforcement trainee" shall mean any person
97 appointed or employed in a full-time, part-time, reserve or
98 auxiliary capacity by the state or any political subdivision
99 thereof for the purposes of completing all the selection and
100 training requirements established by the board to become a law
101 enforcement officer or a part-time law enforcement officer. Such
102 individuals shall not have the authority to use force, bear arms,
103 make arrests or exercise any of the powers of a peace officer
104 unless under the direct control and supervision of a law
105 enforcement officer.

106 SECTION 3. Section 99-3-1, Mississippi Code of 1972, is
107 amended as follows:

108 99-3-1. (1) Arrests for crimes and offenses may be made by
109 the sheriff or his deputy or by any constable or conservator of
110 the peace within his county, or by any marshal or policeman of a
111 city, town or village within the same, or by investigation of the
112 office of the Attorney General, or by any United States Marshal or
113 Deputy United States Marshal, or, when in cooperation with local
114 law enforcement officers, by any other federal law enforcement
115 officer who is employed by the United States government,
116 authorized to effect an arrest for a violation of the United
117 States Code, and authorized to carry a firearm in the performance
118 of his duties. Private persons may also make arrests.

119 (2) (a) Any person authorized by a court of law to
120 supervise or monitor a convicted offender who is under an
121 intensive supervision program may arrest the offender when the
122 offender is in violation of the terms or conditions of the
123 intensive supervision program, without having a warrant if:

124 (i) The arrest is authorized or ordered by a judge
125 of the court;

126 (ii) The person making the arrest has been trained
127 at the Law Enforcement Officers Training Academy established under
128 Section 45-5-1 et seq. or at a course approved by the Board on Law
129 Enforcement Officer Standards and Training; and

130 (iii) The judge identifies the person making the
131 arrest in his order and a copy of the order is served upon the
132 person being arrested.

133 (b) For the purposes of the subsection, the term
134 "intensive supervision program" means an intensive supervision
135 program of the Department of Corrections as described in Section
136 47-5-1001 et seq., of any similar program authorized by a court
137 for offenders who are not under jurisdiction of the Department of
138 Corrections.

139 SECTION 4. This act shall take effect and be in force from
140 and after July 1, 2001.