

By: Representative Blackmon

To: Judiciary A;
AppropriationsHOUSE BILL NO. 1498
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 25-32-71, MISSISSIPPI CODE OF 1972,
2 AS AMENDED BY HOUSE BILL NO. 770, 2007 REGULAR SESSION, TO DELETE
3 THE REPEALER ON THE PUBLIC DEFENDERS TASK FORCE AND REVISE THE
4 MEMBERSHIP AND MISSION OF THE TASK FORCE; TO AMEND SECTION
5 99-40-1, MISSISSIPPI CODE OF 1972, TO CREATE THE DIVISION OF
6 PUBLIC DEFENDER TRAINING IN THE OFFICE OF INDIGENT APPEALS AND TO
7 PROVIDE FOR THE MISSION AND DUTIES OF THE DIVISION; TO CREATE THE
8 PUBLIC DEFENDERS EDUCATION FUND IN THE STATE TREASURY AND TO
9 PROVIDE FOR THE ADMINISTRATION AND USE OF THE FUND; TO AMEND
10 SECTION 99-19-73, MISSISSIPPI CODE OF 1972, AS AMENDED BY SENATE
11 BILL NO. 2686, 2007 REGULAR SESSION, AND HOUSE BILL NO. 665, 2007
12 REGULAR SESSION, TO PROVIDE FOR A CRIMINAL ASSESSMENT ON CERTAIN
13 CRIMES TO FUND THE PUBLIC DEFENDERS TRAINING FUND; AND FOR RELATED
14 PURPOSES.

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

16 **SECTION 1.** Section 25-32-71, Mississippi Code of 1972, as
17 amended by House Bill No. 770, 2007 Regular Session, is amended as
18 follows:

19 25-32-71. (1) There is created the Mississippi Public
20 Defender Task Force which shall be composed of thirteen (13)
21 members as follows:

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

24 (b) The President of the Mississippi Prosecutors
25 Association, or his designee;

26 (c) A representative of the Administrative Office of
27 Courts;

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

29 (e) A representative of the Conference of Circuit
30 Judges;

31 (f) A representative of the Mississippi Attorney
32 General's Office;

33 (g) A representative of the Mississippi Association of
34 Supervisors;

35 (h) A representative of The Mississippi Bar;

36 (i) A representative of the Magnolia Bar Association;

37 (j) The Chairman of the Senate Judiciary Committee,
38 Division B, or his designee;

39 (k) The Chairman of the Senate Appropriations
40 Committee, or his designee;

41 (l) The Chairman of the House Judiciary En Banc
42 Committee, or his designee;

43 (m) The Chairman of the House Appropriations Committee,
44 or his designee.

45 (2) At its first meeting, the task force shall elect a
46 chairman and vice chairman from its membership and shall adopt
47 rules for transacting its business and keeping records. Members
48 of the task force shall receive a per diem in the amount provided
49 in Section 25-3-69 for each day engaged in the business of the
50 task force. Members of the task force other than the legislative
51 members shall receive reimbursement for travel expenses incurred
52 while engaged in official business of the task force in accordance
53 with Section 25-3-41 and the legislative members of the task force
54 shall receive the expense allowance provided for in Section
55 5-1-47.

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

57 (a) Make a comprehensive study of the needs by circuit
58 court districts for state-supported indigent defense counsel to
59 examine existing public defender programs, including indigent
60 defense provided in the youth courts. Reports shall be provided
61 to the Legislature each year at least one (1) month before the
62 convening of the regular session.

63 (b) Examine and study approaches taken by other states
64 in the implementation and costs of state-supported indigent
65 criminal and delinquency cases.

66 (c) To study the relationship between presiding circuit
67 and youth court judges and the appointment of criminal and
68 delinquency indigent defense counsel.

69 (4) This section shall stand repealed on July 1, 2011.

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

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

92 (2) The office shall provide representation on appeal for
93 indigent persons convicted of felonies but not under sentences of
94 death. Representation shall be provided by staff attorneys, or,
95 in the case of conflict or excessive workload, by attorneys
96 selected, employed and compensated by the office on a contract
97 basis. All fees charged by contract counsel and expenses incurred
98 by attorneys in the office and contract counsel must be approved

99 by the court. At the sole discretion of the director, the office
100 may also represent indigent juveniles adjudicated delinquent on
101 appeals from a county court or chancery court to the Mississippi
102 Supreme Court and/or the Mississippi Court of Appeals. The office
103 shall provide advice, education and support to attorneys
104 representing persons under felony charges in the trial courts.

