

By: Representative Watson

To: Judiciary A; Fees and Salaries of Public Officers

HOUSE BILL NO. 1248

1 AN ACT TO AMEND SECTIONS 9-21-43, 25-7-9 AND 25-7-13,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADDITIONAL FILING FEES IN
3 CHANCERY AND CIRCUIT COURT ACTIONS TO BE DEPOSITED INTO THE CIVIL
4 LEGAL ASSISTANCE FUND; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 9-21-43, Mississippi Code of 1972, is
7 amended as follows:

8 9-21-43. (1) There is hereby created in the State Treasury
9 a special fund designated as the Civil Legal Assistance Fund. The
10 funds shall be administered by the Supreme Court through the
11 Administrative Office of Courts. Fees charged under Sections
12 25-7-9 and 25-7-13 shall be deposited into the fund. The
13 Administrative Office of Courts may also accept monies from any
14 public or private source for deposit into the fund. Money
15 remaining in the fund at the end of a fiscal year shall not lapse
16 into the State General Fund, and any interest earned from the
17 investment of monies in the fund shall be deposited to the credit
18 of the fund.

19 (2) All monies shall be allocated to only those
20 organizations providing legal services to low income
21 Mississippians. Furthermore, no monies from this fund shall be
22 expended to provide legal services in matters currently prohibited
23 by the Legal Services Corporation, Washington, D.C., and no funds
24 shall be expended on persons who are not financially eligible to
25 receive legal services as directed by the Legal Services
26 Corporation, Washington, D.C.

27 (3) The monies appropriated shall be distributed to eligible
28 legal services programs based on the percentage of poverty

29 population within the program service area, consistent with the
30 formula used by the Legal Services Corporation.

31 (4) Monies appropriated to the fund may be used to promote
32 increased participation by the private bar in the delivery of
33 legal services to the indigent through the Mississippi Volunteer
34 Lawyers Project.

35 (5) Recipients of funds shall have the following duties:

36 (a) To develop, operate and administer programs within
37 their respective service areas that provide free legal services to
38 indigent clients involved in civil matters;

39 (b) To report annually to the Supreme Court, through
40 the Administrative Office of Courts, on its activities, including
41 providing a copy of its annual audit that accounts for the use of
42 the funds; and

43 (c) To refund annually all unused or uncommitted funds.

44 **SECTION 2.** Section 25-7-9, Mississippi Code of 1972, is
45 amended as follows:

46 25-7-9. (1) The clerks of the chancery courts shall charge
47 the following fees:

48 (a) For the act of certifying copies of filed
49 documents, for each complete document..... \$ 1.00

50 (b) Recording deeds, wills, leases, amendments,
51 subordinations, liens, releases, cancellations, orders, decrees,
52 oaths, etc., including indexing..... 6.00
53 Sectional index entries per section or subdivision.... 1.00

54 (c) Recording deeds of trust..... 10.00
55 Sectional index entries per section or subdivision.... 1.00

56 (d) (i) Recording oil and gas leases, etc., including
57 indexing in general indices..... 12.00
58 Sectional index entries per section or subdivision.... 1.00

59 (ii) Recording oil and gas cancellations,
60 assignments, etc., including indexing in general indices:

61 First page..... 5.00

62 Each additional page..... 2.00

63 Abstracting each section or subdivision..... 1.00

64 Sectional index entries per section or subdivision.... 6.00

65 (e) Furnishing copies of any papers of record or on

66 file and entering marginal notations on documents of record:

67 If performed by the clerk or his employee, per page... .50

68 If performed by any other person, per page..... .25

69 (f) For each day's attendance on the board of

70 supervisors, for himself and one (1) deputy, each..... 20.00

71 (g) For other services as clerk of the board of

72 supervisors an allowance shall be made to him (payable

73 semiannually at the July and January meetings) out of the county

74 treasury, an annual sum not exceeding..... 1,500.00

75 (h) For each day's attendance on the chancery court, to

76 be approved by the chancellor:

77 For the first chancellor sitting only, clerk and two (2)

78 deputies, each..... 30.00

79 For the second chancellor sitting, clerk only..... 30.00

80 Provided that the fees herein prescribed shall be the total

81 remuneration for the clerk and his deputies for attending chancery

82 court.

