

Senate Amendments to House Bill No. 1377

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

18 **SECTION 1.** Section 37-9-17, Mississippi Code of 1972, is
19 amended as follows:
20 37-9-17. (1) On or before April 1 of each year, the
21 principal of each school shall recommend to the superintendent of
22 the local school district the licensed employees or
23 noninstructional employees to be employed for the school involved
24 except those licensed employees or noninstructional employees who
25 have been previously employed and who have a contract valid for
26 the ensuing scholastic year. If such recommendations meet with
27 the approval of the superintendent, the superintendent shall
28 recommend the employment of such licensed employees or
29 noninstructional employees to the local school board, and, unless
30 good reason to the contrary exists, the board shall elect the
31 employees so recommended. If, for any reason, the local school
32 board shall decline to elect any employee so recommended,
33 additional recommendations for the places to be filled shall be
34 made by the principal to the superintendent and then by the
35 superintendent to the local school board as provided above. The
36 school board of any local school district shall be authorized to
37 designate a personnel supervisor or another principal employed by
38 the school district to recommend to the superintendent licensed
39 employees or noninstructional employees; however, this
40 authorization shall be restricted to no more than two (2)
41 positions for each employment period for each school in the local
42 school district. Any noninstructional employee employed upon the
43 recommendation of a personnel supervisor or another principal

44 employed by the local school district must have been employed by
45 the local school district at the time the superintendent was
46 elected or appointed to office; a noninstructional employee
47 employed under this authorization may not be paid compensation in
48 excess of the statewide average compensation for such
49 noninstructional position with comparable experience, as
50 established by the State Department of Education. The school
51 board of any local school district shall be authorized to
52 designate a personnel supervisor or another principal employed by
53 the school district to accept the recommendations of principals or
54 their designees for licensed employees or noninstructional
55 employees and to transmit approved recommendations to the local
56 school board; however, this authorization shall be restricted to
57 no more than two (2) positions for each employment period for each
58 school in the local school district.

59 When the licensed employees have been elected as provided in
60 the preceding paragraph, the superintendent of the district shall
61 enter into a contract with such persons in the manner provided in
62 this chapter.

63 If, at the commencement of the scholastic year, any licensed
64 employee shall present to the superintendent a license of a higher
65 grade than that specified in such individual's contract, such
66 individual may, if funds are available from adequate education
67 program funds of the district, or from district funds, be paid
68 from such funds the amount to which such higher grade license
69 would have entitled the individual, had the license been held at
70 the time the contract was executed.

71 (2) Superintendents/directors of schools under the purview
72 of the State Board of Education, the superintendent of the local
73 school district and any private firm under contract with the local
74 public school district to provide substitute teachers to teach
75 during the absence of a regularly employed schoolteacher shall
76 require, through the appropriate governmental authority, that
77 current criminal records background checks and current child abuse
78 registry checks are obtained, and that such criminal record

79 information and registry checks are on file for any new hires
80 applying for employment as a licensed or nonlicensed employee at a
81 school and not previously employed in such school under the
82 purview of the State Board of Education or at such local school
83 district prior to July 1, 2000. In order to determine the
84 applicant's suitability for employment, the applicant shall be
85 fingerprinted. If no disqualifying record is identified at the
86 state level, the fingerprints shall be forwarded by the Department
87 of Public Safety to the Federal Bureau of Investigation for a
88 national criminal history record check. The fee for such
89 fingerprinting and criminal history record check shall be paid by
90 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
91 State Board of Education, the school board of the local school
92 district or a private firm under contract with a local school
93 district to provide substitute teachers to teach during the
94 temporary absence of the regularly employed schoolteacher, in its
95 discretion, may elect to pay the fee for the fingerprinting and
96 criminal history record check on behalf of any applicant. Under
97 no circumstances shall a member of the State Board of Education,
98 superintendent/director of schools under the purview of the State
99 Board of Education, local school district superintendent, local
100 school board member or any individual other than the subject of
101 the criminal history record checks disseminate information
102 received through any such checks except insofar as required to
103 fulfill the purposes of this section. Any nonpublic school which
104 is accredited or approved by the State Board of Education may
105 avail itself of the procedures provided for herein and shall be
106 responsible for the same fee charged in the case of local public
107 schools of this state. * * * The determination * * * whether the
108 applicant has a disqualifying crime, as set forth in subsection
109 (3) of this section, shall be made by the appropriate governmental
110 authority, and the appropriate governmental authority shall notify
111 the private firm * * * whether a disqualifying crime exists. * * *