105 (3) There is created in the State Treasury a special fund to
106 be known as the Indigent Appeals Fund. The purpose of the fund
107 shall be to provide funding for the Mississippi Office of Indigent
108 Appeals. Monies from the funds derived from assessments under
109 Section 99-19-73 shall be distributed by the State Treasurer upon
110 warrants issued by the Mississippi Office of Indigent Appeals.
111 The fund shall be a continuing fund, not subject to fiscal-year
112 limitations, and shall consist of:

- 113 (a) Monies appropriated by the Legislature for the
114 purposes of funding the Office of Indigent Appeals;
- 115 (b) The interest accruing to the fund;
- 116 (c) Monies received under the provisions of Section
117 99-19-73;
- 118 (d) Monies received from the federal government;
- 119 (e) Donations; and
- 120 (f) Monies received from such other sources as may be
121 provided by law.

122 (4) There is created in the Office of Indigent Appeals the
123 Division of Public Defender Training. The division shall be
124 staffed by any necessary personnel as determined and hired by the
125 director. The mission of the division shall be to work closely
126 with the Mississippi Public Defenders Association to provide
127 training and services to public defenders practicing in all state,
128 county and municipal courts. These services shall include, but
129 not be limited to, continuing legal education, case updates and
130 legal research. The division shall provide (a) education and
131 training for public defenders practicing in all state, county,

132 municipal and youth courts; (b) technical assistance for public
133 defenders practicing in all state, county, municipal and youth
134 courts; and (c) current and accurate information for the
135 Legislature pertaining to the needs of public defenders practicing
136 in all state, county, municipal and youth courts.

137 (5) There is created in the State Treasury a special fund to
138 be known as the Public Defenders Education Fund. The purpose of
139 the fund shall be to provide funding for the training of public
140 defenders. Monies from the funds derived from assessments under
141 Section 99-19-73 shall be distributed by the State Treasurer upon
142 warrants issued by the Office of Indigent Appeals. The fund shall
143 be a continuing fund, not subject to fiscal year limitations, and
144 shall consist of:

145 (a) Monies appropriated by the Legislature for the
146 purposes of public defender training;

147 (b) The interest accruing to the fund;

148 (c) Monies received under the provisions of Section
149 99-19-73;

150 (d) Monies received from the federal government;

151 (e) Donations; and

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

154 **SECTION 3.** Section 99-19-73, Mississippi Code of 1972, as
155 amended by Senate Bill No. 2686, 2007 Regular Session, and House
156 Bill No. 665, 2007 Regular Session, is amended as follows:

157 99-19-73. (1) **Traffic violations.** In addition to any
158 monetary penalties and any other penalties imposed by law, there
159 shall be imposed and collected the following state assessment from
160 each person upon whom a court imposes a fine or other penalty for
161 any violation in Title 63, Mississippi Code of 1972, except
162 offenses relating to the Mississippi Implied Consent Law (Section
163 63-11-1 et seq.) and offenses relating to vehicular parking or
164 registration:

165	FUND	AMOUNT
166	State Court Education Fund.....	\$ 1.50
167	State Prosecutor Education Fund.....	1.00
168	Vulnerable Adults Training,	
169	Investigation and Prosecution Trust Fund.....	.50
170	Child Support Prosecution Trust Fund.....	.50
171	Driver Training Penalty Assessment Fund.....	7.00
172	Law Enforcement Officers Training Fund.....	5.00
173	Spinal Cord and Head Injury Trust Fund	
174	(for all moving violations).....	6.00
175	Emergency Medical Services Operating Fund.....	15.00
176	Mississippi Leadership Council on Aging Fund.....	1.00
177	Law Enforcement Officers and Fire Fighters Death	
178	Benefits Trust Fund.....	.50
179	Law Enforcement Officers and Fire Fighters	
180	Disability Benefits Trust Fund.....	1.00
181	State Prosecutor Compensation Fund for the purpose	
182	of providing additional compensation for legal	
183	assistants to district attorneys.....	1.50
184	Crisis Intervention Mental Health Fund.....	10.00
185	Drug Court Fund.....	10.00
186	Capital Defense Counsel Fund.....	2.89
187	Indigent Appeals Fund.....	2.29
188	Capital Post-Conviction Counsel Fund.....	2.33
189	Victims of Domestic Violence Fund.....	.49
190	<u>Public Defenders Education Fund</u>	<u>1.00</u>
191	TOTAL STATE ASSESSMENT.....	\$ <u>69.50</u>

