

By: Representative Banks

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1018

1 AN ACT TO AMEND SECTION 19-19-9, MISSISSIPPI CODE OF 1972, TO
2 ESTABLISH A PROCEDURE TO EXECUTE COURT ORDERS WHEN A CONSTABLE
3 FAILS; TO AMEND SECTION 19-19-15, MISSISSIPPI CODE OF 1972, TO
4 REVISE THE PENALTY FOR NEGLIGENCE OF DUTY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 19-19-9, Mississippi Code of 1972, is
7 amended as follows:

8 19-19-9. (1) If any constable or other officer fails to
9 execute and return, according to law, any execution to him
10 directed by any justice court judge, on or before the return day
11 thereof, the plaintiff in execution may recover the amount
12 thereof, with interest and costs and five percent (5%) damages
13 thereon, by motion before the justice to whom the execution was
14 returnable, against the officer and his sureties. When any
15 constable, or such other officer, or his sureties, shall have paid
16 the amount of money and damages recovered, the original judgment
17 shall be vested in the person so paying. The justice, on motion,
18 may fine the officer not exceeding Fifty Dollars (\$50.00) for
19 failing to return such execution.

20 (2) In addition to the provisions of subsection (1) of this
21 section, if any constable receives an order from any court and
22 fails to execute and return such order within thirty (30) days, or
23 such other time as may be applicable by law, the court upon motion
24 of a party or upon its own motion may select another constable to
25 execute such order. The constable failing to execute such order
26 shall be fined as provided by this section or any other applicable
27 section, within the discretion of the court, unless good cause be
28 shown.

29 **SECTION 2.** Section 19-19-15, Mississippi Code of 1972, is
30 amended as follows:

31 19-19-15. A constable who shall fail to discharge any of the
32 duties required of him, when no other penalty is provided for such
33 failure, shall be liable to be fined, as for a contempt, not
34 exceeding One Hundred Dollars (\$100.00) by the justice court judge
35 before whom the proceedings may be pending.

36 **SECTION 3.** This act shall take effect and be in force from
37 and after July 1, 2005.