

By: Representative Ellington

To: Judiciary B

HOUSE BILL NO. 1248

1 AN ACT TO AMEND SECTIONS 9-11-3 AND 9-11-4, MISSISSIPPI CODE
 2 OF 1972, TO REVISE JUDICIAL TRAINING REQUIREMENTS FOR JUSTICE
 3 COURT JUDGES; TO AMEND SECTIONS 9-11-2, 9-11-5, 9-11-18, 9-11-19,
 4 9-11-27 and 9-11-31, MISSISSIPPI CODE OF 1972, TO REMOVE JUSTICE
 5 COURTS FROM UNDER THE AUTHORITY OF BOARDS OF SUPERVISORS AND
 6 CLARIFY THAT JUSTICE COURTS ARE PART OF THE JUDICIARY; TO AMEND
 7 SECTION 9-11-9, MISSISSIPPI CODE OF 1972, TO INCREASE THE CIVIL
 8 LIMIT JURISDICTION OF THE JUSTICE COURT; TO AMEND SECTION 25-3-36,
 9 MISSISSIPPI CODE OF 1972, TO INCREASE THE SALARIES OF JUSTICE
 10 COURT JUDGES; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 9-11-3, Mississippi Code of 1972, is
 13 amended as follows:

14 9-11-3. (1) Except as otherwise provided herein, no justice
 15 court judge elected for a full term of office commencing on or
 16 after January 1, 1992, shall exercise the judicial functions of
 17 his office or be eligible to take the oath of office unless he has
 18 filed in the office of the chancery clerk a certificate of
 19 completion of a course of training and education conducted by the
 20 Mississippi Judicial College of the University of Mississippi Law
 21 Center within six (6) months of the beginning of the term for
 22 which such justice is elected. A justice court judge who has
 23 completed the course of training and education and has satisfied
 24 his annual continuing education course requirements, and who is
 25 then elected for a succeeding term of office subsequent to the
 26 initial term for which he completed the training course, shall not
 27 be required to repeat the training and education course upon
 28 reelection.

29 (2) In addition to meeting the requirements of subsection
 30 (1) of this section, after taking office, each justice court judge
 31 shall be required to file annually in the office of the chancery

32 clerk a certificate of completion of four (4) courses of
33 continuing education conducted by the Mississippi Judicial
34 College.

35 (3) The requirements for obtaining each of the certificates
36 in subsections (1) and (2) of this section shall be as provided in
37 Section 9-11-4.

38 (4) Upon the failure of any justice court judge to file with
39 the chancery clerk the certificates of completion as provided in
40 subsections (1) and (2) of this section, such justice court judge
41 shall, in addition to any other fine or punishment provided by law
42 for such conduct, not be entitled to compensation for the period
43 of time during which such certificates remain unfiled.

44 **SECTION 2.** Section 9-11-4, Mississippi Code of 1972, is
45 amended as follows:

46 9-11-4. (1) The Mississippi Judicial College of the
47 University of Mississippi Law Center shall prepare and conduct
48 courses of training for basic and continuing education for justice
49 court judges of this state. The basic course of training shall be
50 known as the "Justice Court Judge Training Course" and shall
51 consist of at least thirty-two (32) hours of training. The
52 continuing education course shall be known as the "Continuing
53 Education Course for Justice Court Judges," and shall consist of
54 at least twenty-four (24) hours of training. Justice court judges
55 shall attend at least four (4) courses each year. The content of
56 the basic and continuing education courses and when and where such
57 courses are to be conducted shall be determined by the Judicial
58 College. The Judicial College shall issue certificates of
59 completion to those justice court judges who complete such
60 courses.

61 (2) All costs and expenses for preparing and conducting the
62 basic and continuing education courses provided for in subsection
63 (1) of this section shall be paid out of any funds which are made

64 available to the Judicial College upon authorization and
65 appropriation by the Legislature.

66 **SECTION 3.** Section 9-11-2, Mississippi Code of 1972, is
67 amended as follows:

68 9-11-2. (1) From and after January 1, 1984, there shall be
69 a competent number of justice court judges in each county of the
70 state. The number of justice court judges for each county shall
71 be determined as follows:

72 (a) In counties with a population, according to the
73 latest federal decennial census, of thirty-five thousand (35,000)
74 and less, there shall be two (2) justice court judges.

