

By: Representative Warren

To: Judiciary A

HOUSE BILL NO. 595

1 AN ACT TO REENACT SECTIONS 73-3-2 THROUGH 73-3-59,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE BOARD OF BAR ADMISSIONS
3 AND PRESCRIBE ITS DUTIES AND POWERS, AND WHICH PROVIDE CERTAIN
4 REGULATIONS REGARDING THE PRACTICE OF LAW IN THIS STATE; TO AMEND
5 SECTION 73-3-401, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF
6 THE REPEALER ON THE REENACTED SECTIONS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 73-3-2, Mississippi Code of 1972, is
9 reenacted as follows:

10 73-3-2. (1) **Power to admit persons to practice.** The power
11 to admit persons to practice as attorneys in the courts of this
12 state is vested exclusively in the Supreme Court of Mississippi.

13 (2) **Qualifications.** (a) Each applicant for admission to
14 the bar, in order to be eligible for examination for admission,
15 shall be at least twenty-one (21) years of age, of good moral
16 character, and shall present to the Board of Bar Admissions
17 satisfactory evidence:

18 (i) That he has successfully completed, or is
19 within sixty (60) days of completion of, a general course of study
20 of law in a law school which is provisionally or fully approved by
21 the section on legal education and admission to the bar of the
22 American Bar Association, and that such applicant has received, or
23 will receive within sixty (60) days, a diploma or certificate from
24 such school evidencing the satisfactory completion of such course,
25 but in no event shall any applicant under this paragraph be
26 admitted to the bar until such applicant actually receives such
27 diploma or certificate. However, an applicant who, as of November
28 1, 1981, was previously enrolled in a law school in active
29 existence in Mississippi for more than ten (10) years prior to the

30 date of application shall be eligible for examination for
31 admission; provided that such an applicant graduated prior to
32 November 1, 1984;

33 (ii) That he has notified the Board of Bar
34 Admissions in writing of an intention to pursue a general course
35 of study of law under the supervision of a Mississippi lawyer
36 prior to July 1, 1979, and in fact began study prior to July 1,
37 1979, and who completed the required course of study prior to
38 November 1, 1984, in accordance with Sections 73-3-13(b) and
39 73-3-15 as the same exist prior to the effective date of this
40 section; or

41 (iii) That in addition to complying with either of
42 the above requirements, he has received a bachelor's degree from
43 an accredited college or university or that he has received credit
44 for the requirements of the first three (3) years of college work
45 from a college or university offering an integrated six-year
46 prelaw and law course, and has completed his law course at a
47 college or university offering such an integrated six-year course.
48 However, applicants who have already begun the general course of
49 study of law as of November 1, 1979, either in a law school or
50 under the supervision of a Mississippi lawyer shall submit proof
51 he has successfully completed two (2) full years of college work.

52 (b) The applicant shall bear the burden of establishing
53 his or her qualifications for admission to the satisfaction of the
54 Board of Bar Admissions. An applicant denied admission for
55 failure to satisfy qualifications for admission shall have the
56 right to appeal from the final order of the board to the Chancery
57 Court of Hinds County, Mississippi, within thirty (30) days of
58 entry of such order of denial.

59 (3) **Creation of Board of Bar Admissions.** There is hereby
60 created a board to be known as the "Board of Bar Admissions" which
61 shall be appointed by the Supreme Court of Mississippi. The board
62 shall consist of nine (9) members, who shall be members in good

63 standing of the Mississippi State Bar and shall serve for terms of
64 three (3) years. Three (3) members shall be appointed from each
65 Supreme Court district, one (1) by each Supreme Court Justice from
66 his district, with the original appointments to be as follows:
67 Three (3) to be appointed for a term of one (1) year, three (3) to
68 be appointed for a term of two (2) years, and three (3) to be
69 appointed for a term of three (3) years, one (1) from each
70 district to be appointed each year. No member of the Board of Bar
71 Admissions may be a member of the Legislature. Vacancies during a
72 term shall be filled by the appointing justice or his successor
73 for the remainder of the unexpired term.

74 The board shall promulgate the necessary rules for the
75 administration of their duties, subject to the approval of the
76 Chief Justice of the Supreme Court.

77 (4) **Written examination or graduation as prerequisite to**
78 **admission.** Every person desiring admission to the bar, shall be
79 required to take and pass a written bar examination in a manner
80 satisfactory to the Board of Bar Admissions. The Board of Bar
81 Admissions shall conduct not less than two (2) bar examinations
82 each year.

