

By: Representative Ellington

To: Judiciary B

HOUSE BILL NO. 1334

1 AN ACT TO AMEND SECTIONS 9-11-2, 9-11-5, 9-11-18, 9-11-19,
2 9-11-27 and 9-11-31, MISSISSIPPI CODE OF 1972, TO REMOVE JUSTICE
3 COURTS FROM UNDER THE AUTHORITY OF BOARDS OF SUPERVISORS AND
4 CLARIFY THAT JUSTICE COURTS ARE PART OF THE JUDICIARY; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 9-11-2, Mississippi Code of 1972, is
8 amended as follows:

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

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

16 (b) In counties with a population, according to the
17 latest federal decennial census, of more than thirty-five thousand
18 (35,000) and less than seventy thousand (70,000), there shall be
19 three (3) justice court judges.

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

24 (d) In counties with a population, according to the
25 latest federal decennial census, of one hundred fifty thousand
26 (150,000) and more, there shall be five (5) justice court judges.

27 (2) The Supreme Court shall establish single member election
28 districts in the county for the election of each of the justice

29 court judges authorized and required to be elected for the county
30 under the provisions of subsection (1) of this section, and one
31 (1) justice court judge shall be elected for each district by the
32 electors thereof. In any county authorized and required under the
33 provisions of paragraph (1)(a) of this section to provide for the
34 election of two (2) justice court judges for the county in which
35 there are two (2) judicial districts, the smaller of such judicial
36 districts, according to population based upon the latest federal
37 decennial census, shall comprise or shall be wholly encompassed
38 within one (1) of such election districts.

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

44 (4) Notwithstanding the foregoing provisions of this
45 section, in any county whose justice court districts drawn
46 pursuant to subsection (2) of this section are, on November 8,
47 1983, being controverted in a court action or being reviewed
48 pursuant to the procedure established by the Voting Rights Act of
49 1965, as amended and extended, those justice court judges serving
50 on such date shall continue to hold office until:

51 (a) A final adjudication of the court action or
52 approval of the new districts pursuant to the Voting Rights Act;
53 and

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

56 **SECTION 2.** Section 9-11-5, Mississippi Code of 1972, is
57 amended as follows:

58 9-11-5. (1) The justice court judges shall be provided
59 courtrooms by the county and all trials shall be held therein.
60 Such courtrooms shall be in the county courthouse, county office

61 building or any other building within the county deemed
62 appropriate by the board of supervisors.

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

65 (3) The board of supervisors of each county with the
66 approval of the Supreme Court may secure insurance coverage to
67 protect the office of the justice court clerk against losses due
68 to theft or robbery.

69 **SECTION 3.** Section 9-11-18, Mississippi Code of 1972, is
70 amended as follows:

71 9-11-18. (1) There is hereby created in the county
72 depository of each county a clearing account to be designated as
73 the "Justice Court Clerk Clearing Account," in which shall be
74 deposited (a) all such monies as the clerk of the justice court
75 shall receive from any person complying with any writ of
76 garnishment, attachment, execution or other like process
77 authorized by law for the enforcement of a judgment; (b) all such
78 monies as are received in criminal cases in the justice court
79 pursuant to any order requiring payment as restitution to the
80 victims of criminal offenses; (c) all cash bonds as shall be
81 deposited with the court; (d) any portion of any fees required by
82 law to be collected in civil cases which are to pay for the
83 service of process or writs in another county as provided by
84 Section 9-11-20; and (e) any other money as shall be deposited
85 with the court, except fees paid for the services of a constable,
86 which by its nature is not at the time of its deposit public
87 monies, but which is to be held by the court in a trust or
88 custodial capacity in a case or proceeding before the court. The
89 clerk of the justice court shall account for all monies deposited
90 in and disbursed from such account and shall be authorized and
91 empowered to draw and issue checks on such account at such times,
92 in such amounts and to such persons as shall be proper and in
93 accordance with law; provided, however, such monies as are

94 forfeited in criminal cases shall be deposited by the clerk of the
95 justice court * * * in the general fund of the county in the same
96 manner as provided in Section 9-11-19 for fees, costs, fines and
97 penalties charged and collected in the justice court.

98 (2) Any monies deposited with the court in civil cases,
99 which are fees paid for the services of a constable, shall be
100 reported by the clerk of the court in the same manner as provided
101 by Section 9-11-19 and shall be considered as being fees within
102 the meaning of such section. It shall be the duty of the clerk of
103 the justice court to disburse such fees monthly * * * to the
104 constables entitled thereto.

