

By: Representative Blackmon

To: Judiciary A;  
Appropriations

HOUSE BILL NO. 1498

1 AN ACT TO AMEND SECTION 25-32-71, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE REPEALER ON THE PUBLIC DEFENDERS TASK FORCE; TO  
3 AMEND SECTION 99-40-1, MISSISSIPPI CODE OF 1972, TO CREATE THE  
4 DIVISION OF PUBLIC DEFENDER TRAINING IN THE OFFICE OF INDIGENT  
5 APPEALS AND TO PROVIDE FOR THE MISSION AND DUTIES OF THE DIVISION;  
6 TO CREATE THE PUBLIC DEFENDERS EDUCATION FUND IN THE STATE  
7 TREASURY AND TO PROVIDE FOR THE ADMINISTRATION AND USE OF THE  
8 FUND; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO  
9 PROVIDE FOR A CRIMINAL ASSESSMENT ON CERTAIN CRIMES TO FUND THE  
10 PUBLIC DEFENDERS TRAINING FUND; AND FOR RELATE PURPOSES.

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

12 **SECTION 1.** Section 25-32-71, Mississippi Code of 1972, is  
13 amended as follows:

14 25-32-71. (1) There is created the Mississippi Public  
15 Defender Task Force which shall be composed of eleven (11) members  
16 as follows:

17 (a) The President of the Mississippi Public Defender  
18 Association, or his designee;

19 (b) The President of the Mississippi Prosecutors  
20 Association, or his designee;

21 (c) A representative of the Administrative Office of  
22 Courts;

23 (d) A representative of the Mississippi Supreme Court;

24 (e) A representative of the Conference of Circuit  
25 Judges;

26 (f) A representative of the Mississippi Attorney  
27 General's Office;

28 (g) A representative of the Mississippi Association of  
29 Supervisors;

30 (h) The Chairman of the Senate Judiciary Committee, or  
31 his designee;

32           (i) The Chairman of the Senate Appropriations  
33 Committee, or his designee;  
34           (j) The Chairman of the House Judiciary En Banc  
35 Committee, or his designee;  
36           (k) The Chairman of the House Appropriations Committee,  
37 or his designee.

38           (2) At its first meeting, the task force shall elect a  
39 chairman and vice chairman from its membership and shall adopt  
40 rules for transacting its business and keeping records. Members  
41 of the task force shall receive a per diem in the amount provided  
42 in Section 25-3-69 for each day engaged in the business of the  
43 task force. Members of the task force other than the legislative  
44 members shall receive reimbursement for travel expenses incurred  
45 while engaged in official business of the task force in accordance  
46 with Section 25-3-41 and the legislative members of the task force  
47 shall receive the expense allowance provided for in Section  
48 5-1-47.

49           (3) The duties of the task force shall be to:

50           (a) Make a comprehensive study of the needs by circuit  
51 court districts for state-supported indigent defense counsel,  
52 examining existing public defender programs. Reports shall be  
53 provided to the Legislature each year at least one (1) month  
54 before the convening of the regular session.

55           (b) Examine and study approaches taken by other states  
56 in the implementation and costs of state-supported indigent  
57 criminal cases.

58           (c) To study the relationship between presiding circuit  
59 court judges and the appointment of criminal indigent defense  
60 counsel.

61           \* \* \*

62           **SECTION 2.** Section 99-40-1, Mississippi Code of 1972, is  
63 amended as follows:

64           99-40-1. (1) There is created the Mississippi Office of  
65 Indigent Appeals. This office shall consist of six (6) attorneys,  
66 two (2) secretaries/paralegals and one (1) financial assistant.  
67 One (1) of the attorneys shall serve as director of the office.  
68 The director shall be appointed by the Governor and shall serve  
69 for a term of four (4) years. The remaining attorneys and other  
70 staff shall be appointed by the director and shall serve at the  
71 will and pleasure of the director. The director and all other  
72 attorneys in the office shall either be active members of The  
73 Mississippi Bar, or, if a member in good standing of the bar of  
74 another jurisdiction, must apply to and secure admission to The  
75 Mississippi Bar within twelve (12) months of the commencement of  
76 the person's employment by the office. The attorneys in the  
77 office shall practice law exclusively for the office and shall not  
78 engage in any other practice. The office shall not engage in any  
79 litigation other than that related to the office. The salary for  
80 the director shall be equivalent to the salary of district  
81 attorneys and the salary of the other attorneys in the office  
82 shall be equivalent to the salary of an assistant district  
83 attorney.

