

By: Senator(s) Walls

To: Judiciary;
Appropriations

SENATE BILL NO. 2891

1 AN ACT TO AMEND SECTION 9-1-36, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE COUNTY COURT JUDGES AMONG THOSE FOR WHOM AN OFFICE
3 ALLOWANCE IS APPROPRIATED; TO AMEND SECTION 43-21-111, MISSISSIPPI
4 CODE OF 1972, TO PROVIDE THAT STATE FUNDING WILL BE CONTINGENT ON
5 A COUNTY'S REGULAR YOUTH COURT REFEREE COMPLYING WITH ANNUAL
6 TRAINING REQUIREMENTS; TO AMEND SECTION 43-21-123, MISSISSIPPI
7 CODE OF 1972, TO PROVIDE FOR STATE AND COUNTY CONTRIBUTIONS TOWARD
8 THE YOUTH 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:

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. Such 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 hereby 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. Such 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 pursuant to
61 personnel policies established by the Administrative Office of
62 Courts; however, from and after July 1, 1994, the Administrative

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

69 The Administrative Office of Courts may approve expenditure
70 from the fund for additional equipment for support staff appointed
71 pursuant to this section in any year in which the allocation per
72 judge is sufficient to meet the equipment expense after provision
73 for 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 administrator and/or case managers appointed by a youth court
82 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; provided, however, that 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 thereafter by his successors.

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

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

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

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

118 43-21-111. (1) In any county not having a county
119 court, * * * the judge may appoint as provided in Section
120 43-21-123 regular or special referees who shall be attorneys at
121 law and members of the bar in good standing to act in cases
122 concerning children within the jurisdiction of the youth court,
123 and a regular referee shall hold office until removed by the
124 judge. The requirement that regular or special referees appointed
125 pursuant to this subsection be attorneys shall apply only to
126 regular or special referees who were not first appointed regular
127 or special referees prior to July 1, 1991.

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

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

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

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

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

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

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

178 43-21-123. (1) Except for expenses provided by state funds
179 and/or other monies, the board of supervisors, or the municipal
180 governing board where there is a municipal youth court, shall
181 adequately provide funds for the operation of the youth court
182 division of the appropriate court in conjunction with the
183 regular * * * court budget * * *. In preparation for said
184 funding, on an annual basis at the time requested, the youth court
185 judge, regular youth court referee or administrator shall prepare
186 and submit to the board of supervisors, or the municipal governing
187 board of the youth court wherever the youth court is a municipal
188 court, an annual budget which will identify the number, staff
189 position, title and amount of annual or monthly compensation of
190 each position as well as provide for other expenditures necessary
191 to the functioning and operation of the youth court. When the
192 budget of the youth court or youth court judge is approved by the

193 board of supervisors or the governing authority of the
194 municipality, then the youth court, youth court judge, regular
195 youth court referee or administrator may employ such persons as
196 provided in the budget from time to time.

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

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

226 every two (2) years to ensure that the youth court support funds
227 provided herein are proportional to each youth court's caseload.
228 Approval of the use of any of the youth court support funds made
229 under this subsection shall be made by the Administrative Office
230 of Courts in accordance with procedures established by the
231 Administrative Office of Courts.

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

246 SECTION 4. All new programs authorized under this Senate
247 Bill No. 2891, 2001 Regular Session, shall be subject to the
248 availability of funds specifically appropriated therefor by the
249 Legislature during the 2000 Regular Session or any subsequent
250 session. It is the intent of the Legislature that this act shall
251 be codified but that no amendment to a code section or repeal of a
252 code section enacted by this Senate Bill No. 2891, 2001 Regular
253 Session, shall take effect until the Legislature has funded any
254 new programs authorized hereunder by line item appropriation, said
255 line item appropriation to be certified by the Legislative Budget
256 Office to the Secretary of State.

257 SECTION 5. This act shall take effect and be in force from
258 and after July 1, 2001.