

By: Representative Moak

To: Judiciary B

HOUSE BILL NO. 502

1 AN ACT TO AMEND SECTIONS 19-25-19, 19-25-21, 19-25-23 AND
2 45-6-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE SHERIFFS TO
3 APPOINT A TEMPORARY DEPUTY SHERIFF; TO PROVIDE THAT SUCH TEMPORARY
4 DEPUTY SHERIFF SHALL BE EXEMPT FROM LAW ENFORCEMENT OFFICER
5 TRAINING REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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

9 19-25-19. (1) Every sheriff shall have power to appoint one
10 or more deputies to assist him in carrying out the duties of his
11 office, every such appointment to be in writing, to remove them at
12 pleasure, and to fix their compensation, subject to the budget for
13 the sheriff's office approved by the county board of supervisors.
14 Such deputies shall have authority to do all the acts and duties
15 enjoined upon their principals. Every deputy sheriff, except such
16 as may be appointed to do a particular act only, before he enters
17 on the duties of office, shall take and subscribe an oath
18 faithfully to execute the office of deputy sheriff, according to
19 the best of his skill and judgment. The appointment, with the
20 certificate of the oath, shall be filed and preserved in the
21 office of the clerk of the board of supervisors. All sheriffs
22 shall be liable for the acts of their deputies, and for money
23 collected by them. The circuit court, after a notice and a
24 hearing, shall have power to remove such deputies and also
25 bailiffs, upon a showing that the public interest will be served
26 thereby. Each deputy sheriff shall be at least twenty-one (21)
27 years of age, a qualified elector of the State of Mississippi, and
28 shall not have been convicted of a felony. Prior to appointing



29 any person a deputy sheriff, the sheriff shall determine that the
30 proposed appointee is of good moral character and is capable of
31 fairly and impartially enforcing the law of the State of
32 Mississippi.

33 (2) Each sheriff may appoint a temporary deputy sheriff who
34 may not serve for more than six (6) months. Such temporary deputy
35 sheriff shall be exempt from the training requirements provided in
36 Sections 19-25-21 and 45-6-11, but shall be subject to the
37 provisions of subsection (1) of this section.

38 **SECTION 2.** Section 19-25-21, Mississippi Code of 1972, is
39 amended as follows:

40 19-25-21. The minimum number of deputies having law
41 enforcement duties for each sheriff shall be based upon the total
42 population of his county according to the latest federal decennial
43 census in the following categories:

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

47 (b) In counties with a total population of more than
48 thirty-five thousand (35,000), and not more than fifty thousand
49 (50,000), the sheriff shall regularly employ a minimum of four (4)
50 deputies having law enforcement duties;

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

55 (d) In counties with a total population of more than
56 fifteen thousand (15,000), and not more than twenty-five thousand
57 (25,000), the sheriff shall regularly employ a minimum of two (2)
58 deputies having law enforcement duties;

59 (e) In all other counties, the sheriff shall regularly
60 employ a minimum of one (1) deputy sheriff having law enforcement
61 duties.



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

73 Each deputy sheriff who shall have law enforcement duties
74 shall, at the expense of the county, attend and complete an
75 appropriate curriculum in the field of law enforcement at the
76 Mississippi Law Enforcement Officers' Academy within one (1) year
77 from the date of his appointment, excluding those who have
78 previously served as sheriff, or have had at least five (5) years'
79 experience as a full-time law enforcement officer, or have
80 previously successfully completed a course of training at the
81 Mississippi Law Enforcement Officers' Academy or at the Jackson
82 Police Academy. Any deputy sheriff exempted from attendance at
83 the initial course as herein provided because of previous service
84 as sheriff or having five (5) years' full-time law enforcement
85 experience must have served as sheriff or obtained such experience
86 within a period of ten (10) years prior to the date of his taking
87 the oath of office. Any deputy sheriff exempted from attendance
88 because of successful completion of a course of training at either
89 of the aforementioned academies must have completed such course
90 within five (5) years prior to the date of his taking the oath of
91 office. Each deputy sheriff shall thereafter, on a periodic and
92 continuing basis, attend additional advanced courses in law
93 enforcement at said Academy in order that each deputy sheriff will



94 be properly informed and trained in the modern, technical advances
95 in the field of law enforcement.