75 (b) In counties with a population, according to the
76 latest federal decennial census, of more than thirty-five thousand
77 (35,000) and less than seventy thousand (70,000), there shall be
78 three (3) justice court judges.

79 (c) In counties with a population, according to the
80 latest federal decennial census, of seventy thousand (70,000) and
81 less than one hundred fifty thousand (150,000), there shall be
82 four (4) justice court judges.

83 (d) In counties with a population, according to the
84 latest federal decennial census, of one hundred fifty thousand
85 (150,000) and more, there shall be five (5) justice court judges.

86 (2) The Supreme Court shall establish single member election
87 districts in the county for the election of each of the justice
88 court judges authorized and required to be elected for the county
89 under the provisions of subsection (1) of this section, and one
90 (1) justice court judge shall be elected for each district by the
91 electors thereof. In any county authorized and required under the
92 provisions of paragraph (1)(a) of this section to provide for the
93 election of two (2) justice court judges for the county in which
94 there are two (2) judicial districts, the smaller of such judicial
95 districts, according to population based upon the latest federal

96 decennial census, shall comprise or shall be wholly encompassed
97 within one (1) of such election districts.

98 (3) Nothing in this section shall be construed to authorize
99 or require more than five (5) justice court judges in any one (1)
100 county from and after January 1, 1984, nor to authorize or require
101 an increase or decrease in the number of justice court judges for
102 any county during the term of office of any justice court judge.

103 (4) Notwithstanding the foregoing provisions of this
104 section, in any county whose justice court districts drawn
105 pursuant to subsection (2) of this section are, on November 8,
106 1983, being controverted in a court action or being reviewed
107 pursuant to the procedure established by the Voting Rights Act of
108 1965, as amended and extended, those justice court judges serving
109 on such date shall continue to hold office until:

110 (a) A final adjudication of the court action or
111 approval of the new districts pursuant to the Voting Rights Act;
112 and

113 (b) The election and qualification of successors of
114 such justice court judges as provided by law.

115 **SECTION 4.** Section 9-11-5, Mississippi Code of 1972, is
116 amended as follows:

117 9-11-5. (1) The justice court judges shall be provided
118 courtrooms by the county and all trials shall be held therein.
119 Such courtrooms shall be in the county courthouse, county office
120 building or any other building within the county deemed
121 appropriate by the board of supervisors.

122 (2) The county shall provide office space and furnish each
123 justice court office and provide necessary office supplies.

124 (3) The board of supervisors of each county with the
125 approval of the Supreme Court may secure insurance coverage to
126 protect the office of the justice court clerk against losses due
127 to theft or robbery.

128 **SECTION 5.** Section 9-11-18, Mississippi Code of 1972, is
129 amended as follows:

130 9-11-18. (1) There is hereby created in the county
131 depository of each county a clearing account to be designated as
132 the "Justice Court Clerk Clearing Account," in which shall be
133 deposited (a) all such monies as the clerk of the justice court
134 shall receive from any person complying with any writ of
135 garnishment, attachment, execution or other like process
136 authorized by law for the enforcement of a judgment; (b) all such
137 monies as are received in criminal cases in the justice court
138 pursuant to any order requiring payment as restitution to the
139 victims of criminal offenses; (c) all cash bonds as shall be
140 deposited with the court; (d) any portion of any fees required by
141 law to be collected in civil cases which are to pay for the
142 service of process or writs in another county as provided by
143 Section 9-11-20; and (e) any other money as shall be deposited
144 with the court, except fees paid for the services of a constable,
145 which by its nature is not at the time of its deposit public
146 monies, but which is to be held by the court in a trust or
147 custodial capacity in a case or proceeding before the court. The
148 clerk of the justice court shall account for all monies deposited
149 in and disbursed from such account and shall be authorized and
150 empowered to draw and issue checks on such account at such times,
151 in such amounts and to such persons as shall be proper and in
152 accordance with law; provided, however, such monies as are
153 forfeited in criminal cases shall be deposited by the clerk of the
154 justice court * * * in the general fund of the county in the same
155 manner as provided in Section 9-11-19 for fees, costs, fines and
156 penalties charged and collected in the justice court.

