

By: Representatives Flaggs, Blackmon

To: Judiciary A;
Appropriations

HOUSE BILL NO. 298
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 99-40-1, MISSISSIPPI CODE OF 1972, TO
2 CREATE THE STATE FUNDED POSITION OF INDIGENT JUVENILE APPEALS
3 RESOURCE COUNSEL WITHIN THE MISSISSIPPI OFFICE OF INDIGENT
4 APPEALS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 99-40-1, Mississippi Code of 1972, is
7 amended as follows:

8 99-40-1. (1) There is created the Mississippi Office of
9 Indigent Appeals. This office shall consist of six (6) attorneys,
10 two (2) secretaries/paralegals and one (1) financial assistant.
11 One (1) of the attorneys shall serve as director of the office.
12 The director shall be appointed by the Governor and shall serve
13 for a term of four (4) years. The remaining attorneys and other
14 staff shall be appointed by the director and shall serve at the
15 will and pleasure of the director. The director and all other
16 attorneys in the office shall either be active members of The
17 Mississippi Bar, or, if a member in good standing of the bar of
18 another jurisdiction, must apply to and secure admission to The
19 Mississippi Bar within twelve (12) months of the commencement of
20 the person's employment by the office. The attorneys in the
21 office shall practice law exclusively for the office and shall not
22 engage in any other practice. The office shall not engage in any
23 litigation other than that related to the office. The salary for
24 the director shall be equivalent to the salary of district
25 attorneys and the salary of the other attorneys in the office
26 shall be equivalent to the salary of assistant district attorney.

27 (2) The office shall provide representation on appeal for
28 indigent persons convicted of felonies but not under sentences of

29 death. Representation shall be provided by staff attorneys, or,
30 in the case of conflict or excessive workload, by attorneys
31 selected, employed and compensated by the office on a contract
32 basis. All fees charged by contract counsel and expenses incurred
33 by attorneys in the office and contract counsel must be approved
34 by the court. At the sole discretion of the director, the office
35 may also represent indigent juveniles adjudicated delinquent on
36 appeals from a county court or chancery court to the Mississippi
37 Supreme Court and/or the Mississippi Court of Appeals. The office
38 shall provide advice, education and support to attorneys
39 representing persons under felony charges in the trial courts.

40 (3) There is created in the State Treasury a special fund to
41 be known as the Indigent Appeals Fund. The purpose of the fund
42 shall be to provide funding for the Mississippi Office of Indigent
43 Appeals. Monies from the funds derived from assessments under
44 Section 99-19-73 shall be distributed by the State Treasurer upon
45 warrants issued by the Mississippi Office of Indigent Appeals.
46 The fund shall be a continuing fund, not subject to fiscal-year
47 limitations, and shall consist of:

- 48 (a) Monies appropriated by the Legislature for the
49 purposes of funding the Office of Indigent Appeals;
- 50 (b) The interest accruing to the fund;
- 51 (c) Monies received under the provisions of Section
52 99-19-73;
- 53 (d) Monies received from the federal government;
- 54 (e) Donations; and
- 55 (f) Monies received from such other sources as may be
56 provided by law.

57 **SECTION 2.** This act shall take effect and be in force from
58 and after July 1, 2006.