HOUSE BILL NO. 1436


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

SECTION 1. Section 25-3-35, Mississippi Code of 1972, is amended as follows:

25-3-35. (1) The annual salaries of the following judges are fixed as follows, to begin at the commencement of the next term of office immediately succeeding the existing term:

Chief Justice of the Supreme Court.............. $104,900.00
Presiding Justice of the Supreme Court......... 102,900.00
Associate Justices of the Supreme Court, each.... 102,300.00

However, in addition to their present official duties, there are imposed upon the Supreme Court Justices the extra duties of making a special study of existing laws and reporting to each regular session of the Legislature such constructive suggestions as they may deem necessary for the improvement of the administration of justice, and of advising and counseling with the State Librarian in the selection of law books for purchase and use in the State Law Library, advising with the librarian thereof upon the removal from the library of any books which may be the least frequently used, and for the placing of same in a convenient location so as to provide additional space for such books and other current publications which may be more frequently used or
29 called for. For such extra services each justice, from and after
30 June 17, 1999, shall receive a sum sufficient when added to the
31 present salaries of the justices to aggregate One Hundred Four
32 Thousand Nine Hundred Dollars ($104,900.00) for the Chief Justice,
33 One Hundred Two Thousand Nine Hundred Dollars ($102,900.00) for
34 the Presiding Justice, and One Hundred Two Thousand Three Hundred
35 Dollars ($102,300.00) for Associate Justices, per annum. As each
36 existing term expires and the above-captioned salaries become
37 effective in due course, the extra duties and compensation
38 provided for shall cease.
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40 (2) The annual salaries of the judges of the Court of
41 Appeals of Mississippi are fixed as follows:
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43 Chief Judge of the Court of Appeals.............. $ 98,300.00
44 Associate Judges of the Court of Appeals, each..... 95,500.00
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46 (3) The annual salaries of the chancery and circuit court
47 judges are fixed as follows:
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49 Chancery Judges, each............................. $94,700.00
50 Circuit Judges, each............................... 94,700.00
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52 In addition to their present official duties, there are
53 imposed upon the chancery and circuit court judges the extra
54 duties of making a special study of existing laws relating to
55 trial courts and reporting to the Supreme Court of the State of
56 Mississippi such constructive suggestions as they may deem
57 necessary for the improvement of the administration of justice,
58 which shall be recommended to the Legislature by the Supreme Court
59 in the manner provided by law. The judges shall advise and
60 supervise in the purchase of law books for the libraries of each
61 district, and shall study and evaluate the inventory of books and
62 facilities now existing in the libraries of each district to
63 effect the removal and relocation of obsolete publications so as
64 to provide additional space for those books and current
65 publications more frequently used. The judges shall study the
66 existing rules promulgated by the circuit and chancery court
judicial associations governing the operation of chancery and
 circuit courts, and revise the same pursuant to existing laws. For such extra services each judge, from and after June 17, 1999,
 shall receive a sum sufficient when added to the present salaries
 of the judges to aggregate Ninety-four Thousand Seven Hundred
 Dollars ($94,700.00) per annum for each judge. Upon the
 expiration of the existing term, the above-captioned salaries
 become effective in due course, and the extra duties and
 compensation provided for shall cease.

(4) The Supreme Court shall prepare a payroll for chancery
 judges and circuit judges and submit such payroll to the
 Department of Finance and Administration.

(5) The annual salary of the full-time district attorneys
 shall be Ninety-four Thousand Seven Hundred Dollars ($94,700.00).

(6) The annual salary of the full-time legal assistants
 shall be not less than Fifteen Thousand Dollars ($15,000.00) nor
 more than Sixty-seven Thousand Five Hundred Dollars ($67,500.00),
 as established by the district attorney.

