

By: Senator(s) Ross

To: Judiciary, Division A;
Appropriations

SENATE BILL NO. 2632

1 AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE GOVERNOR TO PETITION THE SUPREME COURT TO ASSIGN A
3 SPECIAL JUDGE TO SERVE IN A TRIAL COURT ON A TEMPORARY BASIS TO
4 RELIEVE A BACKLOG AND TO PETITION FOR SUCH AN ASSIGNMENT TO THE
5 FIRST JUDICIAL DISTRICT OF THE CIRCUIT COURT OF HINDS COUNTY; AND
6 FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 9-1-105, Mississippi Code of 1972, is
9 amended as follows:

10 * * *

11 9-1-105. (1) Whenever any judicial officer is unwilling or
12 unable to hear a case or unable to hold or attend any of the
13 courts at the time and place required by law by reason of the
14 physical disability or sickness of such judicial officer, by
15 reason of the absence of such judicial officer from the state, by
16 reason of the disqualification of such judicial officer pursuant
17 to the provision of Section 165, Mississippi Constitution of 1890,
18 or any provision of the Code of Judicial Conduct, or for any other
19 reason, the Chief Justice of the Mississippi Supreme Court, with
20 the advice and consent of a majority of the justices of the
21 Mississippi Supreme Court, may appoint a person as a special judge
22 to hear the case or attend and hold a court.

23 (2) Upon the request of the Chief Judge of the Court of
24 Appeals, the senior judge of a chancery or circuit court district,
25 the petition of the Governor, or upon his own motion, the Chief
26 Justice of the Mississippi Supreme Court, with the advice and
27 consent of a majority of the justices of the Mississippi Supreme
28 Court, shall have the authority to appoint a special judge to
29 serve on a temporary basis in a circuit or chancery court in the

30 event of an emergency or overcrowded docket. It shall be the duty
31 of any special judge so appointed to assist the court to which he
32 is assigned in the disposition of causes so pending in such court
33 for whatever period of time is designated by the Chief Justice.

34 (3) The Governor may petition the Chief Justice of the
35 Mississippi Supreme Court to appoint a special judge or judges to
36 the First Judicial District of the Circuit Court of Hinds County
37 to handle criminal cases involving either drug charges or weapons
38 charges or both. It shall be the duty of any special judge so
39 appointed to assist the court to which he is assigned in the
40 disposition of cases for whatever period of time is designated by
41 the Chief Justice.

42 (4) When a vacancy exists for any of the reasons enumerated
43 in Section 9-1-103, the vacancy has not been filled within seven
44 (7) days by an appointment by the Governor, and there is a pending
45 cause or are pending causes in the court where the vacancy exists
46 that in the interests of justice and in the orderly dispatch of
47 the court's business require the appointment of a special judge,
48 the Chief Justice of the Supreme Court, with the advice and
49 consent of a majority of the justices of the Mississippi Supreme
50 Court, may appoint a qualified person as a special judge to fill
51 the vacancy until the Governor makes his appointment and such
52 appointee has taken the oath of office.

53 (5) If the Chief Justice pursuant to this section shall make
54 an appointment within the authority vested in the Governor by
55 reason of Section 165, Mississippi Constitution of 1890, the
56 Governor may at his election appoint a person to so serve. In the
57 event that the Governor makes such an appointment, any appointment
58 made by the Chief Justice pursuant to this section shall be void
59 and of no further force or effect from the date of the Governor's
60 appointment.

61 (6) When a judicial officer is unwilling or unable to hear a
62 case or unable or unwilling to hold court for a period of time not

63 to exceed two (2) weeks, the trial judge or judges of the affected
64 district or county and other trial judges may agree among
65 themselves regarding the appointment of a person for such case or
66 such limited period of time. The trial judges shall submit a
67 notice to the Chief Justice of the Supreme Court informing him of
68 their appointment. If the Chief Justice does not appoint another
69 person to serve as special judge within seven (7) days after
70 receipt of such notice, the person designated in such order shall
71 be deemed appointed.

72 (7) A person appointed to serve as a special judge may be
73 any currently sitting or retired chancery, circuit or county court
74 judge, Court of Appeals judge or Supreme Court Justice, or any
75 other person possessing the qualifications of the judicial office
76 for which the appointment is made; provided, however, that a judge
77 or justice who was retired from service at the polls shall not be
78 eligible for appointment as a special judge in the district in
79 which he served prior to his defeat.

80 (8) Except as otherwise provided in subsection (2) of this
81 section, the need for an appointment pursuant to this section may
82 be certified to the Chief Justice of the Mississippi Supreme Court
83 by any attorney in good standing or other officer of the court.

84 (9) The order appointing a person as a special judge
85 pursuant to this section shall describe as specifically as
86 possible the duration of the appointment.

87 (10) A special judge appointed pursuant to this section
88 shall take the oath of office, if necessary, and shall, for the
89 duration of his appointment, enjoy the full power and authority of
90 the office to which he is appointed.

91 (11) Any currently sitting justice or judge appointed as a
92 special judge under this section shall receive no additional
93 compensation for his or her service as special judge. Any other
94 person appointed as a special judge hereunder shall, for the
95 period of his service, receive compensation from the state for

96 each day's service a sum equal to 1/260 of the current salary in
97 effect for the judicial office; provided, however, that no retired
98 chancery, circuit or county court judge, retired Court of Appeals
99 judge or any retired Supreme Court Justice appointed as a special
100 judge pursuant to this section may, during any fiscal year,
101 receive compensation in excess of twenty-five percent (25%) of the
102 current salary in effect for a chancery or circuit court judge.
103 Any person appointed as a special judge shall be reimbursed for
104 travel expenses incurred in the performance of the official duties
105 to which he may be appointed hereunder in the same manner as other
106 public officials and employees as provided by Section 25-3-41,
107 Mississippi Code of 1972.

108 (12) If any person appointed as such special judge is
109 receiving retirement benefits by virtue of the provisions of the
110 Public Employees' Retirement Law of 1952, appearing as Sections
111 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
112 shall not be reduced in any sum whatsoever because of such
113 service, nor shall any sum be deducted as contributions toward
114 retirement under said law.

115 (13) The Supreme Court shall have authority to prescribe
116 rules and regulations reasonably necessary to implement and give
117 effect to the provisions of this section.

118 (14) Nothing in this section shall abrogate the right of
119 attorneys engaged in a case to agree upon a member of the bar to
120 preside in a case pursuant to Section 165 of the Mississippi
121 Constitution of 1890.

122 (15) The Supreme Court shall prepare the necessary payroll
123 for special judges appointed pursuant to this section and shall
124 submit such payroll to the Department of Finance and
125 Administration.

126 (16) Special judges appointed pursuant to this section shall
127 direct requests for reimbursement for travel expenses authorized
128 pursuant to this section to the Supreme Court and the Supreme

129 Court shall submit such requests to the Department of Finance and
130 Administration. The Supreme Court shall have the power to adopt
131 rules and regulations regarding the administration of travel
132 expenses authorized pursuant to this section.

133 **SECTION 2.** This act shall take effect and be in force from
134 and after its passage.