157 (2) Any monies deposited with the court in civil cases,
158 which are fees paid for the services of a constable, shall be
159 reported by the clerk of the court in the same manner as provided
160 by Section 9-11-19 and shall be considered as being fees within

161 the meaning of such section. It shall be the duty of the clerk of
162 the justice court to disburse such fees monthly * * * to the
163 constables entitled thereto.

164 (3) The justice court clearing account may bear interest and
165 the clerk of the justice court shall account for all interest
166 earned on such account and deposit such interest * * * in the
167 general fund of the county in the same manner as provided in
168 Section 9-11-19 for fees, costs, fines and penalties charged and
169 collected in the justice court.

170 **SECTION 6.** Section 9-11-19, Mississippi Code of 1972, is
171 amended as follows:

172 9-11-19. (1) It shall be the duty of every clerk of the
173 justice court to receive and account for all fees, costs, fines
174 and penalties charged and collected in the justice court, * * *
175 including cash bonds and other monies which have been forfeited in
176 criminal cases and at least semiannually any delinquent fines and
177 penalties, giving the date, amount, and names of persons from whom
178 such monies were received, and to deposit so much thereof as shall
179 have been received * * * into the general fund of the county. Any
180 clerk of the justice court who shall fail to make such report or
181 to pay the money so received shall, in addition to any other fine
182 or punishment provided by law for such conduct, not be entitled to
183 compensation for the period of time during which such report or
184 money is outstanding.

185 (2) The provisions of this section shall not, except as to
186 cash bonds and other monies which have been forfeited in criminal
187 cases, apply to monies required to be deposited in the justice
188 court clerk clearing account as provided in Section 9-11-18,
189 Mississippi Code of 1972.

190 **SECTION 7.** Section 9-11-27, Mississippi Code of 1972, is
191 amended as follows:

192 9-11-27. The senior justice court judge of each county
193 shall * * * appoint one (1) person to serve as clerk of the

194 justice court system of the county, and may appoint such other
195 employees for the justice court of the county as he deems
196 necessary, including a person or persons to serve as deputy clerk
197 or deputy clerks. The senior justice court judge of each county
198 with two (2) judicial districts may * * * appoint two (2) persons
199 to serve as clerks of the justice court system of the county, one
200 (1) for each judicial district, and may appoint such other
201 employees for the justice court system of the county as he deems
202 necessary including persons to serve as deputy clerks. The clerk
203 and deputy clerks shall be empowered to file and record actions
204 and pleadings, to receive and receipt for monies, to acknowledge
205 affidavits, to issue warrants in criminal cases upon direction by
206 a justice court judge in the county, to approve the sufficiency of
207 bonds in civil and criminal cases, to certify and issue copies of
208 all records, documents and pleadings filed in the justice court
209 and to issue all process necessary for the operation of the
210 justice court. The clerk or deputy clerks may refuse to accept a
211 personal check in payment of any fine or cost or to satisfy any
212 other payment required to be made to the justice court. All
213 orders from the justice court judge to the clerk of the justice
214 court shall be written. All cases, civil and criminal, shall be
215 assigned by the clerk to the justice court judges of the county in
216 the manner provided in Section 11-9-105 and Section 99-33-2. A
217 deputy clerk who works in an office separate from the clerk and
218 who is the head deputy clerk of the separate office may be
219 designated to be trained as a clerk as provided in Section
220 9-11-29.

221 **SECTION 8.** Section 9-11-31, Mississippi Code of 1972, is
222 amended as follows:

223 9-11-31. (1) When any justice court judge is unable, by
224 reason of being under any suspension by the Commission on Judicial
225 Performance or the Mississippi Supreme Court, or by reason of
226 sickness or other disability, to attend and hold court at the time

227 and place required by law to do so for a period of time in excess
228 of thirty (30) consecutive days, and due to such inability to
229 attend and hold court there is no judge to hold court in such
230 county, the Supreme Court shall appoint another justice court
231 judge of the county or an adjoining county or a municipal court
232 judge to attend and hold said court and perform all the duties of
233 such judge during such suspension or disability.

234 (2) Any presently sitting justice court judge appointed
235 pursuant to subsection (1) of this section shall receive no
236 additional compensation for his or her service. Any other person
237 so appointed shall, for the period of his service, receive
238 compensation from the county for each day's service a sum equal to
239 1/260ths of the current salary in effect for justice court judges.