105 (3) The justice court clearing account may bear interest and
106 the clerk of the justice court shall account for all interest
107 earned on such account and deposit such interest * * * in the
108 general fund of the county in the same manner as provided in
109 Section 9-11-19 for fees, costs, fines and penalties charged and
110 collected in the justice court.

111 **SECTION 4.** Section 9-11-19, Mississippi Code of 1972, is
112 amended as follows:

113 9-11-19. (1) It shall be the duty of every clerk of the
114 justice court to receive and account for all fees, costs, fines
115 and penalties charged and collected in the justice court, * * *
116 including cash bonds and other monies which have been forfeited in
117 criminal cases and at least semiannually any delinquent fines and
118 penalties, giving the date, amount, and names of persons from whom
119 such monies were received, and to deposit so much thereof as shall
120 have been received * * * into the general fund of the county. Any
121 clerk of the justice court who shall fail to make such report or
122 to pay the money so received shall, in addition to any other fine
123 or punishment provided by law for such conduct, not be entitled to
124 compensation for the period of time during which such report or
125 money is outstanding.

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

131 **SECTION 5.** Section 9-11-27, Mississippi Code of 1972, is
132 amended as follows:

133 9-11-27. The senior justice court judge of each county
134 shall * * * appoint one (1) person to serve as clerk of the
135 justice court system of the county, and may appoint such other
136 employees for the justice court of the county as he deems
137 necessary, including a person or persons to serve as deputy clerk
138 or deputy clerks. The senior justice court judge of each county
139 with two (2) judicial districts may * * * appoint two (2) persons
140 to serve as clerks of the justice court system of the county, one
141 (1) for each judicial district, and may appoint such other
142 employees for the justice court system of the county as he deems
143 necessary including persons to serve as deputy clerks. The clerk
144 and deputy clerks shall be empowered to file and record actions
145 and pleadings, to receive and receipt for monies, to acknowledge
146 affidavits, to issue warrants in criminal cases upon direction by
147 a justice court judge in the county, to approve the sufficiency of
148 bonds in civil and criminal cases, to certify and issue copies of
149 all records, documents and pleadings filed in the justice court
150 and to issue all process necessary for the operation of the
151 justice court. The clerk or deputy clerks may refuse to accept a
152 personal check in payment of any fine or cost or to satisfy any
153 other payment required to be made to the justice court. All
154 orders from the justice court judge to the clerk of the justice
155 court shall be written. All cases, civil and criminal, shall be
156 assigned by the clerk to the justice court judges of the county in
157 the manner provided in Section 11-9-105 and Section 99-33-2. A
158 deputy clerk who works in an office separate from the clerk and

159 who is the head deputy clerk of the separate office may be
160 designated to be trained as a clerk as provided in Section
161 9-11-29.

162 **SECTION 6.** Section 9-11-31, Mississippi Code of 1972, is
163 amended as follows:

164 9-11-31. (1) When any justice court judge is unable, by
165 reason of being under any suspension by the Commission on Judicial
166 Performance or the Mississippi Supreme Court, or by reason of
167 sickness or other disability, to attend and hold court at the time
168 and place required by law to do so for a period of time in excess
169 of thirty (30) consecutive days, and due to such inability to
170 attend and hold court there is no judge to hold court in such
171 county, the Supreme Court shall appoint another justice court
172 judge of the county or an adjoining county or a municipal court
173 judge to attend and hold said court and perform all the duties of
174 such judge during such suspension or disability.

175 (2) Any presently sitting justice court judge appointed
176 pursuant to subsection (1) of this section shall receive no
177 additional compensation for his or her service. Any other person
178 so appointed shall, for the period of his service, receive
179 compensation from the county for each day's service a sum equal to
180 1/260ths of the current salary in effect for justice court judges.

181 **SECTION 7.** The Attorney General of the State of Mississippi
182 shall submit this act, immediately upon approval by the Governor,
183 or upon approval by the Legislature subsequent to a veto, to the
184 Attorney General of the United States or to the United States
185 District Court for the District of Columbia in accordance with the
186 provisions of the Voting Rights Act of 1965, as amended and
187 extended.

188 **SECTION 8.** This act shall take effect and be in force from
189 and after the date it is effectuated under Section 5 of the Voting
190 Rights Act of 1965, as amended and extended.