83 (i) On order of the court, clerks and not more than two

84 (2) deputies may be allowed five (5) extra days for each term of

85 court for attendance upon the court to get up records.

86 (j) For public service not otherwise specifically

87 provided for, the chancery court may by order allow the clerk to

88 be paid by the county on the order of the board of supervisors, an

89 annual sum not exceeding..... 5,000.00

90 The chancery clerk shall itemize on the original document a

91 detailed fee bill of all charges due or paid for filing, recording

92 and abstracting same. No person shall be required to pay such

93 fees until same have been so itemized, but said fees may be

94 demanded before the document is recorded.

95 (2) In accordance with Uniform Chancery Court Rule 9.01 as
96 approved by Order of the Mississippi Supreme Court, the following
97 fees shall be a total fee for all services performed by the clerk
98 with respect to a complaint which shall be payable upon filing and
99 shall accrue to the chancery clerk at the time of filing. The
100 clerk or his successor in office shall perform all duties set
101 forth without additional compensation or fee to wit:

102	(a) Divorce to be contested.....	\$75.00
103	(b) Divorce uncontested.....	30.00
104	(c) Alteration of birth or marriage certificate.	25.00
105	(d) Removal of minority.....	25.00
106	(e) Guardianship or conservatorship.....	75.00
107	(f) Estate of deceased, intestate.....	75.00
108	(g) Estate of deceased, testate.....	75.00
109	(h) Adoption.....	75.00
110	(i) Land dispute.....	75.00
111	(j) Injunction.....	75.00
112	(k) Settlement of small claim.....	30.00
113	(l) Contempt in child support.....	75.00
114	(m) Partition suit.....	75.00
115	(n) Any cross-complaint.....	25.00

116 Cost of process shall be borne by the issuing party.
117 Additionally, should the attorney or person filing the pleadings
118 desire the clerk to pay the cost to the sheriff for serving
119 process on one person or more, or to pay the cost of publication,
120 the clerk shall demand the actual charges therefor, at the time of
121 filing.

122 (3) In addition to other fees assessed in this section, the
123 chancery clerk shall assess an additional Five Dollars (\$5.00)
124 upon each complaint filed to be deposited into the Civil Legal
125 Assistance Fund created in Section 9-21-43.

126 **SECTION 3.** Section 25-7-13, Mississippi Code of 1972, is
127 amended as follows:

128 25-7-13. (1) The clerks of the circuit court shall charge
129 the following fees:

130 (a) Docketing, filing, marking and registering each
131 complaint, petition and indictment..... \$75.00

132 The fee set forth in this paragraph shall be the total fee
133 for all services performed by the clerk up to and including entry
134 of judgment with respect to each complaint, petition or
135 indictment, including all answers, claims, orders, continuances
136 and other papers filed therein, issuing each writ, summons,
137 subpoena or other such instruments, swearing witnesses, taking and
138 recording bonds and pleas, and recording judgments, orders, fiats
139 and certificates; the fee shall be payable upon filing and shall
140 accrue to the clerk at the time of collection. The clerk or his
141 successor in office shall perform all duties set forth above
142 without additional compensation or fee.

143 (b) Docketing and filing each suggestion for a writ of
144 garnishment, suggestion for a writ of execution and judgment
145 debtor actions and issuing all process, filing and recording
146 orders or other papers and swearing witnesses..... \$30.00

147 (2) Except as provided in subsection (1) of this section,
148 the clerks of the circuit court shall charge the following fees:

149 (a) Filing and marking each order or other paper and
150 recording and indexing same..... \$ 2.00

151 (b) Issuing each writ, summons, subpoena, citation,
152 capias and other such instruments..... \$ 1.00

153 (c) Administering an oath and taking bond..... \$ 2.00

154 (d) Certifying copies of filed documents, for each
155 complete document..... \$ 1.00

