

By: Representative Simpson

To: Local and Private
Legislation

HOUSE BILL NO. 1493

1 AN ACT TO CREATE THE CIVIL SERVICE COMMISSION FOR THE
2 HARRISON COUNTY SHERIFF'S DEPARTMENT; TO PROVIDE THE POLICIES AND
3 PROCEDURES OF SUCH COMMISSION; TO PROVIDE FOR THE MEMBERSHIP OF
4 SUCH COMMISSION; TO PROVIDE THE TIME THAT SUCH COMMISSION SHALL
5 MEET; TO PROVIDE THE DUTIES OF SUCH COMMISSION; TO PROVIDE THAT
6 ANY EMPLOYEE SUBJECT TO PERSONNEL ACTION MAY HAVE A HEARING; TO
7 REQUIRE SUCH COMMISSION TO MAINTAIN A ROSTER OF ALL PERSONNEL
8 EMPLOYED BY SUCH COMMISSION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The Civil Service Commission of the Harrison
11 County Sheriff's Department is hereby created pursuant to the
12 authority of the Harrison County Board of Supervisors (hereinafter
13 "supervisors") as expressly determined and created by them, and as
14 amended from time to time by them. All full-time paid employees
15 of the Harrison County Sheriff's Department, with the exception of
16 the sheriff and exempt employees, are subject to the provisions
17 and protections of these rules pursuant to this act.

18 **SECTION 2.** (1) The membership of the Civil Service
19 Commission (hereinafter "commission") is established and shall at
20 all times be composed of three (3) individuals, who shall all be
21 residents of Harrison County, shall be at least twenty-one (21)
22 years in age, who shall not be related to the sheriff by blood or
23 marriage, a citizen of the United States, and who shall have been
24 a resident citizen of Harrison County for at least five (5) years.

25 (2) All members of the commission shall serve for calendar
26 year terms of six (6) years, and said terms shall be staggered
27 such that only one (1) member's term shall expire every two (2)
28 calendar years. The Sheriff of Harrison County shall appoint or
29 reappoint members of the commission as terms on the commission
30 expire. Members of the commission may succeed themselves upon

31 reappointment by the sheriff, and there are no limits upon the
32 successive terms that a member of the commission can serve.

33 (3) Members of the commission may be removed from the
34 commission by the supervisors for incompetency, incompatibility,
35 dereliction of duty, or such other cause as may be determined by
36 the supervisors. Any member so removed shall be entitled to a
37 hearing by the supervisors upon reasons or charges being stated,
38 in writing, setting out the basis for removal and a hearing
39 conducted before the full supervisors which may be in executive
40 session at the option of the member, for the purpose of
41 determining the existence of justification for the member's
42 removal. If the supervisors determine justification for the
43 removal of the member, then such member's unexpired term shall be
44 filled by the supervisors, and may be considered for reappointment
45 by the sheriff upon expiration of the term. Any member removed
46 pursuant to this subsection (3) shall have the right of an appeal
47 to the Circuit Court of Harrison County, First Judicial District,
48 within thirty (30) days of any decision of the supervisors. The
49 circuit court shall have jurisdiction only to determine whether
50 the decision of the supervisors was for "good cause" and shall
51 extend appropriate administrative deference to the supervisors in
52 their decision.

53 (4) Members of the commission shall be expected to attend
54 all scheduled meetings of the commission as determined by the
55 chairman of the commission. Commission members shall be entitled
56 to a fee of One Hundred Dollars (\$100.00) per month, or such other
57 amount as may be determined from time to time by the supervisors
58 which shall be paid from an account established by the supervisors
59 expressly for the purpose of the operation of the commission and
60 to be administered by a designee of the sheriff's department. The
61 commission shall meet a minimum of one time per month to receive a
62 report by the sheriff (or his authorized representative) on
63 personnel matters and policies that may be subject to the

64 oversight of the commission and to schedule hearings concerning
65 employee matters that will come before the commission. Absence of
66 any member of the commission for three (3) consecutive meetings as
67 called by the commission chairman, without notification to the
68 chair, shall constitute an "abandonment" of the position by the
69 absenting member. The sheriff shall appoint a new member to fill
70 the unexpired term abandoned by the absenting member upon
71 notification of the vacancy by the chairman.

72 (5) The commission chairman shall be elected by the members
73 of the commission. The commission chairman shall be elected to
74 serve a term of two (2) years, and may succeed him/herself as
75 commission chairman throughout his/her term of office and any
76 successive terms. The chairman shall be the primary spokesperson
77 of the commission, and shall direct and supervise the duties of
78 the secretary to the extent that the secretary is engaged in the
79 performance of commission responsibilities.