SECTION 2. Section 25-31-8, Mississippi Code of 1972, is
brought forward as follows:

25-31-8. From and after July 1, 1979, in all circuit court
districts in this state existing now or hereafter created, the
district attorney shall receive from sums appropriated for such
purpose from the General Fund or any special fund of the State of
Mississippi, an office operating allowance for the necessary
expenses of operating the office of the district attorney,
including stenographic help, and other items and expenditures
necessary and incident to the investigation of criminal cases, the
general expenses of the office of the investigation of criminal
cases, the general expenses of the office of the district attorney
for preparing and/or trying felony cases and all other cases
requiring the services of the district attorney, the sum of
Twenty-six Thousand Dollars ($26,000.00) for each district, and an
additional Three Thousand Five Hundred Dollars ($3,500.00) for each assistant authorized by Section 25-31-5(1) as of January 1, 1996. All expenditures made from said office operating allowances shall be upon written requisition of the duly elected district attorney to the State Auditor, as otherwise provided by law. The district attorney may delegate to the board of supervisors of any county in his district the responsibility and authority to employ and set the salary of not more than one (1) employee for the office of such district attorney, such salary to be paid as other expenditures are paid from the funds provided by this section. Such employee shall be deemed to be appointed and employed by the board of supervisors and the salary shall not be deemed to be a pecuniary benefit provided by the district attorney's office.

SECTION 3. Section 25-31-10, Mississippi Code of 1972, is brought forward as follows:

25-31-10. (1) Any district attorney may appoint a full-time criminal investigator.

(2) The district attorneys of the Third, Fifth, Ninth, Tenth, Eleventh, Twelfth, Fifteenth, Sixteenth, Seventeenth and Twentieth Circuit Court Districts may appoint one (1) additional full-time criminal investigator for a total of two (2) full-time criminal investigators.

(3) The district attorneys of the First, Second, Fourth and Seventh and Nineteenth Circuit Court Districts may appoint two (2) additional full-time criminal investigators for a total of three (3) full-time criminal investigators.

(4) No district attorney or assistant district attorney shall accept any private employment, civil or criminal, in any matter investigated by such criminal investigators.

(5) The full and complete compensation for all public duties rendered by said criminal investigators shall be not more than Forty-five Thousand Dollars ($45,000.00) per annum, to be determined at the discretion of the district attorney based upon
the qualifications, education and experience of the criminal
investigator, plus necessary travel and other expenses, to be paid
in accordance with Section 25-31-8. However, the maximum salary
under this subsection for a criminal investigator who has a law
degree may be supplemented by the district attorney from other
available funds, but not to exceed the maximum salary for a legal
assistant to a district attorney.

(6) Any criminal investigator may be designated by the
district attorney to attend the Law Enforcement Officers Training
Program set forth in Section 45-6-1 et seq., Mississippi Code of
1972. The total expenses associated with attendance by criminal
investigators at the Law Enforcement Officers Training Program
shall be paid out of the funds of the appropriate district
attorney.

SECTION 4. Section 25-31-11, Mississippi Code of 1972, is
brought forward as follows:

25-31-11. (1) It shall be the duty of the district attorney
to represent the state in all matters coming before the grand
juries of the counties within his district and to appear in the
circuit courts and prosecute for the state in his district all
criminal prosecutions and all civil cases in which the state or
any county within his district may be interested; but if two (2)
or more counties are adversely interested, the district attorney
shall not represent either. Any district attorney may also
institute and prosecute to final judgment or decree any case in
the name of the state against any person or corporation for any
violation of the Constitution or the laws of this state, in order
to enforce any penalties, fines or forfeitures imposed by law in
any court of his district having jurisdiction, with like effect as
if the suit was instituted by the Attorney General.

(2) The district attorney may transfer any case handled by
him to a county prosecuting attorney when charges in such case no
longer constitute a felony.
The validity of any judgment or sentence shall not be affected by the division of jurisdiction under this section, and no judgment or sentence may be reversed or modified upon the basis that the case was not processed according to this section.

A county prosecuting attorney or municipal prosecuting attorney may be designated by the district attorney to appear on behalf of the district attorney pursuant to an agreement relating to appearances in certain courts or proceedings in the county of the county prosecuting attorney or in the municipality of the municipal prosecuting attorney. Such agreement shall be filed with the circuit court clerk of any county where such agreement shall be operative. Such agreement shall be binding upon the district attorney and county prosecuting attorney or municipal prosecuting attorney until dissolved by either of them in writing upon five (5) days' notice.

