

By: Representative Banks

To: Judiciary B

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 a court and fails
22 to execute and return such order within thirty (30) days, the
23 court upon motion of a party or upon its own motion may select
24 another constable to execute such order. The constable failing to
25 execute such order shall be punished as provided by this section
26 or any other applicable section and shall explain such failure to
27 the court.

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

30 19-19-15. A constable who shall fail to discharge any of the
31 duties required of him, when no other penalty is provided for such
32 failure, shall be liable to be fined, as for a contempt, not
33 exceeding One Hundred Dollars (\$100.00) by the justice court judge
34 before whom the proceedings may be pending.

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