

By: Senator(s) King

To: Judiciary, Division A

SENATE BILL NO. 2945

1 AN ACT TO AMEND SECTION 7-1-5, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE THE GOVERNOR TO RECEIVE QUARTERLY REPORTS FROM THE 22
 3 DISTRICT ATTORNEYS; TO AMEND SECTION 25-31-1, MISSISSIPPI CODE OF
 4 1972, TO INCREASE THE NUMBER OF YEARS OF ADMISSION TO THE
 5 MISSISSIPPI BAR IN ORDER TO BE ELIGIBLE TO HOLD THE OFFICE OF
 6 ATTORNEY GENERAL; TO AMEND SECTION 25-31-11, MISSISSIPPI CODE OF
 7 1972, TO REQUIRE THE DISTRICT ATTORNEYS TO SUBMIT QUARTERLY
 8 REPORTS TO THE GOVERNOR WITH A COPY TO THE ATTORNEY GENERAL; AND
 9 FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 7-1-5, Mississippi Code of 1972, is
 12 amended as follows:

13 7-1-5. In addition to the powers conferred and duties
 14 imposed on the Governor by the Constitution and by the laws as
 15 elsewhere provided, he shall have the powers and perform the
 16 duties following, viz:

17 (a) He is the supreme executive officer of the state.

18 (b) He is the commander in chief of the militia of the
 19 state and may call out the militia to execute the laws, to
 20 suppress insurrections or riots and to repel invasions.

21 (c) He shall see that the laws are faithfully executed.

22 (d) He is to supervise the official conduct of all
 23 executive and ministerial officers.

24 (e) He is to see that all offices are filled and the
 25 duties thereof performed or, in default thereof, apply such remedy
 26 as the law allows; and if the remedy be imperfect, he shall
 27 acquaint the Legislature therewith at its next session.

28 (f) He shall make appointments and fill vacancies as
 29 prescribed by law.

30 (g) Whenever any suit or legal proceeding is pending
31 which affects the title of the state to any property, or which may
32 result in any claim against the state, he may direct the Attorney
33 General to appear on behalf of the state and protect its interest.

34 (h) He may require the Attorney General, or district
35 attorney of any district, to inquire into the affairs or
36 management of any corporation existing under the laws of this
37 state, or doing business in this state under the laws thereof.

38 (i) He shall receive quarterly reports from the
39 district attorneys as required by Section 25-31-13, and may
40 require the Attorney General to aid any district attorney in the
41 discharge of his duties.

42 (j) He may offer rewards, not exceeding Two Hundred
43 Dollars (\$200.00), for escaped insane persons who are dangerous,
44 and such other rewards as are authorized by law.

45 (k) He may require any officer or board to make special
46 reports to him upon demand in writing.

47 (l) He shall transact all necessary business with state
48 officers, shall require them to be present at their respective
49 offices at all reasonable business hours, and may require
50 information, in writing, from any such officer relating to the
51 duties of his office.

52 (m) When deemed advisable upon proceedings for the
53 arrest in this state of fugitives from justice from other states
54 or countries, he may commission a special officer to arrest such
55 fugitive in any part of the state.

56 (n) He may bring any proper suit affecting the general
57 public interests, in his own name for the State of Mississippi, if
58 after first requesting the proper officer so to do, the said
59 officer shall refuse or neglect to do the same.

60 **SECTION 2.** Section 25-31-1, Mississippi Code of 1972, is
61 amended as follows:

62 25-31-1. The District Attorney shall possess all the
63 qualifications of county officers and, in addition thereto, shall
64 be a regular licensed and practicing attorney and shall have been
65 duly admitted to practice before the Supreme Court of the State of
66 Mississippi for a period of four (4) years.

67 **SECTION 3.** Section 25-31-11, Mississippi Code of 1972, is
68 amended as follows:

69 25-31-11. (1) It shall be the duty of the District Attorney
70 to represent the state in all matters coming before the grand
71 juries of the counties within his district and to appear in the
72 circuit courts and prosecute for the state in his district all
73 criminal prosecutions and all civil cases in which the state or
74 any county within his district may be interested; but if two (2)
75 or more counties are adversely interested, the District Attorney
76 shall not represent either. Any district attorney may also
77 institute and prosecute to final judgment or decree any case in
78 the name of the state against any person or corporation for any
79 violation of the Constitution or the laws of this state, in order
80 to enforce any penalties, fines or forfeitures imposed by law in
81 any court of his district having jurisdiction, with like effect as
82 if the suit was instituted by the Attorney General.

83 (2) The District Attorney may transfer any case handled by
84 him to a county prosecuting attorney when charges in such case no
85 longer constitute a felony.

86 (3) The validity of any judgment or sentence shall not be
87 affected by the division of jurisdiction under this section, and
88 no judgment or sentence may be reversed or modified upon the basis
89 that the case was not processed according to this section.

90 (4) A county prosecuting attorney or municipal prosecuting
91 attorney may be designated by the District Attorney to appear on
92 behalf of the District Attorney pursuant to an agreement relating
93 to appearances in certain courts or proceedings in the county of
94 the county prosecuting attorney or in the municipality of the

95 municipal prosecuting attorney. Such agreement shall be filed
96 with the circuit court clerk of any county where such agreement
97 shall be operative. Such agreement shall be binding upon the
98 District Attorney and county prosecuting attorney or municipal
99 prosecuting attorney until dissolved by either of them in writing
100 upon five (5) days' notice.

101 (5) Where any statute of this state confers a jurisdiction,
102 responsibility, duty, privilege or power upon a county attorney or
103 county prosecuting attorney, either solely, jointly or
104 alternatively with a district attorney, such county prosecuting
105 attorney shall be responsible for the prosecution, handling,
106 appearance, disposition or other duty conferred by such statute.
107 Any such provision shall not be construed to bestow such
108 responsibility, jurisdiction or power upon the District Attorney
109 where there is no elected county prosecuting attorney, and any
110 such matter shall be handled pursuant to Section 19-3-49,
111 Mississippi Code of 1972.

112 (6) The District Attorney, or his designated assistant, or
113 the county prosecuting attorney, or his designated assistant,
114 shall assist the Attorney General in appeals from his district to
115 the Mississippi Supreme Court and in other post judgment
116 proceedings, and shall appear for oral argument before the Supreme
117 Court when directed by the Supreme Court.

118 (7) The several district attorneys shall submit reports of
119 revenues and expenditures and shall submit budget requests as
120 required for State General Fund agencies. For purposes of budget
121 control, the several offices of district attorney shall be
122 considered General Fund agencies and the budget and accounts of
123 the several offices, including salaries, travel expenses, office
124 expenses and any other expenditures or revenues, shall be
125 consolidated for all districts as far as such consolidation is
126 practical.

127 All revenue or funds allocated or expended by a district
128 attorney, whether such funds are appropriated from state funds, or
129 whether such funds are received from county funds, grants or
130 otherwise, shall be reported to the Legislative Budget Office.

131 (8) The district attorneys shall submit quarterly reports to
132 the Governor with a copy to the Attorney General setting forth the
133 following statistics for the previous quarter: number of days
134 spent appearing before a grand jury; number of indictments
135 secured; number of no true bills returned; number of cases pled;
136 number of convictions; number of cases in which no conviction was
137 secured; number of trials; number of days spent in trial; and such
138 other information as the district attorney judges will be helpful.
139 The reports shall be mailed no later than the following dates:
140 for the January-February-March quarter, April 15; for the
141 April-May-June quarter, July 15; for the July-August-September
142 quarter, October 15; for the October-November-December quarter,
143 January 15.

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