

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1377**

**BY: Committee**

**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 public school district,  
110 and the public school district shall notify the private firm \* \* \*  
111 whether a disqualifying crime exists. The determination of  
112 eligibility to work in the public school district shall be made by  
113 the school district.

114 (3) If such fingerprinting or criminal record checks  
115 disclose a felony conviction, guilty plea or plea of nolo  
116 contendere to a felony of possession or sale of drugs, murder,  
117 manslaughter, armed robbery, rape, sexual battery, sex offense  
118 listed in Section 45-33-23(g), child abuse, arson, grand larceny,  
119 burglary, gratification of lust or aggravated assault which has  
120 not been reversed on appeal or for which a pardon has not been  
121 granted, the new hire shall not be eligible to be employed at such  
122 school. Any employment contract for a new hire executed by the  
123 superintendent of the local school district or any employment of a  
124 new hire by a superintendent/director of a new school under the  
125 purview of the State Board of Education or by a private firm shall  
126 be voidable if the new hire receives a disqualifying criminal  
127 record check. However, the State Board of Education or the school  
128 board may, in its discretion, allow any applicant aggrieved by the  
129 employment decision under this section to appear before the  
130 respective board, or before a hearing officer designated for such  
131 purpose, to show mitigating circumstances which may exist and  
132 allow the new hire to be employed at the school. The State Board

133 of Education or local school board may grant waivers for such  
134 mitigating circumstances, which shall include, but not be limited  
135 to: (a) age at which the crime was committed; (b) circumstances  
136 surrounding the crime; (c) length of time since the conviction and  
137 criminal history since the conviction; (d) work history; (e)  
138 current employment and character references; (f) other evidence  
139 demonstrating the ability of the person to perform the employment  
140 responsibilities competently and that the person does not pose a  
141 threat to the health or safety of the children at the school.

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

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

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

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

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

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

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

182 (2) A person is guilty of extortion if he purposely obtains  
183 or attempts to obtain property \* \* \* of another or any reward,  
184 favor, or advantage of any kind by threatening to inflict bodily  
185 injury on any person or by committing or threatening to commit any  
186 other criminal offense, violation of civil statute, or the public  
187 or private revelation of information not previously in the public  
188 domain for the purpose of humiliating or embarrassing the other  
189 person, without regard to whether the revelation otherwise  
190 constitutes a violation of a specific statute.

191 (3) (a) Except as provided in paragraph (d) of this  
192 subsection, any person, whether a public official or not, who  
193 commits the offense of extortion of property or things of value of  
194 another under the value of Five Hundred Dollars (\$500.00) shall be  
195 guilty of a misdemeanor and, upon conviction thereof, shall be

196 punished by imprisonment in the county jail not to exceed six (6)  
197 months.

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

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

212           (d) Any public official acting in his official capacity  
213 or under color of his office who commits the offense of extortion  
214 in order to obtain any intangible reward, favor or advantage to  
215 which no monetary value is normally given, or who commits the  
216 offense of extortion of tangible property, regardless of the value  
217 of the property, shall be guilty of a felony and, upon conviction  
218 thereof, shall be punished by commitment to the custody of the  
219 Department of Corrections for a term not less than two (2) nor  
220 more than twenty (20) years.

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

223           97-11-33. (1) If any judge, justice court judge, sheriff,  
224 deputy sheriff, sheriff's employee, constable, assessor,  
225 collector, clerk, county medical examiner, county medical examiner  
226 investigator, employee of the Mississippi Department of  
227 Corrections, employee of any contractor providing incarceration

228 services or any other officer, shall knowingly demand, take or  
229 collect, under color of his office, any money fee or reward  
230 whatever, not authorized by law, or shall demand and receive,  
231 knowingly, any fee for service not actually performed, such  
232 officer, so offending, shall be guilty of extortion, and, on  
233 conviction, shall be punished by fine not exceeding Five Thousand  
234 Dollars (\$5,000.00), or imprisonment for not more than five (5)  
235 years, or both, and shall be removed from office.

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

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

245 83-39-29. The department may provide information to the  
246 district attorney in the district in which a professional bail  
247 agent, a soliciting bail agent or bail enforcement agent is  
248 domiciled so that proper legal action may be pursued against any  
249 licensee who is alleged to have violated any provision of Chapter  
250 39 of Title 83. Such licensee is guilty of a misdemeanor and  
251 shall be subject to a fine of not more than One Thousand Dollars  
252 (\$1,000.00), imprisonment in the county jail for not more than one  
253 (1) year, or both. Any insurer violating any provision of Chapter  
254 39 of Title 83 may be fined in an amount not to exceed Fifty  
255 Thousand Dollars (\$50,000.00).

256 Any person who acts or attempts to solicit, write or present  
257 a bail bond as a professional bail agent, soliciting bail agent,  
258 or bail enforcement agent as defined in this chapter and who is  
259 not licensed under this chapter is guilty of a misdemeanor and,



260 upon conviction, shall be subject to a fine of not more than One  
261 Thousand Dollars (\$1,000.00), imprisonment in the county jail for  
262 not more than one (1) year, or both.

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

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

275 A bail agent, bail enforcement agent or bail enforcement  
276 agent from another state shall report to the Sheriff's Department  
277 of the county in which he is attempting to locate a fugitive prior  
278 to beginning to look for the fugitive to prove his licensing and  
279 legal right to the fugitive. Failure to prove licensing shall be  
280 an offense punishable by a fine not to exceed One Thousand Dollars  
281 (\$1,000.00).

282 Any person charged with a criminal violation who has obtained  
283 his release from custody by having a professional bail agent,  
284 insurer, agent of such bail agent or insurer, or any person other  
285 than himself furnish his bail bond and who fails to appear in  
286 court, at the time and place ordered by the court, is guilty of  
287 "bond jumping" and, upon conviction, shall be subject to a fine of  
288 not more than One Thousand Dollars (\$1,000.00), imprisonment in  
289 the county jail for not more than one (1) year, or both, and  
290 payment of restitution for reasonable expenses incurred returning  
291 the defendant to court.

292           **SECTION 5.** This act shall take effect and be in force from  
293 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.