

By: Representative Warren

To: Judiciary A

HOUSE BILL NO. 595
(As Sent to Governor)

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 REPEAL
5 SECTION 73-3-401, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR
6 THE REPEAL OF SECTIONS 73-3-2 THROUGH 73-3-59, MISSISSIPPI CODE OF
7 1972, BEING THOSE SECTIONS WHICH CREATE THE BOARD OF BAR
8 ADMISSIONS AND PRESCRIBE ITS DUTIES AND POWERS AND PROVIDE CERTAIN
9 REGULATIONS REGARDING THE PRACTICE OF LAW IN THIS STATE; AND FOR
10 RELATED PURPOSES.

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

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

14 73-3-2. (1) **Power to admit persons to practice.** The power
15 to admit persons to practice as attorneys in the courts of this
16 state is vested exclusively in the Supreme Court of Mississippi.

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

22 (i) That he has successfully completed, or is
23 within sixty (60) days of completion of, a general course of study
24 of law in a law school which is provisionally or fully approved by
25 the section on legal education and admission to the bar of the
26 American Bar Association, and that such applicant has received, or
27 will receive within sixty (60) days, a diploma or certificate from
28 such school evidencing the satisfactory completion of such course,
29 but in no event shall any applicant under this paragraph be
30 admitted to the bar until such applicant actually receives such
31 diploma or certificate. However, an applicant who, as of November

32 1, 1981, was previously enrolled in a law school in active
33 existence in Mississippi for more than ten (10) years prior to the
34 date of application shall be eligible for examination for
35 admission; provided that such an applicant graduated prior to
36 November 1, 1984;

37 (ii) That he has notified the Board of Bar
38 Admissions in writing of an intention to pursue a general course
39 of study of law under the supervision of a Mississippi lawyer
40 prior to July 1, 1979, and in fact began study prior to July 1,
41 1979, and who completed the required course of study prior to
42 November 1, 1984, in accordance with Sections 73-3-13(b) and
43 73-3-15 as the same exist prior to the effective date of this
44 section; or

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

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

63 (3) **Creation of Board of Bar Admissions.** There is hereby
64 created a board to be known as the "Board of Bar Admissions" which

65 shall be appointed by the Supreme Court of Mississippi. The board
66 shall consist of nine (9) members, who shall be members in good
67 standing of the Mississippi State Bar and shall serve for terms of
68 three (3) years. Three (3) members shall be appointed from each
69 Supreme Court district, one (1) by each Supreme Court Justice from
70 his district, with the original appointments to be as follows:
71 Three (3) to be appointed for a term of one (1) year, three (3) to
72 be appointed for a term of two (2) years, and three (3) to be
73 appointed for a term of three (3) years, one (1) from each
74 district to be appointed each year. No member of the Board of Bar
75 Admissions may be a member of the Legislature. Vacancies during a
76 term shall be filled by the appointing justice or his successor
77 for the remainder of the unexpired term.

78 The board shall promulgate the necessary rules for the
79 administration of their duties, subject to the approval of the
80 Chief Justice of the Supreme Court.

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

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

95 (6) **Procedure for applicants who have failed.** Any applicant
96 who fails the examination shall be allowed to take the next
97 scheduled examination. A failing applicant may request in writing

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

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

- 119 (a) Expenses and travel for board members;
120 (b) Office facilities, supplies and equipment; and
121 (c) Clerical assistance.

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

128 (8) The board, upon finding the applicant qualified for
129 admission, shall issue to the applicant a certificate of
130 admission. The applicant shall file the certificate and a

131 petition for admission in the Chancery Court of Hinds County,
132 Mississippi, or in the chancery court in the county of his
133 residence, or, in the case of an applicant who is a nonresident of
134 the State of Mississippi, in the chancery court of a county in
135 which the applicant intends to practice. The chancery court
136 shall, in termtime or in vacation, enter on the minutes of that
137 court an order granting to the applicant license to practice in
138 all courts in this state, upon taking by the applicant in the
139 presence of the court, the oath prescribed by law, Section
140 73-3-35, Mississippi Code of 1972.

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

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

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

157 Any lawyer from another state desiring to be admitted to
158 practice in Mississippi must make application to the Board of Bar
159 Admissions. Such applicant shall present to the bar evidence of
160 his good standing in the state from which he came, including a
161 certificate from the clerk of the highest appellate court of the
162 state from which he came, and from two (2) members of the bar of
163 such state, certifying to his qualifications, good standing and

164 moral character of the applicant, and may require the submission
165 of additional evidence by the applicant. Upon satisfactory proof
166 of the applicant's qualifications and upon the applicant's
167 compliance with the requirements of this section, the board shall
168 issue a certificate of admission to the applicant, as prescribed
169 in Section 73-3-2(8). Each such applicant shall pay an
170 application fee prescribed by the Board of Bar Admissions
171 according to Section 73-3-2(7).

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

174 73-3-31. The educational requirements both as to general
175 education and legal education shall not apply to any person who
176 may have graduated from a law school prior to October 1, 1954.

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

179 73-3-35. Every attorney and counselor at law, before he
180 shall be permitted to practice, shall produce his license in each
181 court where he intends to practice, and in the presence of such
182 court, shall take the following oath or affirmation to wit:

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

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

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

195 73-3-37. It is the duty of attorneys:

196 (1) To support the Constitution and laws of this state and
197 of the United States;

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

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

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

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

210 (6) To encourage neither the commencement nor continuance of
211 an action or proceeding from any motives of passion or personal
212 interest;

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

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

217 73-3-39. (1) It is hereby declared to be the public policy
218 of the State of Mississippi that the practice of law before any
219 court or administrative agency is a matter of privilege and not a
220 matter of right.

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

229 shall subject himself to the jurisdiction of the State Board of
230 Bar Admissions and shall consent to the application of the
231 provisions of this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

345 Any attorney violating this section shall be deemed guilty of
346 a misdemeanor and, on conviction shall be fined in the sum of not
347 less than Ten Dollars (\$10.00) nor more than One Hundred Dollars
348 (\$100.00), and shall forfeit his license to practice law in this
349 state.

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

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

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

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

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

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

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

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

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

410 **SECTION 16.** Section 73-3-401, Mississippi Code of 1972,
411 which provides for the repeal of Sections 73-3-2 through 73-3-59,
412 Mississippi Code of 1972, which create the Board of Bar Admissions
413 and prescribe its duties and powers and provide certain
414 regulations regarding the practice of law in this state, is
415 repealed.

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