80 (6) The commission shall maintain a secretary, who may be a
81 full-time employee of the Harrison County Sheriff's Department.
82 The salary of the secretary shall be the responsibility of the
83 sheriff. The sheriff shall provide such accommodations as may be
84 necessary to administratively maintain the secretary and the
85 commission in the maintenance of its records, documents and
86 information. The sheriff shall have the responsibility and
87 prerogative to direct the activity of the secretary, as a
88 full-time employee of the sheriff's department, to the extent that
89 the secretary is not engaged in responsibility for the commission.

90 **SECTION 3.** The commission shall meet at least one time per
91 month at a place and time determined by the chairman. The
92 chairman, through the commission secretary, shall notify each
93 member of the commission at least ten (10) days before the meeting
94 in order to give adequate notice to the members of the meeting.
95 Business of the commission may take place upon the presence of two
96 (2) members of the commission at any meeting, and two (2) members

97 of the commission shall constitute a quorum. The secretary of the
98 commission shall be in attendance at each meeting of the
99 commission in order to document the action of the commission,
100 shall maintain all records of the commission, and shall perform
101 such other duties as may be prescribed by the commission.

102 **SECTION 4.** (1) It shall be the duty of the commission to
103 oversee and approve the creation and administration of all
104 personnel rules, regulations and policies of the Harrison County
105 Sheriff's Department. Such rules, regulations and policies shall
106 provide for the details in the manner of conducting examinations
107 of applicants, appointments and promotions of officers, transfers,
108 reinstatements, demotions, suspensions, discharges, and may also
109 provide for any other matter connected with the general subject of
110 personnel administration which may be considered desirable to
111 further carry out the general purposes of the commission as
112 constituted and empowered by the supervisors and Mississippi law.
113 The commission shall further have such authority and oversight
114 over the manner and method of the employment examination of all
115 applicants of the department subject to commission protection as
116 outlined in policies and procedures of the department. Such
117 authority shall include, but not be limited to, the policies and
118 provisions by which applicants are examined for positions with the
119 sheriff's department, the method of conducting interviews and
120 testing of applicants, and the process by which applicants are
121 selected, maintained in employment and disciplined.

122 (2) The commission shall conduct such hearings and
123 examinations as may be necessary to enforce the provisions of the
124 employment and personnel rules, regulations, policies and
125 procedures promulgated by them for the Harrison County Sheriff's
126 Department. The commission shall provide for such policies and
127 procedures that permit an appellate hearing of any personnel
128 decisions of the sheriff subject to the provision of this act.
129 The commission shall, upon a timely and appropriate request of an

130 applicant or employee, and may, upon its own initiative,
131 investigate and conduct a hearing of personnel action, discipline,
132 demotion, transfer or discharge. The commission may take
133 testimony under oath from the employee and any individual that it
134 determines may be necessary to review the actions of the sheriff.
135 Any hearing so conducted by the commission shall take place upon
136 timely and verifiable notice to the employee pursuant to the
137 personnel policies of the department, and all hearings conducted
138 shall follow the procedures hereinafter set out.

139 (3) The commission shall further assure, in the formulation
140 of rules, regulations and policies of the sheriff's department,
141 that the following behavior will be disciplined appropriately and
142 objectively upon complete and independent review: incompetency,
143 inefficiency, inattention to duty, dishonesty, intemperance,
144 immoral conduct, insubordination, discourteous treatment of the
145 public or fellow employees, or any other act or omission or
146 commission tending to injure the public service.

147 (4) It is the duty of the commission to assure that no
148 employee of the department is disciplined for religious or
149 political reasons, and that all employee action taken against an
150 employee is for "good cause" and "good faith." "Good cause" and
151 "good faith" shall be given a broad meaning that will include, but
152 not be limited to, assuring that discipline of the department is
153 not discriminatory or arbitrary in nature, but is fair, balanced,
154 measured to consider the unique and individual circumstances of
155 each matter, and is otherwise equitable for both the employee, the
156 sheriff's department and the public. "Political reasons," as used
157 in this subsection (4) shall not be construed to allow active
158 participation in political activity in any election or primary in
159 Harrison County, and such participation on the part of any
160 employee shall be "good cause" for removal from employment.

161 **SECTION 5.** (1) A hearing shall be initiated by the timely
162 request, in writing, of any employee who has been subject to

163 personnel action by the sheriff pursuant to the policies and
164 procedures of the sheriff's department.

165 (2) Hearings shall be set by the commission giving the
166 employee and the sheriff at least fourteen (14) days notice of any
167 hearing. All notices setting hearings shall be given to the
168 petitioner employee and the sheriff in writing. All hearings
169 shall be conducted within thirty (30) days of the written request
170 of an employee for an appeal of the decision of the sheriff
171 concerning the discipline of the employee.

172 (3) Hearings of the commission shall be conducted generally
173 following the Mississippi Rules of Evidence and Civil Procedure,
174 except that no discovery under the Rules of Civil Procedure shall
175 be allowed. The commission shall retain the authority to
176 establish an appropriate timetable by which the parties submit
177 materials to the commission in contemplation and preparation for
178 any hearing conducted under the provisions of this section.