Where any statute of this state confers a jurisdiction, responsibility, duty, privilege or power upon a county attorney or county prosecuting attorney, either solely, jointly or alternatively with a district attorney, such county prosecuting attorney shall be responsible for the prosecution, handling, appearance, disposition or other duty conferred by such statute. Any such provision shall not be construed to bestow such responsibility, jurisdiction or power upon the district attorney where there is no elected county prosecuting attorney, and any such matter shall be handled pursuant to Section 19-3-49, Mississippi Code of 1972.

The district attorney or his designated assistant, or the county prosecuting attorney or his designated assistant, shall assist the Attorney General in appeals from his district to the Mississippi Supreme Court and in other post judgment proceedings, and shall appear for oral argument before the Supreme Court when directed by the Supreme Court.
(7) The several district attorneys shall submit reports of revenues and expenditures and shall submit budget requests as required for State General Fund agencies. For purposes of budget control, the several offices of district attorney shall be considered General Fund agencies and the budget and accounts of the several offices, including salaries, travel expenses, office expenses and any other expenditures or revenues, shall be consolidated for all districts as far as such consolidation is practical.

All revenue or funds allocated or expended by a district attorney, whether such funds are appropriated from state funds, or whether such funds are received from county funds, grants or otherwise, shall be reported to the Legislative Budget Office.

SECTION 5. Section 25-31-13, Mississippi Code of 1972, is brought forward as follows:

25-31-13. The district attorney shall attend the deliberations of the grand jury whenever he may be required by the grand jury, and shall give the necessary information as to the law governing each case, in order that the same may be presented in the manner required by law.

SECTION 6. Section 25-31-15, Mississippi Code of 1972, is brought forward as follows:

25-31-15. All accounts of a public nature, before they are allowed by the circuit court, shall be presented to the district attorney; and his opinion concerning the validity of the same, and whether the same should be allowed or disallowed, shall be obtained in writing and presented to the court.

SECTION 7. Section 25-31-17, Mississippi Code of 1972, is brought forward as follows:

25-31-17. It shall be the duty of the district attorney, when requested by the county depository or the board of supervisors, or the clerk thereof, to give his opinion in writing upon all cases concerning the revenue or expenses of the county,
and with the approval of the Attorney General to institute and
prosecute to effect, before the proper court, all persons indebted
to the state or any county within his district.

SECTION 8. Section 25-31-19, Mississippi Code of 1972, is
brought forward as follows:

25-31-19. The several district attorneys, with the Attorney
General, are hereby authorized to institute or defend any suits
arising out of any act or order of the Tax Commission or the
Public Service Commission affecting the laws and revenues of the
state, and are also clothed with such other authority as is
conferred upon them at common law.

SECTION 9. Section 25-31-21, Mississippi Code of 1972, is
brought forward as follows:

25-31-21. If, at the time of impaneling the grand jury in
any circuit court, the district attorney be absent or unable to
perform his duties or, if after impaneling of the grand jury, the
district attorney be absent or unable to perform his duties or be
disqualified, the court shall forthwith appoint some attorney at
law to act for the state in the place of the district attorney
during his absence or inability or disqualification, and the
person appointed shall have the power to discharge all the duties
of the office during the absence or inability or disqualification
of the district attorney, and shall receive a reasonable
compensation for his services, to be allowed by the court and
certified to the auditor, who shall issue his warrant therefor.
Such allowance shall be deducted from the salary of the district
attorney, and shall not exceed the amount of the salary of the
district attorney for the number of days allotted by law for the
term of the court at which such appointees shall act.