83 (5) **Oath and compensation of board members.** The members of
84 the Board of Bar Admissions shall take and subscribe an oath to be
85 administered by one (1) of the judges of the Supreme Court to
86 faithfully and impartially discharge the duties of the office.
87 The members shall receive compensation as established by the
88 Supreme Court for preparing, giving and grading the examination
89 plus all reasonable and necessary travel expenses incurred in the
90 performance of their duties under the provisions of this section.

91 (6) **Procedure for applicants who have failed.** Any applicant
92 who fails the examination shall be allowed to take the next
93 scheduled examination. A failing applicant may request in writing
94 from the board, within thirty (30) days after the results of the
95 examination have been made public, copies of his answers and model

96 answers used in grading the examination, at his expense. If a
97 uniform, standardized examination is administered, the board shall
98 only be required to provide the examination grade and such other
99 information concerning the applicant's examination results which
100 are available to the board. Any failing applicant shall have a
101 right to a review of his failure by the board. The board shall
102 enter an order on its minutes, prior to the administration of the
103 next bar examination, either granting or denying the applicant's
104 review, and shall notify the applicant of such order. The
105 applicant shall have the right to appeal from this order to the
106 Chancery Court of Hinds County, Mississippi, within thirty (30)
107 days of entry of such order.

108 (7) **Fees.** The board shall set and collect the fees for
109 examination and for admission to the bar. The fees for
110 examination shall be based upon the annual cost of administering
111 the examinations. The fees for admission shall be based upon the
112 cost of conducting an investigation of the applicant and the
113 administrative costs of sustaining the board, which shall include,
114 but shall not be limited to:

- 115 (a) Expenses and travel for board members;
- 116 (b) Office facilities, supplies and equipment; and
- 117 (c) Clerical assistance.

118 All fees collected by the board shall be paid to the State
119 Treasurer, who shall issue receipts therefor and who shall deposit
120 such funds in the State Treasury in a special fund to the credit
121 of said board. All such funds shall be expended only in
122 accordance with the provisions of Chapter 496, Laws of 1962, as
123 amended, being Section 27-103-1 et seq., Mississippi Code of 1972.

124 (8) The board, upon finding the applicant qualified for
125 admission, shall issue to the applicant a certificate of
126 admission. The applicant shall file the certificate and a
127 petition for admission in the Chancery Court of Hinds County,
128 Mississippi, or in the chancery court in the county of his

129 residence, or, in the case of an applicant who is a nonresident of
130 the State of Mississippi, in the chancery court of a county in
131 which the applicant intends to practice. The chancery court
132 shall, in termtime or in vacation, enter on the minutes of that
133 court an order granting to the applicant license to practice in
134 all courts in this state, upon taking by the applicant in the
135 presence of the court, the oath prescribed by law, Section
136 73-3-35, Mississippi Code of 1972.

137 (9) Each application or filing made under this section shall
138 include the social security number(s) of the applicant in
139 accordance with Section 93-11-64, Mississippi Code of 1972.

140 **SECTION 2.** Section 73-3-25, Mississippi Code of 1972, is
141 reenacted as follows:

142 73-3-25. Any lawyer from another state whose requirements
143 for admission to the bar are equivalent to those of this state,
144 who has practiced not less than five (5) years in a state where he
145 was then admitted may be admitted to the practice in this state
146 upon taking and passing such examination as to his knowledge of
147 law as may be prescribed by rules adopted by the Board of Bar
148 Admissions and approved by the Supreme Court and upon complying
149 with the other requirements as set out in the laws and rules
150 governing admission to the bar. Provided, however, the laws of
151 the state from which the applicant comes grant similar privileges
152 to the applicants from this state.

153 Any lawyer from another state desiring to be admitted to
154 practice in Mississippi must make application to the Board of Bar
155 Admissions. Such applicant shall present to the bar evidence of
156 his good standing in the state from which he came, including a
157 certificate from the clerk of the highest appellate court of the
158 state from which he came, and from two (2) members of the bar of
159 such state, certifying to his qualifications, good standing and
160 moral character of the applicant, and may require the submission
161 of additional evidence by the applicant. Upon satisfactory proof

162 of the applicant's qualifications and upon the applicant's
163 compliance with the requirements of this section, the board shall
164 issue a certificate of admission to the applicant, as prescribed
165 in Section 73-3-2(8). Each such applicant shall pay an
166 application fee prescribed by the Board of Bar Admissions
167 according to Section 73-3-2(7).