179 (4) Upon request for a hearing and at least fourteen (14)
180 days before the date set for hearing by the commission, the
181 sheriff will provide the employee with a specific reason(s) for
182 any employment action, and will provide the employee with any
183 documents or material relied upon by the sheriff in support of his
184 disciplinary decision.

185 (5) The decision of the sheriff shall be given deference
186 upon any personnel action. Decisions, however, that are contrary
187 to the policies and procedures instituted and adopted for the
188 sheriff's department by the commission, shall be reviewed by the
189 commission and may be affirmed, modified or reversed, with or
190 without pay, to the extent that it is determined that the sheriff
191 did not adhere to those policies. The commission may also affirm,
192 modify or reverse, with or without pay, any personnel decision of
193 the sheriff if it is similarly found violative of any statute or
194 law, either state or federal.

195 (6) The employee shall be considered to be the petitioner at
196 any hearing, and shall bear the burden of demonstrating the lack
197 of justification, factually or legally, for the decision of the
198 sheriff by the preponderance of the credible evidence.

199 (7) The commission shall have the power to subpoena
200 witnesses in furtherance of the development of the proof and
201 testimony, and a request for all witnesses requested by the
202 petitioner and sheriff shall be made, in writing to the
203 commission, no less than seven (7) days before the date set for
204 the hearing.

205 (8) The petitioner shall provide the commission with a short
206 and plain statement of the specifics of his or her grievance no
207 less than seven (7) days prior to the hearing. The sheriff shall
208 provide any response or rebuttal no later than three (3) days
209 before the hearing. The failure of the petitioner or the sheriff
210 to provide the required statement may result in postponement of
211 the hearing at the discretion of the commission, or provide such
212 other relief as may be appropriate in the interest of fairness.

213 (9) The petitioner and sheriff shall be entitled to counsel
214 at any hearing scheduled and conducted under these rules. A court
215 reporter will be present at any hearing, except upon notice to the
216 petitioner. The Harrison County Sheriff's Department may, at its
217 option, cause the hearing to be transcribed, at its own costs, or
218 in the event of an appeal to circuit court, the costs of
219 transcribing the hearing will be borne by the party requesting the
220 transcript.

221 (10) The commission shall conduct the hearing until
222 completed, which may if practicable extend over the course of
223 several days, as may be necessary and practicable and in the
224 interest of fairness.

225 (11) Any decision of the commission shall be in writing, and
226 shall be provided to the petitioner and sheriff contemporaneously.

227 Any decision of the commission shall be enforced immediately by
228 the sheriff.

229 (12) Appeals of any decision of the commission may be taken
230 within thirty (30) days, by filing, in writing, a notice of an
231 appeal, which shall be taken before the Circuit Court of Harrison
232 County, First Judicial District. Upon notification of a request
233 for an appeal of the decision, the commission shall, within thirty
234 (30) days, prepare and provide the papers, documents and evidence
235 introduced and made a part of the record as taken before the
236 commission. The transcript of the hearing proceedings shall be at
237 the costs of the party appealing to the circuit court. The
238 circuit court shall be limited to reviewing the action and
239 decision of the commission to the extent that such decision is
240 contrary to existing law or is otherwise in contravention of state
241 or federal law, including the provisions of the United States and
242 Mississippi Constitutions. Any appeal taken by the sheriff or
243 employee shall not act as a supersedeas of any decision of the
244 commission, and the decision of the commission shall be
245 enforceable by the sheriff until such time as the circuit court,
246 by judgment, may alter or amend the decision of the commission.

247 (13) Any hearing conducted by the commission shall be a
248 public hearing. The commission may, if circumstances require,
249 temporarily postpone any hearing in order to provide for
250 sufficient accommodations for the public to the extent that
251 members of the public exceed the capacity of the accommodations or
252 impair the ability of the commission to properly conduct the
253 hearing.

254 **SECTION 6.** The commission shall maintain a roster of all
255 personnel employed with the Harrison County Sheriff's Department,
256 and may from time to time make reasonable inquiry of department
257 employees concerning personnel management as may be determined
258 necessary, and shall make such modifications or amendments in the
259 personnel policies and procedures to ensure proper personnel

260 management. In maintaining the personnel roster, the commission
261 shall assure that only the most qualified individuals are hired,
262 promoted and/or employment otherwise continued or maintained with
263 the Harrison County Sheriff's Department, and that further, all
264 personnel hired by the sheriff's department are afforded complete
265 and objective review of any personnel decision of the sheriff and
266 the supervisory staff of the department.

267 **SECTION 7.** The rules and regulations of the commission may
268 be amended from time to time, as needed to the extent not
269 inconsistent with the laws of the State of Mississippi, upon
270 publication to the Harrison County Sheriff's Department through
271 the secretary of the commission.

272 **SECTION 8.** This act shall take effect and be in force from
273 and after its passage.