

By: Representatives Gunn, Baker (8th),
Staples, Denny, Davis, Barnett, Mayhall,
Martinson, Rotenberry, Lott, Carlton

To: Judiciary A

HOUSE BILL NO. 935

1 AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE APPOINTMENT OF SPECIAL JUDGES TO ASSIST TRIAL COURT
3 DISTRICTS REDUCE CASELOADS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 9-1-105, Mississippi Code of 1972, is
6 amended as follows:

7 9-1-105. (1) (a) Whenever any judicial officer is
8 unwilling or unable to hear a case or unable to hold or attend any
9 of the courts at the time and place required by law by reason of
10 the physical disability or sickness of such judicial officer, by
11 reason of the absence of such judicial officer from the state, by
12 reason of the disqualification of such judicial officer pursuant
13 to the provision of Section 165, Mississippi Constitution of 1890,
14 or any provision of the Code of Judicial Conduct, or for any other
15 reason, the Chief Justice of the Mississippi Supreme Court, with
16 the advice and consent of a majority of the justices of the
17 Mississippi Supreme Court, shall appoint a person as a special
18 judge to hear the case or attend and hold a court.

19 (b) If the Chief Justice determines that the docket in
20 a circuit or chancery court district has a backlog of cases, he
21 shall appoint a special judge or judges from another district to
22 assist the district in reducing such backlog.

23 (2) Upon the request of the Chief Judge of the Court of
24 Appeals or the senior judge of a chancery or circuit court
25 district, the Chief Justice of the Mississippi Supreme Court, with
26 the advice and consent of a majority of the justices of the
27 Mississippi Supreme Court, shall have the authority to appoint a

28 special judge to serve on an emergency basis in a circuit or
29 chancery court. It shall be the duty of any special judge so
30 appointed to assist the court to which he is assigned in the
31 disposition of causes so pending in such court.

32 (3) When a vacancy exists for any of the reasons enumerated
33 in Section 9-1-103, the vacancy has not been filled within seven
34 (7) days by an appointment by the Governor, and there is a pending
35 cause or are pending causes in the court where the vacancy exists
36 that in the interests of justice and in the orderly dispatch of
37 the court's business require the appointment of a special judge,
38 the Chief Justice of the Supreme Court, with the advice and
39 consent of a majority of the justices of the Mississippi Supreme
40 Court, may appoint a qualified person as a special judge to fill
41 the vacancy until the Governor makes his appointment and such
42 appointee has taken the oath of office.

43 (4) If the Chief Justice pursuant to this section shall make
44 an appointment within the authority vested in the Governor by
45 reason of Section 165, Mississippi Constitution of 1890, the
46 Governor may at his election appoint a person to so serve. In the
47 event that the Governor makes such an appointment, any appointment
48 made by the Chief Justice pursuant to this section shall be void
49 and of no further force or effect from the date of the Governor's
50 appointment.

51 (5) When a judicial officer is unwilling or unable to hear a
52 case or unable or unwilling to hold court for a period of time not
53 to exceed two (2) weeks, the trial judge or judges of the affected
54 district or county and other trial judges may agree among
55 themselves regarding the appointment of a person for such case or
56 such limited period of time. The trial judges shall submit a
57 notice to the Chief Justice of the Supreme Court informing him of
58 their appointment. If the Chief Justice does not appoint another
59 person to serve as special judge within seven (7) days after

60 receipt of such notice, the person designated in such order shall
61 be deemed appointed.

62 (6) A person appointed to serve as a special judge may be
63 any presently sitting or retired chancery, circuit or county court
64 judge, Court of Appeals judge or Supreme Court Justice, or any
65 other person possessing the qualifications of the judicial office
66 for which the appointment is made; provided, however, that a judge
67 or justice who was retired from service at the polls shall not be
68 eligible for appointment as a special judge in the district in
69 which he served prior to his defeat.

70 (7) Except as otherwise provided in subsection (2) of this
71 section, the need for an appointment pursuant to this section may
72 be certified to the Chief Justice of the Mississippi Supreme Court
73 by any attorney in good standing or other officer of the court.

74 (8) The order appointing a person as a special judge
75 pursuant to this section shall describe as specifically as
76 possible the duration of the appointment.

77 (9) A special judge appointed pursuant to this section shall
78 take the oath of office, if necessary, and shall, for the duration
79 of his appointment, enjoy the full power and authority of the
80 office to which he is appointed.

81 (10) Any presently sitting justice or judge appointed as a
82 special judge under this section shall receive no additional
83 compensation for his or her service as special judge. Any other
84 person appointed as a special judge hereunder shall, for the
85 period of his service, receive compensation from the state for
86 each day's service a sum equal to 1/260 of the current salary in
87 effect for the judicial office; provided, however, that no retired
88 chancery, circuit or county court judge, retired Court of Appeals
89 judge or any retired Supreme Court Justice appointed as a special
90 judge pursuant to this section may, during any fiscal year,
91 receive compensation in excess of twenty-five percent (25%) of the
92 current salary in effect for a chancery or circuit court judge.

93 Any person appointed as a special judge shall be reimbursed for
94 travel expenses incurred in the performance of the official duties
95 to which he may be appointed hereunder in the same manner as other
96 public officials and employees as provided by Section 25-3-41,
97 Mississippi Code of 1972.

98 (11) If any person appointed as such special judge is
99 receiving retirement benefits by virtue of the provisions of the
100 Public Employees' Retirement Law of 1952, appearing as Sections
101 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
102 shall not be reduced in any sum whatsoever because of such
103 service, nor shall any sum be deducted as contributions toward
104 retirement under said law.

105 (12) The Supreme Court shall have authority to prescribe
106 rules and regulations reasonably necessary to implement and give
107 effect to the provisions of this section.

108 (13) Nothing in this section shall abrogate the right of
109 attorneys engaged in a case to agree upon a member of the bar to
110 preside in a case pursuant to Section 165 of the Mississippi
111 Constitution of 1890.

112 (14) The Supreme Court shall prepare the necessary payroll
113 for special judges appointed pursuant to this section and shall
114 submit such payroll to the Department of Finance and
115 Administration.

116 (15) Special judges appointed pursuant to this section shall
117 direct requests for reimbursement for travel expenses authorized
118 pursuant to this section to the Supreme Court and the Supreme
119 Court shall submit such requests to the Department of Finance and
120 Administration. The Supreme Court shall have the power to adopt
121 rules and regulations regarding the administration of travel
122 expenses authorized pursuant to this section.

123 **SECTION 2.** The Attorney General of the State of Mississippi
124 shall submit this act, immediately upon approval by the Governor,
125 or upon approval by the Legislature subsequent to a veto, to the

126 Attorney General of the United States or to the United States
127 District Court for the District of Columbia in accordance with the
128 provisions of the Voting Rights Act of 1965, as amended and
129 extended.

130 **SECTION 3.** This act shall take effect and be in force from
131 and after the date it is effectuated under Section 5 of the Voting
132 Rights Act of 1965, as amended and extended.