112 (3) If such fingerprinting or criminal record checks
113 disclose a felony conviction, guilty plea or plea of nolo

114 contendere to a felony of possession or sale of drugs, murder,
115 manslaughter, armed robbery, rape, sexual battery, sex offense
116 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
117 burglary, gratification of lust or aggravated assault which has
118 not been reversed on appeal or for which a pardon has not been
119 granted, the new hire shall not be eligible to be employed at such
120 school. Any employment contract for a new hire executed by the
121 superintendent of the local school district or any employment of a
122 new hire by a superintendent/director of a new school under the
123 purview of the State Board of Education or by a private firm shall
124 be voidable if the new hire receives a disqualifying criminal
125 record check. However, the State Board of Education or the school
126 board may, in its discretion, allow any applicant aggrieved by the
127 employment decision under this section to appear before the
128 respective board, or before a hearing officer designated for such
129 purpose, to show mitigating circumstances which may exist and
130 allow the new hire to be employed at the school. The State Board
131 of Education or local school board may grant waivers for such
132 mitigating circumstances, which shall include, but not be limited
133 to: (a) age at which the crime was committed; (b) circumstances
134 surrounding the crime; (c) length of time since the conviction and
135 criminal history since the conviction; (d) work history; (e)
136 current employment and character references; (f) other evidence
137 demonstrating the ability of the person to perform the employment
138 responsibilities competently and that the person does not pose a
139 threat to the health or safety of the children at the school.

140 (4) No local school district, local school district
141 employee, member of the State Board of Education or employee of a
142 school under the purview of the State Board of Education shall be
143 held liable in any employment discrimination suit in which an
144 allegation of discrimination is made regarding an employment
145 decision authorized under this Section 37-9-17.

146 **SECTION 2.** Section 97-3-82, Mississippi Code of 1972, is
147 amended as follows:

148 97-3-82. (1) For the purposes of this section the following
149 words and phrases shall have the meanings ascribed herein, unless
150 the context clearly indicates otherwise:

151 (a) "Obtain" means: (i) in relation to property, to
152 bring about a transfer or purported transfer of a legal interest
153 in, or physical possession of, the property, whether to the
154 obtainer or another; or (ii) in relation to labor or service, or
155 any reward, favor, or advantage of any kind, to secure performance
156 thereof; or attempt to do (i) or (ii).

157 (b) "Property" means anything of value, including, but
158 not limited to, real estate, tangible and intangible personal
159 property, contract rights, choses-in-action, reputation of a
160 person and other interests in or claims to wealth, admission or
161 transportation tickets, captured or domestic animals, food and
162 drink, electric or other power.

163 (c) "Property of another" includes property in which
164 any person other than the actor has an interest which the actor is
165 not privileged to infringe, regardless of the fact that the actor
166 also has an interest in the property and regardless of the fact
167 that the other person might be precluded from civil recovery
168 because the property was used in an unlawful transaction or was
169 subject to forfeiture as contraband. Property in possession of
170 the actor shall not be deemed property of another who has only a
171 security interest therein, even if legal title is in the creditor
172 pursuant to a conditional sales contract or other security
173 agreement.

174 (d) "Public official" means any person elected or
175 appointed to any office, position or employment whereby the person
176 is paid a fee or salary by the State of Mississippi or any
177 political subdivision thereof or any agency or subdivision of the
178 government of the United States, regardless of the source or
179 sources of the funds for the payment.