168 **SECTION 3.** Section 73-3-31, Mississippi Code of 1972, is
169 reenacted as follows:

170 73-3-31. The educational requirements both as to general
171 education and legal education shall not apply to any person who
172 may have graduated from a law school prior to October 1, 1954.

173 **SECTION 4.** Section 73-3-35, Mississippi Code of 1972, is
174 reenacted as follows:

175 73-3-35. Every attorney and counselor at law, before he
176 shall be permitted to practice, shall produce his license in each
177 court where he intends to practice, and in the presence of such
178 court, shall take the following oath or affirmation to wit:

179 "I do solemnly swear (or affirm) that I will demean myself,
180 as an attorney and counselor of this court, according to the best
181 of my learning and ability, and with all good fidelity as well to
182 the court as to the client; that I will use no falsehood nor delay
183 any person's cause for lucre or malice, and that I will support
184 the Constitution of the State of Mississippi so long as I continue
185 a citizen thereof. So help me God."

186 And thereupon the name of such person, with the date of his
187 admission, shall be entered in a roll or book to be kept in each
188 court for that purpose.

189 **SECTION 5.** Section 73-3-37, Mississippi Code of 1972, is
190 reenacted as follows:

191 73-3-37. It is the duty of attorneys:

192 (1) To support the Constitution and laws of this state and
193 of the United States;

194 (2) To maintain the respect due to courts of justice and
195 judicial officers;

196 (3) To employ for the purpose of maintaining the causes
197 confided to them, such means only as are consistent with truth,
198 and never to seek to mislead by any artifice or false statement of
199 the law;

200 (4) To maintain inviolate the confidence and, at every peril
201 to themselves, to preserve the secrets of their clients;

202 (5) To abstain from all offensive personalities, and to
203 advance no fact prejudicial to the honor or reputation of a party
204 or witness, unless required by the justice of the cause with which
205 they are charged;

206 (6) To encourage neither the commencement nor continuance of
207 an action or proceeding from any motives of passion or personal
208 interest;

209 (7) Never to reject, for any consideration personal to
210 themselves, the cause of the defenseless or oppressed.

211 **SECTION 6.** Section 73-3-39, Mississippi Code of 1972, is
212 reenacted as follows:

213 73-3-39. (1) It is hereby declared to be the public policy
214 of the State of Mississippi that the practice of law before any
215 court or administrative agency is a matter of privilege and not a
216 matter of right.

217 (2) Subject to the conditions, rules and regulations adopted
218 by the Supreme Court of Mississippi, any attorney or counselor at
219 law of another state, in good professional standing, of good moral
220 character and who is familiar with the ethics, principles,
221 practices, customs and usages of the legal profession in the State
222 of Mississippi may appear and plead in any special cause before
223 any court or administrative agency in this state; provided,
224 however, that in so appearing such attorney or counselor at law
225 shall subject himself to the jurisdiction of the State Board of

226 Bar Admissions and shall consent to the application of the
227 provisions of this article.

228 (3) Upon petition of two (2) members in good standing of the
229 bar of any county of the State of Mississippi, not members of the
230 same firm, representing that any attorney or counselor at law of
231 another state is appearing in any cause before any court or
232 administrative agency of this state and raising the question of
233 the qualifications of such attorney or counselor at law as set out
234 in subsection (2) of this section or compliance by such attorney
235 with the conditions, rules and regulations adopted by the Supreme
236 Court of Mississippi, the State Board of Bar Admissions shall, or
237 upon its own initiative may, make inquiry as to the professional
238 standing, moral character, familiarity with the ethics,
239 principles, practices, customs and usages of the legal profession
240 in the State of Mississippi of any such attorney or counselor at
241 law of another state and shall inquire as to such attorney's
242 professional standing with his local bar and into the question of
243 whether or not such attorney is familiar with and willing to abide
244 by the ethics, principles, practices, customs and usages of the
245 legal profession in the State of Mississippi.

246 (4) In conducting the inquiry referred to in the preceding
247 section, the State Board of Bar Admissions shall have authority to
248 require the appearance of the attorney or counselor at law
249 involved before it and shall have the power to subpoena witnesses
250 and require the production of evidence, oral and documentary, and
251 issue appropriate process therefor, and to do any and all other
252 things which may be required to determine fully and completely the
253 facts as issued before it. After such hearing the State Board of
254 Bar Admissions shall make such determination as, in its opinion
255 and sound discretion, is justified from the evidence before it and
256 may permit or refuse to permit the said attorney or counselor at
257 law to continue to appear and plead in such special cause.