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

100 **SECTION 3.** Section 19-25-23, Mississippi Code of 1972, is
101 amended as follows:

102 19-25-23. Each sheriff shall maintain and cause to be paid a
103 sufficient number of regular deputies, properly trained and
104 adequately equipped, to insure the domestic tranquility within his
105 county. In addition thereto, each sheriff may maintain an
106 adequate number of properly trained auxiliary deputy sheriffs, and
107 one (1) temporary deputy sheriff as authorized under Section
108 19-25-21. Each of such deputies shall be equipped, trained and
109 paid from the county general fund. The number of * * * auxiliary
110 deputies must be approved by the board of supervisors and may be
111 increased or reduced from time to time by the board. All regular
112 and auxiliary deputies may serve in any other county of the state
113 when requested by the sheriff of such county to preserve law and
114 order therein, the expense thereof to be paid by the county in
115 which they serve. The request shall be made to the sheriff of the
116 county in which the deputies are located and the deputies shall
117 remain under the control of the sheriff except to the extent
118 delegated by the sheriff to the sheriff of the requesting county.
119 In addition, any sheriff may loan any regular or auxiliary deputy
120 to any law enforcement agency of the state or of any political
121 subdivision of the state for drug enforcement purposes, the
122 expense of the officer to be paid by the agency to which the
123 officer is assigned.

124 **SECTION 4.** Section 45-6-11, Mississippi Code of 1972, is
125 amended as follows:



126 45-6-11. (1) Law enforcement officers already serving under
127 permanent appointment on July 1, 1981, and personnel of the
128 division of community services under Section 47-7-9, Mississippi
129 Code of 1972, serving on July 1, 1994, shall not be required to
130 meet any requirement of subsections (3) and (4) of this section as
131 a condition of continued employment; nor shall failure of any such
132 law enforcement officer to fulfill such requirements make that
133 person ineligible for any promotional examination for which that
134 person is otherwise eligible. Provided, however, if any law
135 enforcement officer certified under the provisions of this chapter
136 leaves his employment as such and does not become employed as a
137 law enforcement officer within two (2) years from the date of
138 termination of his prior employment, he shall be required to
139 comply with board policy as to rehiring standards in order to be
140 employed as a law enforcement officer; except, that, if any law
141 enforcement officer certified under this chapter leaves his
142 employment as such to serve as a sheriff, he may be employed as a
143 law enforcement officer after he has completed his service as a
144 sheriff without being required to comply with board policy as to
145 rehiring standards. Part-time law enforcement officers serving on
146 or before July 1, 1998, shall have until July 1, 2001, to obtain
147 certification as a part-time officer.

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

154 (3) (a) No person shall be appointed or employed as a law
155 enforcement officer or a part-time law enforcement officer unless
156 that person has been certified as being qualified under the
157 provisions of subsection (4) of this section.



158 (b) No person shall be appointed or employed as a law
159 enforcement trainee by any law enforcement unit for a period to
160 exceed two (2) years. The prohibition against the appointment or
161 employment of a law enforcement trainee for a period not to exceed
162 two (2) years may not be nullified by terminating the appointment
163 or employment of such a person before the expiration of the time
164 period and then rehiring the person for another period. Any
165 person, who, due to illness or other events beyond his control,
166 could not attend the required school or training as scheduled, may
167 serve with full pay and benefits in such a capacity until he can
168 attend the required school or training.

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

173 (4) In addition to the requirements of subsections (3), (7)
174 and (8) of this section, the board, by rules and regulations
175 consistent with other provisions of law, shall fix other
176 qualifications for the employment of law enforcement officers,
177 including minimum age, education, physical and mental standards,
178 citizenship, good moral character, experience and such other
179 matters as relate to the competence and reliability of persons to
180 assume and discharge the responsibilities of law enforcement
181 officers, and the board shall prescribe the means for presenting
182 evidence of fulfillment of these requirements. Additionally, the
183 board shall fix qualifications for the appointment or employment
184 of part-time law enforcement officers to essentially the same
185 standards and requirements as law enforcement officers. The board
186 shall develop and implement a part-time law enforcement officer
187 training program that meets the same performance objectives and
188 has essentially the same or similar content as the programs
189 approved by the board for full-time law enforcement officers and
190 the board shall provide that such training shall be available



191 locally and held at times convenient to the persons required to
192 receive such training.

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

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

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

215 (a) The certificate was issued by administrative error;

216 (b) The certificate was obtained through
217 misrepresentation or fraud;

218 (c) The holder has been convicted of any crime
219 involving moral turpitude;

220 (d) The holder has been convicted of a felony; or

221 (e) Other due cause as determined by the board.

222 (8) When the board believes there is a reasonable basis for
223 either the reprimand, suspension, cancellation of, or recalling



224 the certification of a law enforcement officer or a part-time law
225 enforcement officer, notice and opportunity for a hearing shall be
226 provided in accordance with law prior to such reprimand,
227 suspension or revocation.

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

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

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

241 **SECTION 5.** This act shall take effect and be in force from
242 and after July 1, 2003.