84           (2) The office shall provide representation on appeal for  
85 indigent persons convicted of felonies but not under sentences of  
86 death. Representation shall be provided by staff attorneys, or,  
87 in the case of conflict or excessive workload, by attorneys  
88 selected, employed and compensated by the office on a contract  
89 basis. All fees charged by contract counsel and expenses incurred  
90 by attorneys in the office and contract counsel must be approved  
91 by the court. At the sole discretion of the director, the office  
92 may also represent indigent juveniles adjudicated delinquent on  
93 appeals from a county court or chancery court to the Mississippi  
94 Supreme Court and/or the Mississippi Court of Appeals. The office  
95 shall provide advice, education and support to attorneys  
96 representing persons under felony charges in the trial courts.

97           (3) There is created in the State Treasury a special fund to  
98 be known as the Indigent Appeals Fund. The purpose of the fund  
99 shall be to provide funding for the Mississippi Office of Indigent  
100 Appeals. Monies from the funds derived from assessments under  
101 Section 99-19-73 shall be distributed by the State Treasurer upon  
102 warrants issued by the Mississippi Office of Indigent Appeals.  
103 The fund shall be a continuing fund, not subject to fiscal-year  
104 limitations, and shall consist of:

105           (a) Monies appropriated by the Legislature for the  
106 purposes of funding the Office of Indigent Appeals;

107           (b) The interest accruing to the fund;

108           (c) Monies received under the provisions of Section  
109 99-19-73;

110           (d) Monies received from the federal government;

111           (e) Donations; and

112           (f) Monies received from such other sources as may be  
113 provided by law.

114           (4) There is created in the Office of Indigent Appeals the  
115 Division of Public Defendant Training. The division shall be  
116 staffed by any necessary personnel as determined and hired by the  
117 director. The mission of the division shall be to work closely  
118 with the Mississippi Public Defenders Association to provide  
119 training and services to public defenders practicing in all state,  
120 county and municipal courts. These services shall include, but  
121 not be limited to, continuing legal education, case updates and  
122 legal research. The division shall provide (a) education and  
123 training for public defenders practicing in all state, county and  
124 municipal courts; (b) technical assistance for public defenders  
125 practicing in all state, county and municipal courts; and (c)  
126 current and accurate information for the Legislature pertaining to  
127 the needs of public defenders practicing in all state, county and  
128 municipal courts.

129       (5) There is created in the State Treasury a special fund to  
130 be known as the Public Defenders Education Fund. The purpose of  
131 the fund shall be to provide funding for the training of public  
132 defenders. Monies from the funds derived from assessments under  
133 Section 99-19-73 shall be distributed by the State Treasurer upon  
134 warrants issued by the Mississippi Public Defenders Task Force.  
135 The fund shall be a continuing fund, not subject to fiscal-year  
136 limitations, and shall consist of:

137           (a) Monies appropriated by the Legislature for the  
138 purposes of public defender training;

139           (b) The interest accruing to the fund;

140           (c) Monies received under the provisions of Section  
141 99-19-73;

142           (d) Monies received from the federal government;

143           (e) Donations; and

144           (f) Monies received from such other sources as may be  
145 provided by law.

146       **SECTION 3.** Section 99-19-73, Mississippi Code of 1972, is  
147 amended as follows:

148       99-19-73. (1) **Traffic violations.** In addition to any  
149 monetary penalties and any other penalties imposed by law, there  
150 shall be imposed and collected the following state assessment from  
151 each person upon whom a court imposes a fine or other penalty for  
152 any violation in Title 63, Mississippi Code of 1972, except  
153 offenses relating to the Mississippi Implied Consent Law (Section  
154 63-11-1 et seq.) and offenses relating to vehicular parking or  
155 registration:

| FUND   | AMOUNT  |
|--|---------|
| State Court Education Fund.....  | \$ 1.50 |
| State Prosecutor Education Fund.....   | 1.00    |
| Vulnerable Adults Training,<br>Investigation and Prosecution Trust Fund..... | .50     |
| Child Support Prosecution Trust Fund.....                                    | .50     |

