

By: Representatives Malone, Fleming

To: Corrections

HOUSE BILL NO. 990
(As Passed the House)

1 AN ACT TO AMEND SECTION 45-4-9, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT COUNTIES THAT OPERATE REGIONAL COUNTY CORRECTIONAL
3 FACILITIES MAY OFFER ITS CORRECTIONAL OFFICERS TRAINING THROUGH
4 OPTIONAL PROGRAMS PROVIDED BY THE DEPARTMENT OF CORRECTIONS OR THE
5 BOARD ON LAW ENFORCEMENT OFFICER STANDARDS AND TRAINING; TO AMEND
6 SECTION 45-6-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD
7 ON LAW ENFORCEMENT OFFICER STANDARDS AND TRAINING TO ACCEPT
8 CERTIFICATION OF TRAINING RECEIVED BY CORRECTIONAL OFFICERS
9 THROUGH THE DEPARTMENT OF CORRECTIONS; TO PROVIDE THAT THE BOARD
10 SHALL DEVELOP AND TRAIN ALL PERSONS SEEKING CERTIFICATION AS A LAW
11 ENFORCEMENT OFFICER AND BEGINS TRAINING ON OR AFTER JULY 1, 2004,
12 MUST RECEIVE TRAINING IN THE PREVENTION OF RACIAL PROFILING; TO
13 AMEND SECTION 45-6-11, MISSISSIPPI CODE OF 1972, TO AMEND IN
14 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 45-4-9, Mississippi Code of 1972, is
17 amended as follows:

18 45-4-9. (1) (a) After January 1, 2000, no person shall be
19 appointed or employed as a jail officer or a part-time jail
20 officer unless that person has been certified as being qualified
21 under subsection (3) of this section.

22 (b) No person who is required to be certified shall be
23 appointed or employed as a jail officer by any sheriff or police
24 department for a period to exceed two (2) years without being
25 certified. The prohibition against the appointment or employment
26 of a jail officer for a period not to exceed two (2) years may not
27 be nullified by terminating the appointment or employment of such
28 a person before the expiration of the time period and then
29 rehiring the person for another period. Any person who, due to
30 illness or other events beyond his control, as may be determined
31 by the Board on Jail Officer Standards and Training, does not
32 attend the required school or training as scheduled, may serve

33 with full pay and benefits in such a capacity until he can attend
34 the required school or training.

35 (c) No person shall serve as a jail officer in any
36 full-, part-time, reserve or auxiliary capacity during a period
37 when that person's certification has been suspended, cancelled or
38 recalled pursuant to this chapter.

39 (2) Jail officers serving under permanent appointment on
40 January 1, 2000, shall not be required to meet certification
41 requirements of this section as a condition of continued
42 employment; nor shall failure of any such jail officer to fulfill
43 such requirements make that person ineligible for any promotional
44 examination for which that person is otherwise eligible. If any
45 jail officer certified under this chapter leaves his employment
46 and does not become employed as a jail officer within two (2)
47 years from the date of termination of his prior employment, he
48 shall be required to comply with board policy as to rehiring
49 standards in order to be employed as a jail officer.

50 (3) In addition to the other requirements of this section,
51 the Board on Jail Officer Standards and Training, by rules and
52 regulations consistent with other provisions of law, shall fix
53 other qualifications for the employment of jail officers,
54 including education, physical and mental standards, citizenship,
55 good moral character, experience and such other matters as relate
56 to the competence and reliability of persons to assume and
57 discharge the responsibilities of jail officers, and the board
58 shall prescribe the means for presenting evidence of fulfillment
59 of these requirements. Additionally, the board shall fix
60 qualifications for the appointment or employment of part-time jail
61 officers to essentially the same standards and requirements as
62 jail officers. The board shall develop and implement a part-time
63 jail officer training program that meets the same performance
64 objectives and has essentially the same or similar content as the
65 programs approved by the board for full-time jail officers.