SECTION 10. Section 25-31-23, Mississippi Code of 1972, is
brought forward as follows:

25-31-23. The district attorney, at each term of the circuit
court, shall carefully examine the minutes of the preceding terms
and the execution docket, to see that executions have been issued
for all fines, penalties, and forfeitures adjudged at such terms,
and that the same have been properly proceeded on and returned,
and what fines, penalties, and forfeitures have been collected;
and he shall, at the close of every term, make out a statement of
all fines, forfeitures, and penalties adjudged and made final at
such term; and also of all fines, penalties, and forfeitures
collected or received by the sheriff or other officer, stating
each case and the amount, and shall deliver the same to the clerk
of the board of supervisors of the county. He shall proceed
against the officers and their sureties for any neglect of duty of
which they may be guilty.

SECTION 11. Section 25-31-25, Mississippi Code of 1972, is
brought forward as follows:

25-31-25. When it may be necessary and proper for the
enforcement or collection of any judgment or debt in favor of the
state, or any officer thereof in his official capacity, or of any
county, the district attorney with the approval of the Attorney
General shall institute and prosecute, in behalf of the creditor,
a suit or suits to set aside and annul any conveyance or other
device fraudulently made by the debtor, or any one for him, to
hinder, delay, or defraud the creditor.

SECTION 12. Section 25-31-27, Mississippi Code of 1972, is
brought forward as follows:

25-31-27. No district attorney of this state, without the
consent in writing of the Attorney General, shall institute or
prosecute any civil suit for a violation of the anti-trust
statutes of this state; and no court shall take cognizance of any
such suit without such written consent of the Attorney General.

SECTION 13. Section 25-31-29, Mississippi Code of 1972, is
brought forward as follows:

25-31-29. The district attorneys of the several circuit
court districts in the State of Mississippi shall furnish the
superintendent of the Mississippi State Penitentiary and the
Probation and Parole Board, within fifteen (15) days after
adjournment of each term of court, a written report on each person
sentenced by the court for a term in the State Penitentiary,
showing therein a summary of facts of the case for which he is
serving sentence, pertinent circumstances of his life, the
antecedents of the violation of the law because of which he has
been committed to the Penitentiary, and his prior training and
employment as available to the district attorney at the time of
conviction, including prior convictions, results of mental
examinations, and conditions under which arrest was made.

SECTION 14. Section 25-31-31, Mississippi Code of 1972, is
brought forward as follows:

25-31-31. (1) In any circuit court district bordering on
the Gulf Coast wherein U.S. Highway 90 and U.S. Highway 49
intersect, there is hereby created and established the Office of
Criminal Records of such district or districts, the affairs of
which office shall be managed and controlled by a custodian to be
appointed by the senior circuit judge of the district or
districts, said appointment to be approved by the district
attorney of said district or districts. Said custodian shall be
directly responsible to the district attorney and may be removed
only by the unanimous consent of the senior circuit judge and the
district attorney, and in case of a controversy between said
senior circuit judge and district attorney as to the removal of
said custodian, then the circuit clerk of said district or
districts shall decide the issue.

(2) It shall be the duty of said custodian to perform the
duties of maintaining all records of outstanding capiases issued
on indictments returned in the circuit court of said district or
districts, and to assist the district attorney in the collections
of all fines and forfeitures due, in accordance with the duties
imposed upon the district attorney’s office in Section 25-31-23.
The custodian shall be an adult resident citizen of said district or districts, and shall in addition to other duties imposed herein be required to assist in the preparation of the grand jury dockets, the record for extradition of criminals throughout the State of Mississippi, the coordination of law enforcement problems by and between the sheriffs' offices and the various municipalities, constables, military police, and other peace officers of said district or districts, and to assist all said peace officers, under the direction of the duly elected district attorney of said district or districts, and the county attorneys thereof in investigation of criminal cases and the coordination of the work of investigation between local, state, and federal officers.

(3) It shall be the duty of the person so appointed to assist in the orderly transfer under the direction of the district attorney's office of all criminal records whenever there shall be a change in administration in the sheriffs' offices so as to effect the continuity of the prosecution on the part of the State of Mississippi, and to continue the pursuit of those persons charged with crimes within the said district or districts who have not been apprehended and returned for prosecution and punishment.