240 **SECTION 9.** Section 9-11-9, Mississippi Code of 1972, is
241 amended as follows:

242 9-11-9. Justice court judges shall have jurisdiction of all
243 actions for the recovery of debts or damages or personal property,
244 where the principal of the debt, the amount of the demand, or the
245 value of the property sought to be recovered shall not exceed the
246 following:

247 (a) Until June 30, 2007, Three Thousand Dollars
248 (\$3,000.00);

249 (b) From July 1, 2007, until June 30, 2008, Five
250 Thousand Dollars (\$5,000.00); and

251 (c) From and after July 1, 2008, Seven Thousand Dollars
252 (\$7,000.00).

253 The justice court judges shall have no pecuniary interest in
254 the outcome of any action once suit has been filed.

255 **SECTION 10.** Section 25-3-36, Mississippi Code of 1972, is
256 amended as follows:

257 25-3-36. (1) Every justice court judge shall receive as
258 full compensation for his or her services and in lieu of any and
259 all other fees, costs or compensation heretofore authorized for

260 such justice court judge, an annual salary based upon the
261 population of his or her county according to the latest federal
262 decennial census; however, no justice court judge shall be paid
263 less than the salary authorized under this section to be paid the
264 justice court judge based upon the population of the county
265 according to the 1980 federal decennial census. Until June 30,
266 2007, the amount of which salary shall be determined as follows:

267 (a) In counties with a population of more than two
268 hundred thousand (200,000), a salary of Sixty-one Thousand One
269 Hundred Fifteen Dollars (\$61,115.00).

270 (b) In counties with a population of more than one
271 hundred fifty thousand (150,000) but not more than two hundred
272 thousand (200,000), a salary of Fifty-six Thousand One Hundred Six
273 Dollars (\$56,106.00).

274 (c) In counties with a population of more than
275 seventy-five thousand (75,000) but not more than one hundred fifty
276 thousand (150,000), a salary of Fifty-one Thousand Ninety-six
277 Dollars (\$51,096.00).

278 (d) In counties with a population of more than
279 forty-nine thousand (49,000) but not more than seventy-five
280 thousand (75,000), a salary of Forty-four Thousand Eighty-three
281 Dollars (\$44,083.00).

282 (e) In counties with a population of more than
283 thirty-four thousand (34,000) but not more than forty-nine
284 thousand (49,000), a salary of Thirty-eight Thousand Seventy-one
285 Dollars (\$38,071.00).

286 (f) In counties with a population of more than
287 twenty-four thousand five hundred (24,500) but not more than
288 thirty-four thousand (34,000), a salary of Thirty-six Thousand
289 Sixty-eight Dollars (\$36,068.00).

290 (g) In counties with a population of more than
291 twenty-one thousand (21,000) but not more than twenty-four

292 thousand five hundred (24,500), a salary of Thirty-two Thousand
293 Sixty-one Dollars (\$32,061.00).

294 (h) In counties with a population of more than sixteen
295 thousand five hundred (16,500) but not more than twenty-one
296 thousand (21,000), a salary of Twenty-eight Thousand Fifty-two
297 Dollars (\$28,052.00).

298 (i) In counties with a population of more than twelve
299 thousand (12,000) but not more than sixteen thousand five hundred
300 (16,500), a salary of Twenty-four Thousand Forty-five Dollars
301 (\$24,045.00).

302 (j) In counties with a population of more than eight
303 thousand (8,000) but not more than twelve thousand (12,000), a
304 salary of Nineteen Thousand Eight Hundred Dollars (\$19,800.00).

305 (k) In counties with a population of eight thousand
306 (8,000) or less, a salary equal to the members of the board of
307 supervisors of that county.

308 The salaries of the justice court judges shall be increased
309 by ten percent (10%) on July 1, 2007, and by an additional ten
310 percent (10%) July 1, 2008. Such increase in salary shall be
311 concurrent with the justice court civil limit increase provided in
312 Section 9-11-9.

313 The board of supervisors of any county having two (2)
314 judicial districts and two (2) justice court judges for the county
315 shall pay each justice court judge an amount equal to that
316 provided in this subsection for judges in the next higher
317 population category per year, if the justice court judge maintains
318 regular office hours and is personally present in the office they
319 maintain for at least thirty (30) hours per week.