258 (5) The action or decision of the Board of Bar Admissions in
259 administering this section is hereby declared to be a judicial
260 function and not administrative in character, and appeals from the
261 decision of said board may be taken in accordance with the
262 provisions of Section 11-51-75, Mississippi Code of 1972.

263 (6) Any attorney or counselor at law who wilfully makes any
264 false or misleading statement to said board touching upon the
265 matters under inquiry shall be guilty of perjury, shall be
266 punished according to law upon conviction thereof, and the
267 judgment of the court imposing such punishment shall, in addition,
268 provide that such attorney or counselor at law shall be
269 perpetually barred from practice before any court or
270 administrative agency of this state.

271 (7) Any such attorney or counselor at law of another state
272 who shall appear or plead in any court or administrative agency in
273 this state after his qualifications shall have been called into
274 question by the petition hereinbefore mentioned or by the State
275 Board of Bar Admissions acting upon its own initiative and before
276 having obtained an order from the said State Board of Bar
277 Admissions authorizing his appearance shall be guilty of a
278 misdemeanor and, upon conviction thereof, shall be fined not less
279 than One Hundred Dollars (\$100.00) nor more than One Thousand
280 Dollars (\$1,000.00), or imprisoned in the county jail for not more
281 than six (6) months, or both such fine and imprisonment.

282 **SECTION 7.** Section 73-3-41, Mississippi Code of 1972, is
283 reenacted as follows:

284 73-3-41. Every person who has been or shall hereafter be
285 convicted of felony in a court of this or any other state or a
286 court of the United States, manslaughter or a violation of the
287 Internal Revenue Code excepted, shall be incapable of obtaining a
288 license to practice law. Any court of the State of Mississippi in
289 which a licensed attorney shall have been convicted of a felony,

290 other than manslaughter or a violation of the Internal Revenue
291 Code, shall enter an order disbaring the attorney.

292 **SECTION 8.** Section 73-3-43, Mississippi Code of 1972, is
293 reenacted as follows:

294 73-3-43. It shall not be lawful for a clerk of any court of
295 record or the deputy or assistant of any such clerk, or for any
296 sheriff or his deputy, to exercise the profession or employment of
297 an attorney or counselor at law, or to be engaged in the practice
298 of law, or to receive any fee or reward for any such services
299 rendered during his continuance in such position; and any person
300 offending herein shall be guilty of a misdemeanor, and, upon
301 conviction, to be fined in a sum not exceeding Five Hundred
302 Dollars (\$500.00) and be removed from office; but this shall not
303 prohibit the clerk of any court of record or the sheriff of any
304 county from practicing in any of the courts so far as to enable
305 them to bring to conclusion civil cases in which such clerk or
306 sheriff are employed and which are actually filed and pending at
307 the time when such clerk or sheriff is appointed or nominated in a
308 party primary and subsequently elected to office.

309 **SECTION 9.** Section 73-3-45, Mississippi Code of 1972, is
310 reenacted as follows:

311 73-3-45. If any justice court judge or the partner in the
312 practice of law of any justice court judge shall appear before a
313 justice court judge of his district as attorney or counsel in any
314 misdemeanor case over which he has jurisdiction, or in any appeal
315 of any such case from the judgment of such officer, or in any
316 certiorari to any such officer for the same, he shall be guilty of
317 a misdemeanor and, on conviction, shall be fined not more than
318 Five Hundred Dollars (\$500.00), or be imprisoned not more than six
319 (6) months, or both.

320 **SECTION 10.** Section 73-3-47, Mississippi Code of 1972, is
321 reenacted as follows:

322 73-3-47. If the partner in the practice of law of any
323 justice court judge shall appear before such justice court judge
324 of his district, as attorney or counsel in any case, civil or
325 criminal, or in any appeal from the judgment of such officer, or
326 in any certiorari to such officer, he shall be guilty of a
327 misdemeanor and, on conviction, shall be fined not more than Five
328 Hundred Dollars (\$500.00), or be imprisoned not more than six (6)
329 months, or both.