(4) The annual salary of such custodian shall be fixed by a majority of the boards of supervisors of the counties composing such district or districts and shall not exceed the annual salary allowed to criminal investigators in the county, payable monthly from the general fund of each county composing such district or districts in proportion to the amount of criminal business and uniform reciprocal support cases originating in each county. The boards of supervisors may pay such other expenses to effectuate the purposes of this section as they may deem necessary to public justice. Said expenses shall be upon requisition of the district attorney, payable in the discretion of the boards.
(5) It is the purpose and intent of this section to enable the collection of fines and forfeitures, as well as to coordinate the orderly investigation, apprehension, prosecution, sentence, and punishment of those persons charged with crimes within such district or districts.

(6) The records compiled by the office created hereunder shall be the property of the district and shall be transferred by the district attorney to his successor in office.

SECTION 15. Section 25-31-33, Mississippi Code of 1972, is brought forward as follows:

25-31-33. The board of supervisors of any county having a population in excess of two hundred thousand (200,000) according to the federal decennial census of 1970 shall contribute a sum equal to Four Thousand Five Hundred Dollars ($4,500.00) per year, payable monthly, to supplement the salary of the district attorney of that county, provided that he serves full time; and shall contribute a sum equal to Three Thousand Dollars ($3,000.00) per year, payable monthly, per full-time legal assistant to supplement the salary of each full-time legal assistant to the district attorney of that county.

The board of supervisors of any Class 1 county bordering on the Gulf of Mexico and having two (2) judicial districts shall contribute a sum equal to Four Thousand Five Hundred Dollars ($4,500.00) per year, payable monthly, to supplement the salary of the district attorney of that county provided that he serves full time; and shall contribute a sum equal to Five Thousand Dollars ($5,000.00) per year, payable monthly, to supplement the salary of each full-time legal assistant to the district attorney of that county.

SECTION 16. Section 25-31-35, Mississippi Code of 1972, is brought forward as follows:

25-31-35. (1) Except as otherwise provided in subsection (2) of this section, it shall be unlawful and shall constitute a
high misdemeanor for any district attorney to hold himself out to
the general public or otherwise as being engaged in the private
practice of law, whether or not he anticipates receiving any form
of remuneration from his clients or any person seeking his advice.
Any district attorney who shall be found guilty of violation of
this provision shall be removed from office by the circuit judge
of the county where such violation occurred.

(2) Any person not serving as a legal assistant to the
district attorney who is appointed by the Governor to serve as
district attorney to fill a vacancy occurring in such office until
such office shall be filled by a special or regular election as
allowed to engage in the private practice of law while holding the
office of district attorney pursuant to such appointment.

SECTION 17. Section 25-31-36, Mississippi Code of 1972, is
brought forward as follows:

25-31-36. (1) Except as otherwise provided herein, no
district attorney shall engage in the private practice of law.
However, district attorneys may continue to practice for a period
of time, not to exceed six (6) months from the date of taking
office, in any of the courts so far as to enable them to bring to
a conclusion civil cases actually pending in which such district
attorneys were employed when they were appointed or elected.

(2) Any person not serving as a legal assistant to the
district attorney who is appointed by the Governor to serve as
district attorney to fill a vacancy occurring in such office until
such office shall be filled by a special or regular election as
allowed to engage in the private practice of law while holding the
office of district attorney pursuant to such appointment.

SECTION 18. Section 25-31-39, Mississippi Code of 1972, is
brought forward as follows:
25-31-39. There shall be no part-time district attorneys or part-time legal assistants to district attorneys; however, any person not serving as a legal assistant to the district attorney who is appointed by the Governor to serve as district attorney to fill a vacancy occurring in such office until such office shall be filled by a special or regular election as provided by Sections 23-15-193, 23-15-833 and 23-15-843 shall be allowed to engage in the private practice of law while holding the office of district attorney pursuant to such appointment.

SECTION 19. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 20. This act shall take effect and be in force from and after July 1, 2001, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, after July 1, 2001, this act shall take effect and be in force from and after the first day of the month immediately succeeding the month during which it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.