|     |  |                 |
|-----|--|-----------------|
| 162 | Driver Training Penalty Assessment Fund.....       | 7.00            |
| 163 | Law Enforcement Officers Training Fund.....        | 5.00            |
| 164 | Spinal Cord and Head Injury Trust Fund             |                 |
| 165 | (for all moving violations).....                   | 6.00            |
| 166 | Emergency Medical Services Operating Fund.....     | 15.00           |
| 167 | Mississippi Leadership Council on Aging Fund.....  | 1.00            |
| 168 | Law Enforcement Officers and Fire Fighters Death   |                 |
| 169 | Benefits Trust Fund.....                           | .50             |
| 170 | Law Enforcement Officers and Fire Fighters         |                 |
| 171 | Disability Benefits Trust Fund.....                | 1.00            |
| 172 | State Prosecutor Compensation Fund for the purpose |                 |
| 173 | of providing additional compensation for legal     |                 |
| 174 | assistants to district attorneys.....              | 1.50            |
| 175 | Crisis Intervention Mental Health Fund.....        | 10.00           |
| 176 | Drug Court Fund.....                               | 10.00           |
| 177 | Capital Defense Counsel Fund.....                  | 1.89            |
| 178 | Indigent Appeals Fund.....                         | 2.29            |
| 179 | Capital Post-Conviction Counsel Fund.....          | 2.33            |
| 180 | Victims of Domestic Violence Fund.....             | .49             |
| 181 | <u>Public Defenders Education Fund.....</u>        | <u>1.00</u>     |
| 182 | TOTAL STATE ASSESSMENT.....                        | \$ <u>68.50</u> |

183 (2) **Implied Consent Law violations.** In addition to any  
184 monetary penalties and any other penalties imposed by law, there  
185 shall be imposed and collected the following state assessment from  
186 each person upon whom a court imposes a fine or any other penalty  
187 for any violation of the Mississippi Implied Consent Law (Section  
188 63-11-1 et seq.):

|     |   |          |
|-----|---|----------|
| 189 | FUND  | AMOUNT   |
| 190 | Crime Victims' Compensation Fund.....         | \$ 10.00 |
| 191 | State Court Education Fund.....               | 1.50     |
| 192 | State Prosecutor Education Fund.....          | 1.00     |
| 193 | Vulnerable Adults Training,                   |          |
| 194 | Investigation and Prosecution Trust Fund..... | .50      |

|     |   |                  |
|-----|---|------------------|
| 195 | Child Support Prosecution Trust Fund.....             | .50              |
| 196 | Driver Training Penalty Assessment Fund.....          | 22.00            |
| 197 | Law Enforcement Officers Training Fund.....           | 11.00            |
| 198 | Emergency Medical Services Operating Fund.....        | 15.00            |
| 199 | Mississippi Alcohol Safety Education Program Fund.... | 5.00             |
| 200 | Federal-State Alcohol Program Fund.....               | 10.00            |
| 201 | Mississippi Crime Laboratory                          |                  |
| 202 | Implied Consent Law Fund.....                         | 25.00            |
| 203 | Spinal Cord and Head Injury Trust Fund.....           | 25.00            |
| 204 | Capital Defense Counsel Fund.....                     | 1.89             |
| 205 | Indigent Appeals Fund.....                            | 2.29             |
| 206 | Capital Post-Conviction Counsel Fund.....             | 2.33             |
| 207 | Victims of Domestic Violence Fund.....                | .49              |
| 208 | State General Fund.....                               | 35.00            |
| 209 | Law Enforcement Officers and Fire Fighters Death      |                  |
| 210 | Benefits Trust Fund.....                              | .50              |
| 211 | Law Enforcement Officers and Fire Fighters Disability |                  |
| 212 | Benefits Trust Fund.....                              | 1.00             |
| 213 | State Prosecutor Compensation Fund for the purpose    |                  |
| 214 | of providing additional compensation for legal        |                  |
| 215 | assistants to district attorneys.....                 | 1.50             |
| 216 | Crisis Intervention Mental Health Fund.....           | 10.00            |
| 217 | Drug Court Fund.....                                  | 10.00            |
| 218 | <u>Public Defenders Education Fund.....</u>           | <u>1.00</u>      |
| 219 | TOTAL STATE ASSESSMENT.....                           | \$ <u>192.50</u> |

