

By: Representative Blackmon

To: Judiciary B;  
Appropriations

HOUSE BILL NO. 1121

1 AN ACT TO CREATE THE INDIGENT DEFENSE FUND TO FUND THE  
2 CRIMINAL DEFENSE OF NONDEATH PENALTY INDIGENT OFFENDERS; TO  
3 PROVIDE FOR THE ADMINISTRATION OF THE FUND; TO PROVIDE  
4 REQUIREMENTS FOR USE OF THE FUND; TO AMEND SECTION 99-19-73,  
5 MISSISSIPPI CODE OF 1972, TO PROVIDE AN ASSESSMENT FOR THE  
6 INDIGENT DEFENSE FUND; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) There is created in the State Treasury the  
9 Indigent Defense Fund to be administered by the Department of  
10 Finance and Administration. Assessments specified in Section  
11 99-19-73 shall be deposited into the fund along with any other  
12 available funds which may be available by appropriation from the  
13 Legislature, from grants or from any other public or private  
14 source. Any funds in the fund shall not lapse at the end of a  
15 fiscal year but shall remain in the fund and any interest accruing  
16 to such fund shall remain in the fund.

17 (2) The Department of Finance and Administration shall  
18 distribute money in the fund to the twenty (20) counties with the  
19 lowest tax receipts in the state for the purpose of funding the  
20 defense of indigent criminal offenders in any criminal proceeding  
21 that does not involve a potential death penalty.

22 (3) In order to qualify for such funds, a participating  
23 county must demonstrate an effective plan to reduce caseloads of  
24 full-time defenders or the equivalent caseloads of part-time  
25 defenders. Such reduction shall be judged based on a three-year  
26 history beginning July 1, 2004.

27 (4) In order to qualify for such funds, a participating  
28 county must use defenders who are licensed to practice law in this  
29 state, who have no less than three (3) years experience in the

30 general practice of law and who have tried no less than five (5)  
 31 jury cases, civil or criminal, as either lead or associate  
 32 counsel. Each defender shall complete at least twelve (12) hours  
 33 of certified specialized criminal defense continuing legal  
 34 education each year.

35 (5) The Department of Finance and Administration is  
 36 authorized to promulgate rules and regulations necessary to carry  
 37 out the provisions of this section.

38 **SECTION 2.** Section 99-19-73, Mississippi Code of 1972, is  
 39 amended as follows:

40 99-19-73. (1) **Traffic Violations.** In addition to any  
 41 monetary penalties and any other penalties imposed by law, there  
 42 shall be imposed and collected the following state assessment from  
 43 each person upon whom a court imposes a fine or other penalty for  
 44 any violation in Title 63, Mississippi Code of 1972, except  
 45 offenses relating to the Mississippi Implied Consent Law (Section  
 46 63-11-1 et seq.) and offenses relating to vehicular parking or  
 47 registration:

48 FUND	AMOUNT
49 State Court Education Fund.....	\$ 1.50
50 State Prosecutor Education Fund.....	1.00
51 Driver Training Penalty Assessment Fund.....	7.00
52 Law Enforcement Officers Training Fund.....	5.00
53 Spinal Cord and Head Injury Trust Fund	
54 (for all moving violations).....	4.00
55 Emergency Medical Services Operating Fund.....	10.00
56 Mississippi Leadership Council on Aging Fund.....	1.00
57 Law Enforcement Officers and Fire Fighters Death	
58 Benefits Trust Fund.....	.50
59 State Prosecutor Compensation Fund for the purpose	
60 of providing additional compensation for legal	
61 assistants to district attorneys.....	1.00
62 <u>Indigent Defense Fund.....</u>	<u>1.00</u>

63 TOTAL STATE ASSESSMENT..... \$ 32.00

64 (2) **Implied Consent Law Violations.** In addition to any  
65 monetary penalties and any other penalties imposed by law, there  
66 shall be imposed and collected the following state assessment from  
67 each person upon whom a court imposes a fine or any other penalty  
68 for any violation of the Mississippi Implied Consent Law (Section  
69 63-11-1 et seq.):

70 FUND	AMOUNT
71 Crime Victims' Compensation Fund.....	\$ 10.00
72 State Court Education Fund.....	1.50
73 State Prosecutor Education Fund.....	1.00
74 Driver Training Penalty Assessment Fund.....	22.00
75 Law Enforcement Officers Training Fund.....	11.00
76 Emergency Medical Services Operating Fund.....	10.00
77 Mississippi Alcohol Safety Education Program Fund....	5.00
78 Federal-State Alcohol Program Fund.....	10.00
79 Mississippi Crime Laboratory	
80 Implied Consent Law Fund.....	25.00
81 Spinal Cord and Head Injury Trust Fund.....	25.00
82 Capital Defense Counsel Special Fund.....	1.00
83 State General Fund.....	5.00
84 Law Enforcement Officers and Fire Fighters Death	
85 Benefits Trust Fund.....	.50
86 State Prosecutor Compensation Fund for the purpose	
87 of providing additional compensation for legal	
88 assistants to district attorneys.....	1.00
89 <u>Indigent Defense Fund.....</u>	<u>1.00</u>
90 TOTAL STATE ASSESSMENT.....	\$ <u>159.00</u>