156 (e) Recording orders, fiats, licenses, certificates,
157 oaths and bonds:

158 First page..... \$ 2.00

159 Each additional page..... \$ 1.00

160 (f) Furnishing copies of any papers of record or on
161 file and entering marginal notations on documents of record:
162 If performed by the clerk or his employee,
163 per page..... \$ 1.00
164 If performed by any other person, per page.. \$.25
165 (g) Judgment roll entry..... \$ 5.00
166 (h) Taxing cost and certificate..... \$ 1.00
167 (i) For taking and recording application for marriage
168 license, for filing and recording consent of parents when required
169 by law, for filing and recording medical certificate, filing and
170 recording proof of age, recording and issuing license, recording
171 and filing returns..... \$20.00
172 The clerk shall deposit Fourteen Dollars (\$14.00) of each fee
173 collected for a marriage license in the Victims of Domestic
174 Violence Fund established in Section 93-21-117, on a monthly
175 basis.
176 (j) For certified copy of marriage license and search
177 of record, the same fee charged by the Bureau of Vital Statistics
178 of the State Board of Health.
179 (k) For public service not particularly provided for,
180 the circuit court may allow the clerk, per annum, to be paid by
181 the county on presentation of the circuit court's order, the
182 following amount..... \$5,000.00
183 However, in the counties having two (2) judicial districts,
184 such above allowance shall be made for each judicial district.
185 (l) For drawing jurors and issuing venire, to be paid
186 by the county..... \$ 5.00
187 (m) For each day's attendance upon the circuit court
188 term, for himself and necessary deputies allowed by the court,
189 each to be paid by the county..... \$30.00
190 (n) Summons, each juror to be paid by the county upon
191 the allowance of the court..... \$ 1.00

192 (o) For issuing each grand jury subpoena, to be paid by
193 the county on allowance by the court, not to exceed Twenty-five
194 Dollars (\$25.00) in any one (1) term of court..... \$ 1.00

195 (3) On order of the court, clerks and deputies may be
196 allowed five (5) extra days for attendance upon the court to get
197 up records.

198 (4) The clerk's fees in state cases where the state fails in
199 the prosecution, or in cases of felony where the defendant is
200 convicted and the cost cannot be made out of his estate, in an
201 amount not to exceed Four Hundred Dollars (\$400.00) in one (1)
202 year, shall be paid out of the county treasury on approval of the
203 circuit court, and the allowance thereof by the board of
204 supervisors of the county. In counties having two (2) judicial
205 districts, such allowance shall be made in each judicial district;
206 however, the maximum thereof shall not exceed Eight Hundred
207 Dollars (\$800.00). Clerks in the circuit court, in cases where
208 appeals are taken in criminal cases and no appeal bond is filed,
209 shall be allowed by the board of supervisors of the county after
210 approval of their accounts by the circuit court, in addition to
211 the above fees, for making such transcript the rate of Two Dollars
212 (\$2.00) per page.

213 (5) The clerk of the circuit court may retain as his
214 commission on all money coming into his hands, by law or order of
215 the court, a sum to be fixed by the court not exceeding one-half
216 of one percent (1/2 of 1%) on all such sums.

217 (6) For making final records required by law, including, but
218 not limited to, circuit and county court minutes, and furnishing
219 transcripts of records, the circuit clerk shall charge Two Dollars
220 (\$2.00) per page. The same fees shall be allowed to all officers
221 for making and certifying copies of records or papers which they
222 are authorized to copy and certify.

223 (7) The circuit clerk shall prepare an itemized statement of
224 fees for services performed, cost incurred, or for furnishing

225 copies of any papers of record or on file, and shall submit the
226 statement to the parties or, if represented, to their attorneys
227 within sixty (60) days. A bill for same shall accompany the
228 statement.

229 (8) In addition to the other fees assessed in this section,
230 the circuit clerk shall assess an additional Five Dollars (\$5.00)
231 upon each complaint filed to be deposited into the Civil Legal
232 Assistance Fund created in Section 9-21-43.

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