220       (3) **Game and Fish Law violations.** In addition to any  
221 monetary penalties and any other penalties imposed by law, there  
222 shall be imposed and collected the following state assessment from  
223 each person upon whom a court imposes a fine or other penalty for  
224 any violation of the game and fish statutes or regulations of this  
225 state:

|     |                                 |         |
|-----|---------------------------------|---------|
| 226 | FUND                            | AMOUNT  |
| 227 | State Court Education Fund..... | \$ 1.50 |

|     |   |                 |
|-----|---|-----------------|
| 228 | State Prosecutor Education Fund.....                  | 1.00            |
| 229 | Law Enforcement Officers Training Fund.....           | 5.00            |
| 230 | Hunter Education and Training Program Fund.....       | 5.00            |
| 231 | State General Fund.....                               | 30.00           |
| 232 | Law Enforcement Officers and Fire Fighters Death      |                 |
| 233 | Benefits Trust Fund.....                              | .50             |
| 234 | Law Enforcement Officers and Fire Fighters Disability |                 |
| 235 | Benefits Trust Fund.....                              | 1.00            |
| 236 | State Prosecutor Compensation Fund for the purpose    |                 |
| 237 | of providing additional compensation for legal        |                 |
| 238 | assistants to district attorneys.....                 | 1.00            |
| 239 | Crisis Intervention Mental Health Fund.....           | 10.00           |
| 240 | Drug Court Fund.....                                  | 10.00           |
| 241 | Capital Defense Counsel Fund.....                     | 1.89            |
| 242 | Indigent Appeals Fund.....                            | 2.29            |
| 243 | Capital Post-Conviction Counsel Fund.....             | 2.33            |
| 244 | Victims of Domestic Violence Fund.....                | .49             |
| 245 | <u>Public Defenders Education Fund.....</u>           | <u>1.00</u>     |
| 246 | TOTAL STATE ASSESSMENT.....                           | \$ <u>73.00</u> |

247       (4) **Litter Law violations.** In addition to any monetary  
248 penalties and any other penalties imposed by law, there shall be  
249 imposed and collected the following state assessment from each  
250 person upon whom a court imposes a fine or other penalty for any  
251 violation of Section 97-15-29 or 97-15-30:

|     |   |                 |
|-----|---|-----------------|
| 252 | FUND  | AMOUNT          |
| 253 | Statewide Litter Prevention Fund.....       | \$ 25.00        |
| 254 | <u>Public Defenders Education Fund.....</u> | <u>1.00</u>     |
| 255 | TOTAL STATE ASSESSMENT.....                 | \$ <u>26.00</u> |

256       (5) **Other misdemeanors.** In addition to any monetary  
257 penalties and any other penalties imposed by law, there shall be  
258 imposed and collected the following state assessment from each  
259 person upon whom a court imposes a fine or other penalty for any  
260 misdemeanor violation not specified in subsection (1), (2) or (3)

261 of this section, except offenses relating to vehicular parking or  
 262 registration:

| 263 FUND  | AMOUNT          |
|---|-----------------|
| 264 Crime Victims' Compensation Fund.....   | \$ 10.00        |
| 265 State Court Education Fund.....   | 1.50            |
| 266 State Prosecutor Education Fund.....  | 1.00            |
| 267 Vulnerable Adults Training,<br>Investigation and Prosecution Trust Fund.....  | .50             |
| 269 Child Support Prosecution Trust Fund.....   | .50             |
| 270 Law Enforcement Officers Training Fund.....   | 5.00            |
| 271 Capital Defense Counsel Fund.....   | 1.89            |
| 272 Indigent Appeals Fund.....  | 2.29            |
| 273 Capital Post-Conviction Counsel Fund.....   | 2.33            |
| 274 Victims of Domestic Violence Fund.....  | .49             |
| 275 State General Fund.....   | 30.00           |
| 276 State Crime Stoppers Fund.....  | 1.50            |
| 277 Law Enforcement Officers and Fire Fighters Death<br>Benefits Trust Fund.....  | .50             |
| 279 Law Enforcement Officers and Fire Fighters Disability<br>Benefits Trust Fund.....   | 1.00            |
| 281 State Prosecutor Compensation Fund for the purpose<br>of providing additional compensation for legal<br>assistants to district attorneys..... | 1.50            |
| 284 Crisis Intervention Mental Health Fund.....   | 10.00           |
| 285 Drug Court Fund.....  | 8.00            |
| 286 Judicial Performance Fund.....  | 2.00            |
| 287 <u>Public Defenders Education Fund.....</u>   | <u>1.00</u>     |
| 288 TOTAL STATE ASSESSMENT.....   | \$ <u>81.00</u> |

289 (6) **Other felonies.** In addition to any monetary penalties  
 290 and any other penalties imposed by law, there shall be imposed and  
 291 collected the following state assessment from each person upon  
 292 whom a court imposes a fine or other penalty for any felony