91 (3) **Game and Fish Law Violations.** In addition to any  
92 monetary penalties and any other penalties imposed by law, there  
93 shall be imposed and collected the following state assessment from  
94 each person upon whom a court imposes a fine or other penalty for

95 any violation of the game and fish statutes or regulations of this  
 96 state:

97 FUND	AMOUNT
98 State Court Education Fund.....	\$ 1.50
99 State Prosecutor Education Fund.....	1.00
100 Law Enforcement Officers Training Fund.....	5.00
101 Hunter Education and Training Program Fund.....	5.00
102 State General Fund.....	30.00
103 Law Enforcement Officers and Fire Fighters Death	
104 Benefits Trust Fund.....	.50
105 State Prosecutor Compensation Fund for the purpose	
106 of providing additional compensation for legal	
107 assistants to district attorneys.....	1.00
108 TOTAL STATE ASSESSMENT.....	\$ 44.00

109 (4) **Litter Law Violations.** In addition to any monetary  
 110 penalties and any other penalties imposed by law, there shall be  
 111 imposed and collected the following state assessment from each  
 112 person upon whom a court imposes a fine or other penalty for any  
 113 violation of Section 97-15-29 or 97-15-30:

114 FUND	AMOUNT
115 Statewide Litter Prevention Fund.....	\$ 25.00
116 State Prosecutor Compensation Fund for the purpose	
117 of providing additional compensation for legal	
118 assistants to district attorneys.....	1.00
119 TOTAL STATE ASSESSMENT.....	\$ 26.00

120 (5) **Other Misdemeanors.** In addition to any monetary  
 121 penalties and any other penalties imposed by law, there shall be  
 122 imposed and collected the following state assessment from each  
 123 person upon whom a court imposes a fine or other penalty for any  
 124 misdemeanor violation not specified in subsection (1), (2) or (3)  
 125 of this section, except offenses relating to vehicular parking or  
 126 registration:

127 FUND	AMOUNT
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128	Crime Victims' Compensation Fund.....	\$ 10.00
129	State Court Education Fund.....	1.50
130	State Prosecutor Education Fund.....	1.00
131	Law Enforcement Officers Training Fund.....	5.00
132	Capital Defense Counsel Special Fund.....	1.00
133	State General Fund.....	30.00
134	State Crime Stoppers Fund.....	1.50
135	Law Enforcement Officers and Fire Fighters Death	
136	Benefits Trust Fund.....	.50
137	State Prosecutor Compensation Fund for the purpose	
138	of providing additional compensation for legal	
139	assistants to district attorneys.....	1.00
140	<u>Indigent Defense Fund.....</u>	<u>1.00</u>
141	TOTAL STATE ASSESSMENT.....	\$ <u>52.50</u>

142       (6) **Other Felonies.** In addition to any monetary penalties  
143 and any other penalties imposed by law, there shall be imposed and  
144 collected the following state assessment from each person upon  
145 whom a court imposes a fine or other penalty for any felony  
146 violation not specified in subsection (1), (2) or (3) of this  
147 section:

148	FUND	AMOUNT
149	Crime Victims' Compensation Fund.....	\$ 10.00
150	State Court Education Fund.....	1.50
151	State Prosecutor Education Fund.....	1.00
152	Law Enforcement Officers Training Fund.....	5.00
153	Capital Defense Counsel Special Fund.....	1.00
154	State General Fund.....	60.00
155	Criminal Justice Fund.....	50.00
156	Law Enforcement Officers and Fire Fighters Death	
157	Benefits Trust Fund.....	.50
158	State Prosecutor Compensation Fund for the purpose	
159	of providing additional compensation for legal	
160	assistants to district attorneys.....	1.00



193 collected in the municipal court in such municipality during such  
194 month.

195 (9) It shall be the duty of the Department of Finance and  
196 Administration to deposit on a monthly basis all such state  
197 assessments into the proper special fund in the State Treasury.  
198 The monthly deposit shall be based upon the number of violations  
199 reported under each subsection and the pro rata amount of such  
200 assessment due to the appropriate special fund. The Department of  
201 Finance and Administration shall issue regulations providing for  
202 the proper allocation of these special funds.

203 (10) The State Auditor shall establish by regulation  
204 procedures for refunds of state assessments, including refunds  
205 associated with assessments imposed before July 1, 1990, and  
206 refunds after appeals in which the defendant's conviction is  
207 reversed. The Auditor shall provide in such regulations for  
208 certification of eligibility for refunds and may require the  
209 defendant seeking a refund to submit a verified copy of a court  
210 order or abstract by which such defendant is entitled to a refund.  
211 All refunds of state assessments shall be made in accordance with  
212 the procedures established by the Auditor.

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214 **SECTION 3.** This act shall take effect and be in force from  
215 and after July 1, 2004.