192 (2) **Implied Consent Law violations.** In addition to any
193 monetary penalties and any other penalties imposed by law, there
194 shall be imposed and collected the following state assessment from
195 each person upon whom a court imposes a fine or any other penalty
196 for any violation of the Mississippi Implied Consent Law (Section
197 63-11-1 et seq.):

198	FUND	AMOUNT
199	Crime Victims' Compensation Fund.....	\$ 10.00
200	State Court Education Fund.....	1.50
201	State Prosecutor Education Fund.....	1.00
202	Vulnerable Adults Training,	
203	Investigation and Prosecution Trust Fund.....	.50
204	Child Support Prosecution Trust Fund.....	.50
205	Driver Training Penalty Assessment Fund.....	22.00
206	Law Enforcement Officers Training Fund.....	11.00
207	Emergency Medical Services Operating Fund.....	15.00
208	Mississippi Alcohol Safety Education Program Fund....	5.00
209	Federal-State Alcohol Program Fund.....	10.00
210	Mississippi Crime Laboratory	
211	Implied Consent Law Fund.....	25.00
212	Spinal Cord and Head Injury Trust Fund.....	25.00
213	Capital Defense Counsel Fund.....	2.89
214	Indigent Appeals Fund.....	2.29
215	Capital Post-Conviction Counsel Fund.....	2.33
216	Victims of Domestic Violence Fund.....	.49
217	State General Fund.....	35.00
218	Law Enforcement Officers and Fire Fighters Death	
219	Benefits Trust Fund.....	.50
220	Law Enforcement Officers and Fire Fighters Disability	
221	Benefits Trust Fund.....	1.00
222	State Prosecutor Compensation Fund for the purpose	
223	of providing additional compensation for legal	
224	assistants to district attorneys.....	1.50
225	Crisis Intervention Mental Health Fund.....	10.00
226	Drug Court Fund.....	10.00
227	<u>Statewide Victims' Information and Notification</u>	
228	<u>System Fund</u>	<u>6.00</u>
229	<u>Public Defenders Education Fund</u>	<u>1.00</u>
230	TOTAL STATE ASSESSMENT.....	<u>\$199.50</u>

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

237 FUND	AMOUNT
238 State Court Education Fund.....	\$ 1.50
239 State Prosecutor Education Fund.....	1.00
240 Law Enforcement Officers Training Fund.....	5.00
241 Hunter Education and Training Program Fund.....	5.00
242 State General Fund.....	30.00
243 Law Enforcement Officers and Fire Fighters Death	
244 Benefits Trust Fund.....	.50
245 Law Enforcement Officers and Fire Fighters Disability	
246 Benefits Trust Fund.....	1.00
247 State Prosecutor Compensation Fund for the purpose	
248 of providing additional compensation for legal	
249 assistants to district attorneys.....	1.00
250 Crisis Intervention Mental Health Fund.....	10.00
251 Drug Court Fund.....	10.00
252 Capital Defense Counsel Fund.....	2.89
253 Indigent Appeals Fund.....	2.29
254 Capital Post-Conviction Counsel Fund.....	2.33
255 Victims of Domestic Violence Fund.....	.49
256 <u>Public Defenders Education Fund</u>	<u>1.00</u>
257 TOTAL STATE ASSESSMENT.....	\$ <u>74.00</u>

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

263 FUND	AMOUNT
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264 Statewide Litter Prevention Fund..... \$ 25.00
 265 TOTAL STATE ASSESSMENT..... \$ 25.00

266 (5) **Other misdemeanors.** In addition to any monetary
 267 penalties and any other penalties imposed by law, there shall be
 268 imposed and collected the following state assessment from each
 269 person upon whom a court imposes a fine or other penalty for any
 270 misdemeanor violation not specified in subsection (1), (2) or (3)
 271 of this section, except offenses relating to vehicular parking or
 272 registration:

273 FUND	AMOUNT
274 Crime Victims' Compensation Fund.....	\$ 10.00
275 State Court Education Fund.....	1.50
276 State Prosecutor Education Fund.....	1.00
277 Vulnerable Adults Training, Investigation and Prosecution Trust Fund.....	.50
279 Child Support Prosecution Trust Fund.....	.50
280 Law Enforcement Officers Training Fund.....	5.00
281 Capital Defense Counsel Fund.....	2.89
282 Indigent Appeals Fund.....	2.29
283 Capital Post-Conviction Counsel Fund.....	2.33
284 Victims of Domestic Violence Fund.....	.49
285 State General Fund.....	30.00
286 State Crime Stoppers Fund.....	1.50
287 Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
289 Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	1.00
291 State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys.....	1.50
294 Crisis Intervention Mental Health Fund.....	10.00
295 Drug Court Fund.....	8.00
296 Judicial Performance Fund.....	2.00