293 violation not specified in subsection (1), (2) or (3) of this  
 294 section:

| 295 FUND  | AMOUNT          |
|---|-----------------|
| 296 Crime Victims' Compensation Fund.....                 | \$ 10.00        |
| 297 State Court Education Fund.....                       | 1.50            |
| 298 State Prosecutor Education Fund.....                  | 1.00            |
| 299 Vulnerable Adults Training,                           |                 |
| 300 Investigation and Prosecution Trust Fund.....         | .50             |
| 301 Child Support Prosecution Trust Fund.....             | .50             |
| 302 Law Enforcement Officers Training Fund.....           | 5.00            |
| 303 Capital Defense Counsel Fund.....                     | 1.89            |
| 304 Indigent Appeals Fund.....                            | 2.29            |
| 305 Capital Post-Conviction Counsel Fund.....             | 2.33            |
| 306 Victims of Domestic Violence Fund.....                | .49             |
| 307 State General Fund.....                               | 60.00           |
| 308 Criminal Justice Fund.....                            | 50.00           |
| 309 Law Enforcement Officers and Fire Fighters Death      |                 |
| 310 Benefits Trust Fund.....                              | .50             |
| 311 Law Enforcement Officers and Fire Fighters Disability |                 |
| 312 Benefits Trust Fund.....                              | 1.00            |
| 313 State Prosecutor Compensation Fund for the purpose    |                 |
| 314 of providing additional compensation for legal        |                 |
| 315 assistants to district attorneys.....                 | 1.50            |
| 316 Crisis Intervention Mental Health Fund.....           | 10.00           |
| 317 Drug Court Fund.....                                  | 10.00           |
| 318 <u>Public Defenders Education Fund.....</u>           | <u>1.00</u>     |
| 319 TOTAL STATE ASSESSMENT.....                           | <u>\$159.50</u> |

320 (7) If a fine or other penalty imposed is suspended, in  
 321 whole or in part, such suspension shall not affect the state  
 322 assessment under this section. No state assessment imposed under  
 323 the provisions of this section may be suspended or reduced by the  
 324 court.

325           (8) After a determination by the court of the amount due, it  
326 shall be the duty of the clerk of the court to promptly collect  
327 all state assessments imposed under the provisions of this  
328 section. The state assessments imposed under the provisions of  
329 this section may not be paid by personal check. It shall be the  
330 duty of the chancery clerk of each county to deposit all such  
331 state assessments collected in the circuit, county and justice  
332 courts in such county on a monthly basis with the State Treasurer  
333 pursuant to appropriate procedures established by the State  
334 Auditor. The chancery clerk shall make a monthly lump-sum deposit  
335 of the total state assessments collected in the circuit, county  
336 and justice courts in such county under this section, and shall  
337 report to the Department of Finance and Administration the total  
338 number of violations under each subsection for which state  
339 assessments were collected in the circuit, county and justice  
340 courts in such county during such month. It shall be the duty of  
341 the municipal clerk of each municipality to deposit all such state  
342 assessments collected in the municipal court in such municipality  
343 on a monthly basis with the State Treasurer pursuant to  
344 appropriate procedures established by the State Auditor. The  
345 municipal clerk shall make a monthly lump-sum deposit of the total  
346 state assessments collected in the municipal court in such  
347 municipality under this section, and shall report to the  
348 Department of Finance and Administration the total number of  
349 violations under each subsection for which state assessments were  
350 collected in the municipal court in such municipality during such  
351 month.

352           (9) It shall be the duty of the Department of Finance and  
353 Administration to deposit on a monthly basis all such state  
354 assessments into the proper special fund in the State Treasury.  
355 The monthly deposit shall be based upon the number of violations  
356 reported under each subsection and the pro rata amount of such  
357 assessment due to the appropriate special fund. The Department of

358 Finance and Administration shall issue regulations providing for  
359 the proper allocation of these special funds.

360 (10) The State Auditor shall establish by regulation  
361 procedures for refunds of state assessments, including refunds  
362 associated with assessments imposed before July 1, 1990, and  
363 refunds after appeals in which the defendant's conviction is  
364 reversed. The Auditor shall provide in such regulations for  
365 certification of eligibility for refunds and may require the  
366 defendant seeking a refund to submit a verified copy of a court  
367 order or abstract by which such defendant is entitled to a refund.  
368 All refunds of state assessments shall be made in accordance with  
369 the procedures established by the Auditor.

370 **SECTION 4.** This act shall take effect and be in force from  
371 and after July 1, 2007.