66 (4) The Board on Jail Officer Standards and Training shall
67 issue a certificate evidencing satisfaction of the requirements of
68 subsections (1) and (3) of this section to any applicant who
69 presents such evidence as may be required by its rules and
70 regulations of satisfactory completion of a program or course of
71 instruction in another jurisdiction equivalent in content and
72 quality to that required by the board for approved jail officer
73 education and training programs in this state.

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

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

79 (b) The certificate was obtained through
80 misrepresentation or fraud;

81 (c) The holder has been convicted of any crime
82 involving moral turpitude;

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

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

85 (6) When the board believes there is a reasonable basis for
86 either the reprimand, suspension, cancellation of, or recalling
87 the certification of a jail officer, notice and opportunity for a
88 hearing shall be provided in accordance with law prior to such
89 reprimand, suspension or revocation.

90 (7) Any jail officer aggrieved by the final findings and
91 order of the board may file an appeal with the chancery court of
92 the county in which the person is employed. The appeal must be
93 filed within thirty (30) days of the final order.

94 (8) Any jail officer whose certification has been cancelled
95 may reapply for certification, but not sooner than two (2) years
96 after the date on which the order canceling the certification
97 becomes final.

98 (9) Any county that operates a regional county correctional
99 facility is authorized to provide its correctional officers
100 training through optional programs provided by the Department of
101 Corrections or the Board on Law Enforcement Officer Standards and
102 Training. In the event a correctional officer receives training
103 through the Department of Corrections, the county shall provide
104 the Board on Law Enforcement Officer Standards and Training with
105 certification of the training received through the Department of
106 Corrections.

107 The board shall develop and train all persons seeking
108 certification as a law enforcement officer in the prevention of
109 racial profiling. The provisions of this subsection shall apply
110 to all recruits who begin training on or after July 1, 2004.

111 **SECTION 2.** Section 45-6-7, Mississippi Code of 1972, is
112 amended as follows:

113 45-6-7. In addition to the powers conferred upon the board
114 elsewhere in this chapter, the board shall have power to:

115 (a) Promulgate rules and regulations for the
116 administration of this chapter, including the authority to require
117 the submission of reports and information by law enforcement
118 agencies of the state and its political subdivisions.

119 (b) Establish minimum educational and training
120 standards for admission to employment or appointment as a law
121 enforcement officer or a part-time law enforcement officer: (i)
122 in a permanent position; and (ii) in a probationary status, and to
123 accept certification from counties of training received by
124 correctional officers from the Department of Corrections.

125 (c) Certify persons as being qualified under the
126 provisions of this chapter to be law enforcement officers or
127 part-time law enforcement officers.

128 (d) Revoke certification for cause and in the manner
129 provided in this chapter.

130 (e) Establish minimum curriculum requirements for basic
131 and advanced courses and programs for schools operated by or for
132 the state or any political subdivision thereof for the specific
133 purpose of training police and other law enforcement officers,
134 both full and part time.

135 (f) Consult and cooperate with counties,
136 municipalities, state agencies, other governmental agencies, and
137 with universities, colleges, community and junior colleges and
138 other institutions concerning the development of training schools,
139 programs or courses of instruction for personnel defined in this
140 chapter.

141 (g) Make recommendations concerning any matter within
142 its purview pursuant to this chapter.

143 (h) Make such inspection and evaluation as may be
144 necessary to determine if governmental units are complying with
145 the provisions of this chapter.

146 (i) Approve law enforcement officer training schools
147 for operation by or for the state or any political subdivision
148 thereof for the specific purpose of training personnel defined in
149 this chapter.

150 (j) Upon the request of agencies employing personnel
151 defined in this chapter, conduct surveys or aid municipalities and
152 counties to conduct surveys through qualified public or private
153 agencies and assist in the implementation of any recommendations
154 resulting from such surveys.

155 (k) Upon request of agencies within the purview of this
156 chapter, conduct general and specific management surveys and
157 studies of the operations of the requesting agencies at no cost to
158 those agencies. The role of the board under this subsection shall
159 be that of management consultant.

160 (l) Adopt and amend regulations consistent with law,
161 for its internal management and control of board programs.

162 (m) Enter into contracts or do such things as may be
163 necessary and incidental to the administration of this chapter.

