

By: Representative Franks

To: Judiciary B

HOUSE BILL NO. 1294

1 AN ACT TO AMEND SECTION 45-6-11, MISSISSIPPI CODE OF 1972, TO
2 RESTRICT THE REVOKING OF LAW ENFORCEMENT OFFICER CERTIFICATION;
3 AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 45-6-11, Mississippi Code of 1972, is
6 amended as follows:

7 45-6-11. (1) Law enforcement officers already serving under
8 permanent appointment on July 1, 1981, and personnel of the
9 division of community services under Section 47-7-9, Mississippi
10 Code of 1972, serving on July 1, 1994, shall not be required to
11 meet any requirement of subsections (3) and (4) of this section as
12 a condition of continued employment; nor shall failure of any such
13 law enforcement officer to fulfill such requirements make that
14 person ineligible for any promotional examination for which that
15 person is otherwise eligible. Provided, however, if any law
16 enforcement officer certified under the provisions of this chapter
17 leaves his employment as such and does not become employed as a
18 law enforcement officer within two (2) years from the date of
19 termination of his prior employment, he shall be required to
20 comply with board policy as to rehiring standards in order to be
21 employed as a law enforcement officer; except, that, if any law
22 enforcement officer certified under this chapter leaves his
23 employment as such to serve as a sheriff, he may be employed as a
24 law enforcement officer after he has completed his service as a
25 sheriff without being required to comply with board policy as to
26 rehiring standards. Part-time law enforcement officers serving on

27 or before July 1, 1998, shall have until July 1, 2001, to obtain
28 certification as a part-time officer.

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

35 (b) Any person who has been certified as a law
36 enforcement officer for a period of one (1) year or longer shall
37 not have such certification revoked and if any law enforcement
38 officer who has been certified for a period of one (1) year or
39 more has or has had such certification revoked, such certification
40 shall be reinstated immediately upon the passage of House Bill No.
41 ____, 2004 Regular Session. The provisions of this paragraph
42 shall apply to deputy sheriffs and all other law enforcement
43 officers. The provisions of this paragraph shall not apply to
44 revocations which are based on criminal convictions.

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

49 (b) No person shall be appointed or employed as a law
50 enforcement trainee by any law enforcement unit for a period to
51 exceed two (2) years. The prohibition against the appointment or
52 employment of a law enforcement trainee for a period not to exceed
53 two (2) years may not be nullified by terminating the appointment
54 or employment of such a person before the expiration of the time
55 period and then rehiring the person for another period. Any
56 person, who, due to illness or other events beyond his control,
57 could not attend the required school or training as scheduled, may
58 serve with full pay and benefits in such a capacity until he can
59 attend the required school or training.

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

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

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

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

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

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

107 (b) The certificate was obtained through
108 misrepresentation or fraud;

109 (c) The holder has been convicted of any crime
110 involving moral turpitude;

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

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

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

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

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

129 **SECTION 2.** This act shall take effect and be in force from
130 and after its passage.