320 In any county having a population greater than eight thousand
321 (8,000) but less than eight thousand five hundred (8,500)
322 according to the 1990 federal decennial census and in which U.S.
323 Highway 61 and Mississippi Highway 4 intersect, the board of
324 supervisors, in its discretion, may pay such justice court judges

325 an additional amount not to exceed the sum of Eleven Thousand Five
326 Hundred Fifty Dollars (\$11,550.00) per year, payable beginning
327 April 1, 1997.

328 In any county having a population greater than ten thousand
329 (10,000) but less than ten thousand five hundred (10,500)
330 according to the 1990 federal decennial census and in which
331 Mississippi Highway 3 and Mississippi Highway 6 intersect, the
332 board of supervisors, in its discretion, may pay such justice
333 court judges an additional amount not to exceed One Thousand Four
334 Hundred Fifty Dollars (\$1,450.00) per year, payable beginning
335 April 1, 1997.

336 In any county having a population greater than twenty-four
337 thousand seven hundred (24,700) and less than twenty-four thousand
338 nine hundred (24,900), according to the 1990 federal census,
339 wherein Mississippi Highways 15 and 16 intersect, the board of
340 supervisors shall pay such justice court judge an additional
341 amount equal to Two Thousand Five Hundred Dollars (\$2,500.00) per
342 year.

343 (2) Notwithstanding the provisions of subsection (1) of this
344 section, in the event that the number of justice court judges
345 authorized pursuant to Section 9-11-2(1) is exceeded pursuant to
346 the provisions of Section 9-11-2(4), the aggregate of the salaries
347 paid to the justice court judges of such a county shall not exceed
348 the amount sufficient to pay the number of justice court judges
349 authorized pursuant to Section 9-11-2(1), and such amount shall be
350 equally divided among those justice court judges continuing to
351 hold office under the provisions of Section 9-11-2(4).

352 (3) From and after January 1, 1984, all fees, costs, fines
353 and penalties charged and collected in the justice court shall be
354 paid to the clerk of the justice court for deposit, along with
355 monies from cash bonds and other monies which have been forfeited
356 in criminal cases, into the general fund of the county as provided
357 in Section 9-11-19; and the clerk of the board of supervisors

358 shall be authorized and empowered, upon approval by the board of
359 supervisors, to make disbursements and withdrawals from the
360 general fund of the county in order to pay any reasonable and
361 necessary expenses incurred in complying with this section,
362 including payment of the salaries of justice court judges as
363 provided by subsection (1) of this section. The provisions of
364 this subsection shall not, except as to cash bonds and other
365 monies which have been forfeited in criminal cases, apply to
366 monies required to be deposited in the justice court clerk
367 clearing account as provided in Section 9-11-18, Mississippi Code
368 of 1972.

369 (4) The salaries provided for in this section shall be
370 payable monthly by warrant drawn by the clerk of the board of
371 supervisors on the general fund of the county; however, the board
372 of supervisors, by resolution duly adopted and entered on its
373 minutes, may provide that such salaries shall be paid semimonthly
374 on the first and fifteenth day of each month. If a pay date falls
375 on a weekend or legal holiday, salary payments shall be made on
376 the workday immediately preceding the weekend or legal holiday.

377 (5) Provided, that the salary of any justice court judge
378 shall not be reduced during his term of office as a result of a
379 population change following a federal decennial census.

380 (6) Any justice court judge who is unable to attend and hold
381 court by reason of being under suspension by the Commission on
382 Judicial Performance or the Mississippi Supreme Court shall not
383 receive a salary while under such suspension.

384 **SECTION 11.** The Attorney General of the State of Mississippi
385 shall submit this act, immediately upon approval by the Governor,
386 or upon approval by the Legislature subsequent to a veto, to the
387 Attorney General of the United States or to the United States
388 District Court for the District of Columbia in accordance with the
389 provisions of the Voting Rights Act of 1965, as amended and
390 extended.

391 **SECTION 12.** This act shall take effect and be in force from
392 and after the date it is effectuated under Section 5 of the Voting
393 Rights Act of 1965, as amended and extended.