164 (n) Establish jointly with the State Board of Education
165 the minimum level of basic law enforcement training required of
166 persons employed by school districts as school security guards, or
167 school resource officers or in other positions that have the
168 powers of a peace officer.

169 **SECTION 3.** Section 45-6-11, Mississippi Code of 1972, is
170 amended as follows:

171 45-6-11. (1) Law enforcement officers already serving under
172 permanent appointment on July 1, 1981, and personnel of the
173 division of community services under Section 47-7-9, Mississippi
174 Code of 1972, serving on July 1, 1994, shall not be required to
175 meet any requirement of subsections (3) and (4) of this section as
176 a condition of continued employment; nor shall failure of any such
177 law enforcement officer to fulfill such requirements make that
178 person ineligible for any promotional examination for which that
179 person is otherwise eligible. Provided, however, if any law
180 enforcement officer certified under the provisions of this chapter
181 leaves his employment as such and does not become employed as a
182 law enforcement officer within two (2) years from the date of
183 termination of his prior employment, he shall be required to
184 comply with board policy as to rehiring standards in order to be
185 employed as a law enforcement officer; except, that, if any law
186 enforcement officer certified under this chapter leaves his
187 employment as such to serve as a sheriff, he may be employed as a
188 law enforcement officer after he has completed his service as a
189 sheriff without being required to comply with board policy as to
190 rehiring standards. Part-time law enforcement officers serving on
191 or before July 1, 1998, shall have until July 1, 2001, to obtain
192 certification as a part-time officer.

193 (2) Any person who has twenty (20) years of law enforcement
194 experience and who is eligible to be certified under this section

195 shall be eligible for recertification after leaving law
196 enforcement on the same basis as someone who has taken the basic
197 training course. Application to the board to qualify under this
198 subsection shall be made no later than June 30, 1993.

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

203 (b) No person shall be appointed or employed as a law
204 enforcement trainee by any law enforcement unit for a period to
205 exceed two (2) years. The prohibition against the appointment or
206 employment of a law enforcement trainee for a period not to exceed
207 two (2) years may not be nullified by terminating the appointment
208 or employment of such a person before the expiration of the time
209 period and then rehiring the person for another period. Any
210 person, who, due to illness or other events beyond his control,
211 could not attend the required school or training as scheduled, may
212 serve with full pay and benefits in such a capacity until he can
213 attend the required school or training.

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

218 (4) In addition to the requirements of subsections (3), (7)
219 and (8) of this section, the board, by rules and regulations
220 consistent with other provisions of law, shall fix other
221 qualifications for the employment of law enforcement officers,
222 including minimum age, education, physical and mental standards,
223 citizenship, good moral character, experience and such other
224 matters as relate to the competence and reliability of persons to
225 assume and discharge the responsibilities of law enforcement
226 officers, and the board shall prescribe the means for presenting
227 evidence of fulfillment of these requirements. Additionally, the

228 board shall fix qualifications for the appointment or employment
229 of part-time law enforcement officers to essentially the same
230 standards and requirements as law enforcement officers. The board
231 shall develop and implement a part-time law enforcement officer
232 training program that meets the same performance objectives and
233 has essentially the same or similar content as the programs
234 approved by the board for full-time law enforcement officers and
235 the board shall provide that such training shall be available
236 locally and held at times convenient to the persons required to
237 receive such training.

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

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

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

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

261 (b) The certificate was obtained through
262 misrepresentation or fraud;

263 (c) The holder has been convicted of any crime
264 involving moral turpitude;

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

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

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

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

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

283 (11) Any county that operates a regional county correctional
284 facility is authorized to provide its correctional officers
285 training through optional programs provided by the Department of
286 Corrections or the Board on Law Enforcement Officer Standards and
287 Training. In the event a correctional officer receives training
288 through the Department of Corrections, the county shall provide
289 the Board on Law Enforcement Officer Standards and Training with
290 certification of the training received through the Department of
291 Corrections.

292 **SECTION 4.** This act shall take effect and be in force from
293 and after July 1, 2004.