To: Judiciary B

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002
By: Representative Moak

HOUSE BILL NO. 445

AN ACT TO AMEND SECTIONS 19-25-21, 19-25-23 AND 45-6-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE SHERIFFS TO APPOINT A TEMPORARY DEPUTY SHERIFF; TO PROVIDE THAT SUCH TEMPORARY DEPUTY SHERIFF SHALL BE EXEMPT FROM LAW ENFORCEMENT OFFICER TRAINING REQUIREMENTS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 19-25-21, Mississippi Code of 1972, is amended as follows:

19-25-21. The minimum number of deputies having law enforcement duties for each sheriff shall be based upon the total population of his county according to the latest federal decennial census in the following categories:

(a) In counties with a total population of more than fifty thousand (50,000), the sheriff shall regularly employ a minimum of five (5) deputies having law enforcement duties;

(b) In counties with a total population of more than thirty-five thousand (35,000), and not more than fifty thousand (50,000), the sheriff shall regularly employ a minimum of four (4) deputies having law enforcement duties;

(c) In counties with a total population of more than twenty-five thousand (25,000), and not more than thirty-five thousand (35,000), the sheriff shall regularly employ a minimum of three (3) deputies having law enforcement duties;

(d) In counties with a total population of more than fifteen thousand (15,000), and not more than twenty-five thousand (25,000), the sheriff shall regularly employ a minimum of two (2) deputies having law enforcement duties;
(e) In all other counties, the sheriff shall regularly employ a minimum of one (1) deputy sheriff having law enforcement duties.

In those counties comprised of two (2) judicial districts having a total population of thirty-five thousand (35,000) or more, there shall be not less than two (2) deputies in the judicial district in which the sheriff does not reside, one (1) of whom shall be the chief deputy in charge of the office, all of whom shall be subject to the direction of the sheriff. In those counties comprised of two (2) judicial districts having a total population of less than thirty-five thousand (35,000), there shall be at least one (1) deputy in the judicial district in which the sheriff does not reside who shall be subject to the direction of the sheriff.

Each deputy sheriff who shall have law enforcement duties shall, at the expense of the county, attend and complete an appropriate curriculum in the field of law enforcement at the Mississippi Law Enforcement Officers' Academy within one (1) year from the date of his appointment, excluding those who have previously served as sheriff, or have had at least five (5) years' experience as a full-time law enforcement officer, or have previously successfully completed a course of training at the Mississippi Law Enforcement Officers' Academy or at the Jackson Police Academy. Any deputy sheriff exempted from attendance at the initial course as herein provided because of previous service as sheriff or having five (5) years' full-time law enforcement experience must have served as sheriff or obtained such experience within a period of ten (10) years prior to the date of his taking the oath of office. Any deputy sheriff exempted from attendance because of successful completion of a course of training at either of the aforementioned academies must have completed such course within five (5) years prior to the date of his taking the oath of office. Each deputy sheriff shall thereafter, on a periodic and
continuing basis, attend additional advanced courses in law enforcement at said Academy in order that each deputy sheriff will be properly informed and trained in the modern, technical advances in the field of law enforcement.

Each sheriff may appoint a temporary deputy sheriff who may not serve for more than six (6) months, and such temporary deputy sheriff shall be exempt from the training requirements provided in this section and in Section 45-6-11.

SECTION 2. Section 19-25-23, Mississippi Code of 1972, is amended as follows:

19-25-23. Each sheriff shall maintain and cause to be paid a sufficient number of regular deputies, properly trained and adequately equipped, to insure the domestic tranquility within his county. In addition thereto, each sheriff may maintain an adequate number of properly trained auxiliary deputy sheriffs and one (1) temporary deputy sheriff to be equipped, trained and paid from the general county fund. The number of said auxiliary deputies shall be approved by the board of supervisors and may be increased or reduced from time to time by said board. All regular and auxiliary deputies may serve in any other county of the state when requested by the sheriff of such county to preserve law and order therein, the expense thereof to be paid by the county in which they serve. The request shall be made to the sheriff of the county in which said deputies are located and said deputies shall remain under the control of said sheriff except to the extent delegated by said sheriff to the sheriff of the requesting county. In addition, any sheriff may loan any regular or auxiliary deputy to any law enforcement agency of the state or of any political subdivision of the state for drug enforcement purposes, the expense of the officer to be paid by the agency to which the officer is assigned.