297	<u>Statewide Victims' Information and Notification</u>	
298	<u>System Fund</u>	6.00
299	<u>Public Defenders Education Fund</u>	1.00
300	TOTAL STATE ASSESSMENT.....	\$ 88.00

301 (6) **Other felonies.** In addition to any monetary penalties
302 and any other penalties imposed by law, there shall be imposed and
303 collected the following state assessment from each person upon
304 whom a court imposes a fine or other penalty for any felony
305 violation not specified in subsection (1), (2) or (3) of this
306 section:

307	FUND	AMOUNT
308	Crime Victims' Compensation Fund.....	\$ 10.00
309	State Court Education Fund.....	1.50
310	State Prosecutor Education Fund.....	1.00
311	Vulnerable Adults Training,	
312	Investigation and Prosecution Trust Fund.....	.50
313	Child Support Prosecution Trust Fund.....	.50
314	Law Enforcement Officers Training Fund.....	5.00
315	Capital Defense Counsel Fund.....	2.89
316	Indigent Appeals Fund.....	2.29
317	Capital Post-Conviction Counsel Fund.....	2.33
318	Victims of Domestic Violence Fund.....	.49
319	State General Fund.....	60.00
320	Criminal Justice Fund.....	50.00
321	Law Enforcement Officers and Fire Fighters Death	
322	Benefits Trust Fund.....	.50
323	Law Enforcement Officers and Fire Fighters Disability	
324	Benefits Trust Fund.....	1.00
325	State Prosecutor Compensation Fund for the purpose	
326	of providing additional compensation for legal	
327	assistants to district attorneys.....	1.50
328	Crisis Intervention Mental Health Fund.....	10.00
329	Drug Court Fund.....	10.00

330	<u>Statewide Victims' Information and Notification</u>	
331	<u>System Fund</u>	<u>6.00</u>
332	<u>Public Defenders Education Fund</u>	<u>1.00</u>
333	TOTAL STATE ASSESSMENT.....	<u>\$166.50</u>

334 (7) If a fine or other penalty imposed is suspended, in
335 whole or in part, such suspension shall not affect the state
336 assessment under this section. No state assessment imposed under
337 the provisions of this section may be suspended or reduced by the
338 court.

339 (8) After a determination by the court of the amount due, it
340 shall be the duty of the clerk of the court to promptly collect
341 all state assessments imposed under the provisions of this
342 section. The state assessments imposed under the provisions of
343 this section may not be paid by personal check. It shall be the
344 duty of the chancery clerk of each county to deposit all such
345 state assessments collected in the circuit, county and justice
346 courts in such county on a monthly basis with the State Treasurer
347 pursuant to appropriate procedures established by the State
348 Auditor. The chancery clerk shall make a monthly lump-sum deposit
349 of the total state assessments collected in the circuit, county
350 and justice courts in such county under this section, and shall
351 report to the Department of Finance and Administration the total
352 number of violations under each subsection for which state
353 assessments were collected in the circuit, county and justice
354 courts in such county during such month. It shall be the duty of
355 the municipal clerk of each municipality to deposit all such state
356 assessments collected in the municipal court in such municipality
357 on a monthly basis with the State Treasurer pursuant to
358 appropriate procedures established by the State Auditor. The
359 municipal clerk shall make a monthly lump-sum deposit of the total
360 state assessments collected in the municipal court in such
361 municipality under this section, and shall report to the
362 Department of Finance and Administration the total number of

363 violations under each subsection for which state assessments were
364 collected in the municipal court in such municipality during such
365 month.

366 (9) It shall be the duty of the Department of Finance and
367 Administration to deposit on a monthly basis all such state
368 assessments into the proper special fund in the State Treasury.
369 The monthly deposit shall be based upon the number of violations
370 reported under each subsection and the pro rata amount of such
371 assessment due to the appropriate special fund. The Department of
372 Finance and Administration shall issue regulations providing for
373 the proper allocation of these special funds.

374 (10) The State Auditor shall establish by regulation
375 procedures for refunds of state assessments, including refunds
376 associated with assessments imposed before July 1, 1990, and
377 refunds after appeals in which the defendant's conviction is
378 reversed. The Auditor shall provide in such regulations for
379 certification of eligibility for refunds and may require the
380 defendant seeking a refund to submit a verified copy of a court
381 order or abstract by which such defendant is entitled to a refund.
382 All refunds of state assessments shall be made in accordance with
383 the procedures established by the Auditor.

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