180 (2) A person is guilty of extortion if he purposely obtains
181 or attempts to obtain property * * * of another or any reward,
182 favor, or advantage of any kind by threatening to inflict bodily

183 injury on any person or by committing or threatening to commit any
184 other criminal offense, violation of civil statute, or the public
185 or private revelation of information not previously in the public
186 domain for the purpose of humiliating or embarrassing the other
187 person, without regard to whether the revelation otherwise
188 constitutes a violation of a specific statute.

189 (3) (a) Except as provided in paragraph (d) of this
190 subsection, any person, whether a public official or not, who
191 commits the offense of extortion of property or things of value of
192 another under the value of Five Hundred Dollars (\$500.00) shall be
193 guilty of a misdemeanor and, upon conviction thereof, shall be
194 punished by imprisonment in the county jail not to exceed six (6)
195 months.

196 (b) Except as provided in paragraph (d) of this
197 subsection, any person, whether a public official or not, who
198 commits the offense of extortion of property or things of value of
199 another of the value of Five Hundred Dollars (\$500.00) or more
200 shall be guilty of a felony and, upon conviction thereof, shall be
201 punished by commitment to the custody of the Department of
202 Corrections for a term not to exceed fifteen (15) years.

203 (c) Except as provided in paragraph (d) of this
204 subsection, any person, whether a public official or not, who
205 commits the offense of extortion in order to obtain any intangible
206 reward, favor or advantage to which no monetary value is normally
207 given shall be guilty of a felony and, upon conviction thereof,
208 shall be punished by commitment to the custody of the Department
209 of Corrections for a term not to exceed fifteen (15) years.

210 (d) Any public official acting in his official capacity
211 or under color of his office who commits the offense of extortion
212 in order to obtain any intangible reward, favor or advantage to
213 which no monetary value is normally given, or who commits the
214 offense of extortion of tangible property, regardless of the value
215 of the property, shall be guilty of a felony and, upon conviction
216 thereof, shall be punished by commitment to the custody of the

217 Department of Corrections for a term not less than two (2) nor
218 more than twenty (20) years.

219 **SECTION 3.** Section 97-11-33, Mississippi Code of 1972, is
220 amended as follows:

221 97-11-33. (1) If any judge, justice court judge, sheriff,
222 deputy sheriff, sheriff's employee, constable, assessor,
223 collector, clerk, county medical examiner, county medical examiner
224 investigator, employee of the Mississippi Department of
225 Corrections, employee of any contractor providing incarceration
226 services or any other officer, shall knowingly demand, take or
227 collect, under color of his office, any money fee or reward
228 whatever, not authorized by law, or shall demand and receive,
229 knowingly, any fee for service not actually performed, such
230 officer, so offending, shall be guilty of extortion, and, on
231 conviction, shall be punished by fine not exceeding Five Thousand
232 Dollars (\$5,000.00), or imprisonment for not more than five (5)
233 years, or both, and shall be removed from office.

234 (2) Any jailer, law enforcement officer, employee of a law
235 enforcement agency or court, employee or agent of an independent
236 contractor of a law enforcement agency or court, or any trusty or
237 inmate who takes anything of value from a bail agent or a person
238 impersonating a bail agent, other than things provided uniformly
239 to all persons similarly employed, shall be guilty of extortion
240 and punished as provided in subsection (1) of this section.

241 **SECTION 4.** Section 83-39-29, Mississippi Code of 1972, is
242 amended as follows:

243 83-39-29. The department may provide information to the
244 district attorney in the district in which a professional bail
245 agent, a soliciting bail agent or bail enforcement agent is
246 domiciled so that proper legal action may be pursued against any
247 licensee who is alleged to have violated any provision of Chapter
248 39 of Title 83. Such licensee is guilty of a misdemeanor and
249 shall be subject to a fine of not more than One Thousand Dollars
250 (\$1,000.00), imprisonment in the county jail for not more than one
251 (1) year, or both. Any insurer violating any provision of Chapter

252 39 of Title 83 may be fined in an amount not to exceed Fifty
253 Thousand Dollars (\$50,000.00).