330 **SECTION 11.** Section 73-3-49, Mississippi Code of 1972, is
331 reenacted as follows:

332 73-3-49. Where two (2) or more attorneys at law of this
333 state are associated together in practice as attorneys or
334 counselors at law, and one (1) of such attorneys shall be district
335 attorney of his district or the county attorney of his county, it
336 shall be unlawful for such other attorney, or partner, to appear
337 and defend in any of the courts of that county any person charged
338 with a misdemeanor or felony, and this section shall apply, even
339 though such association may exist only for the transaction of
340 civil business in a particular court.

341 Any attorney violating this section shall be deemed guilty of
342 a misdemeanor and, on conviction shall be fined in the sum of not
343 less than Ten Dollars (\$10.00) nor more than One Hundred Dollars
344 (\$100.00), and shall forfeit his license to practice law in this
345 state.

346 **SECTION 12.** Section 73-3-51, Mississippi Code of 1972, is
347 reenacted as follows:

348 73-3-51. It shall be unlawful for the Attorney General or
349 any assistant attorney general, or any district attorney, or any
350 attorney at law associated in the practice as attorney or
351 counselor at law with any attorney general or district attorney,
352 to accept employment from or to represent as attorney or counselor
353 at law any railroad corporation, street railway corporation,
354 telephone or telegraph corporation, express company, or other

355 common carrier, or public service corporation whatsoever, and any
356 attorney violating this section shall be guilty of a misdemeanor
357 and, on conviction, shall be fined in a sum not less than Ten
358 Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), and
359 shall forfeit his license to practice law in this state.

360 **SECTION 13.** Section 73-3-55, Mississippi Code of 1972, is
361 reenacted as follows:

362 73-3-55. It shall be unlawful for any person to engage in
363 the practice of law in this state who has not been licensed
364 according to law. Any person violating the provisions of this
365 section shall be deemed guilty of a misdemeanor, and, upon
366 conviction, shall be punished in accordance with the provisions of
367 Section 97-23-43. Any person who shall for fee or reward or
368 promise, directly or indirectly, write or dictate any paper or
369 instrument of writing, to be filed in any cause or proceeding
370 pending, or to be instituted in any court in this state, or give
371 any counsel or advice therein, or who shall write or dictate any
372 bill of sale, deed of conveyance, deed of trust, mortgage,
373 contract, or last will and testament, or shall make or certify to
374 any abstract of title to real estate other than his own or in
375 which he may own an interest, shall be held to be engaged in the
376 practice of law. This section shall not, however, prevent title
377 or abstract of title guaranty companies incorporated under the
378 laws of this state from making abstract or certifying titles to
379 real estate where it acts through some person as agent, authorized
380 under the laws of the State of Mississippi to practice law; nor
381 shall this section prevent any abstract company chartered under
382 the laws of the State of Mississippi with a paid-up capital of
383 Fifty Thousand Dollars (\$50,000.00) or more from making or
384 certifying to abstracts of title to real estate through the
385 president, secretary or other principal officer of such company.

386 **SECTION 14.** Section 73-3-57, Mississippi Code of 1972, is
387 reenacted as follows:

388 73-3-57. It shall be unlawful for an attorney at law, either
389 before or after action brought, to promise, or give or offer to
390 promise or give, a valuable consideration to any person as an
391 inducement to placing, or in consideration of having placed in his
392 hands, or in the hands of any partnership of which he is a member,
393 a demand of any kind, for the purpose of bringing suit or making
394 claim against another, or to employ a person to search for and
395 procure clients to be brought to such attorney.

396 **SECTION 15.** Section 73-3-59, Mississippi Code of 1972, is
397 reenacted as follows:

398 73-3-59. Any attorney at law who shall violate the
399 provisions of the preceding section shall be guilty of a
400 misdemeanor and shall be removed and disbarred from acting as an
401 attorney at law, and any person who shall, before or after suit
402 brought, receive or agree to receive from any attorney at law,
403 compensation for services in seeking out or placing in the hands
404 of an attorney a demand of any kind for suit or a compromise,
405 shall be guilty of a misdemeanor.

406 **SECTION 16.** Section 73-3-401, Mississippi Code of 1972, is
407 amended as follows:

408 73-3-401. Sections 73-3-2 through 73-3-59, which create the
409 Board of Bar Admissions and prescribe its duties and powers, and
410 which provide certain regulations regarding the practice of law in
411 this state, shall stand repealed as of December 31, 2008.

412 **SECTION 17.** This act shall take effect and be in force from
413 and after July 1, 2006.