SECTION 3. Section 45-6-11, Mississippi Code of 1972, is amended as follows:
45-6-11. (1) Law enforcement officers already serving under permanent appointment on July 1, 1981, and personnel of the division of community services under Section 47-7-9, Mississippi Code of 1972, serving on July 1, 1994, shall not be required to meet any requirement of subsections (3) and (4) of this section as a condition of continued employment; nor shall failure of any such law enforcement officer to fulfill such requirements make that person ineligible for any promotional examination for which that person is otherwise eligible. Provided, however, if any law enforcement officer certified under the provisions of this chapter leaves his employment as such and does not become employed as a law enforcement officer within two (2) years from the date of termination of his prior employment, he shall be required to comply with board policy as to rehiring standards in order to be employed as a law enforcement officer; except, that, if any law enforcement officer certified under this chapter leaves his employment as such to serve as a sheriff, he may be employed as a law enforcement officer after he has completed his service as a sheriff without being required to comply with board policy as to rehiring standards. Part-time law enforcement officers serving on or before July 1, 1998, shall have until July 1, 2001, to obtain certification as a part-time officer.

(2) Any person who has twenty (20) years of law enforcement experience and who is eligible to be certified under this section shall be eligible for recertification after leaving law enforcement on the same basis as someone who has taken the basic training course. Application to the board to qualify under this subsection shall be made no later than June 30, 1993.

(3) (a) No person shall be appointed or employed as a law enforcement officer or a part-time law enforcement officer unless that person has been certified as being qualified under the provisions of subsection (4) of this section.
(b) No person shall be appointed or employed as a law enforcement trainee by any law enforcement unit for a period to exceed two (2) years. The prohibition against the appointment or employment of a law enforcement trainee for a period not to exceed two (2) years may not be nullified by terminating the appointment or employment of such a person before the expiration of the time period and then rehiring the person for another period. Any person, who, due to illness or other events beyond his control, could not attend the required school or training as scheduled, may serve with full pay and benefits in such a capacity until he can attend the required school or training.

(c) No person shall serve as a law enforcement officer in any full-time, part-time, reserve or auxiliary capacity during a period when that person's certification has been suspended, cancelled or recalled pursuant to the provisions of this chapter.

(4) In addition to the requirements of subsections (3), (7) and (8) of this section, the board, by rules and regulations consistent with other provisions of law, shall fix other qualifications for the employment of law enforcement officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of law enforcement officers, and the board shall prescribe the means for presenting evidence of fulfillment of these requirements. Additionally, the board shall fix qualifications for the appointment or employment of part-time law enforcement officers to essentially the same standards and requirements as law enforcement officers. The board shall develop and implement a part-time law enforcement officer training program that meets the same performance objectives and has essentially the same or similar content as the programs approved by the board for full-time law enforcement officers and the board shall provide that such training shall be available.
locally and held at times convenient to the persons required to receive such training.

(5) Any elected sheriff, constable, deputy or chief of police may apply for certification. Such certification shall be granted at the request of the elected official after providing evidence of satisfaction of the requirements of subsections (3) and (4) of this section. Certification granted to such elected officials shall be granted under the same standards and conditions as established by law enforcement officers and shall be subject to recall as in subsection (7) of this section.

(6) The board shall issue a certificate evidencing satisfaction of the requirements of subsections (3) and (4) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the board for approved law enforcement officer education and training programs in this state, and has satisfactorily passed any and all diagnostic testing and evaluation as required by the board to ensure competency.

(7) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

(a) The certificate was issued by administrative error;
(b) The certificate was obtained through misrepresentation or fraud;
(c) The holder has been convicted of any crime involving moral turpitude;
(d) The holder has been convicted of a felony; or
(e) Other due cause as determined by the board.

(8) When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling
the certification of a law enforcement officer or a part-time law enforcement officer, notice and opportunity for a hearing shall be provided in accordance with law prior to such reprimand, suspension or revocation.

(9) Any full- or part-time law enforcement officer aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from the final order of the board. Such appeals must be filed within thirty (30) days of the final order of the board.

(10) Any full- or part-time law enforcement officer whose certification has been cancelled pursuant to this chapter may reapply for certification, but not sooner than two (2) years after the date on which the order of the board cancelling such certification becomes final.

(11) Any temporary deputy sheriffs appointed as provided in Section 19-25-21 shall be exempt from the requirements of this section.

SECTION 4. This act shall take effect and be in force from and after July 1, 2002.