254 Any person who acts or attempts to solicit, write or present
255 a bail bond as a professional bail agent, soliciting bail agent,
256 or bail enforcement agent as defined in this chapter and who is
257 not licensed under this chapter is guilty of a misdemeanor and,
258 upon conviction, shall be subject to a fine of not more than One
259 Thousand Dollars (\$1,000.00), imprisonment in the county jail for
260 not more than one (1) year, or both.

261 Any person who violates Section 83-39-27(b) shall be guilty
262 of a felony and, upon conviction thereof, shall be punished by
263 commitment to the custody of the Department of Corrections for a
264 term not more than five (5) years.

265 Any person who acts or attempts to act or represents himself
266 to be, or impersonates a professional bail agent, a soliciting
267 bail agent or a bail enforcement agent, as defined in this chapter
268 by attempting to arrest or detaining any person and who is not
269 licensed under this chapter is guilty of a misdemeanor and, upon
270 conviction, shall be subject to a fine of not more than Five
271 Thousand Dollars (\$5,000.00), imprisonment for not more than one
272 (1) year, or both.

273 A bail agent, bail enforcement agent or bail enforcement
274 agent from another state shall report to the Sheriff's Department
275 of the county in which he is attempting to locate a fugitive prior
276 to beginning to look for the fugitive to prove his licensing and
277 legal right to the fugitive. Failure to prove licensing shall be
278 an offense punishable by a fine not to exceed One Thousand Dollars
279 (\$1,000.00).

280 Any person charged with a criminal violation who has obtained
281 his release from custody by having a professional bail agent,
282 insurer, agent of such bail agent or insurer, or any person other
283 than himself furnish his bail bond and who fails to appear in
284 court, at the time and place ordered by the court, is guilty of
285 "bond jumping" and, upon conviction, shall be subject to a fine of
286 not more than One Thousand Dollars (\$1,000.00), imprisonment in

287 the county jail for not more than one (1) year, or both, and
288 payment of restitution for reasonable expenses incurred returning
289 the defendant to court.

290 **SECTION 5.** This act shall take effect and be in force from
291 and after July 1, 2005.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT WHEN A PRIVATE FIRM IS UNDER CONTRACT WITH A LOCAL
3 PUBLIC SCHOOL DISTRICT TO PROVIDE SUBSTITUTE TEACHERS TO TEACH
4 DURING THE TEMPORARY ABSENCE OF THE REGULARLY EMPLOYED SCHOOL
5 TEACHER, THEN THE PRIVATE FIRM SHALL REQUEST LOCAL LAW ENFORCEMENT
6 TO SUBMIT THE SUBSTITUTE TEACHERS' FINGERPRINT CARDS FOR A
7 CRIMINAL HISTORY RECORD; TO AMEND SECTION 97-3-82, MISSISSIPPI
8 CODE OF 1972, TO REVISE THE DEFINITIONS OF "OBTAIN" AND "PROPERTY"
9 AND TO ENACT A DEFINITION FOR "PUBLIC OFFICIAL"; TO INCLUDE
10 EXTORTION TO OBTAIN A REWARD, FAVOR OR ADVANTAGE IN THE OFFENSE;
11 TO REVISE PENALTIES; TO AMEND SECTION 97-11-33, MISSISSIPPI CODE
12 OF 1972, TO CREATE THE CRIME OF ACCEPTING ANYTHING OF VALUE FROM A
13 BAIL AGENT FOR CERTAIN EMPLOYEES AND OFFICIALS OF THE LAW
14 ENFORCEMENT AND JUSTICE SYSTEMS; TO AMEND SECTION 83-39-29,
15 MISSISSIPPI CODE OF 1972, TO CONFORM THE PENALTY FOR GIVING OF A
16 BRIBE BY A BONDSMAN; AND FOR RELATED PURPOSES.

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John O. Gilbert
Secretary of the Senate