

By: Senator(s) Simmons

To: Judiciary, Division A;
Appropriations

SENATE BILL NO. 2968

1 AN ACT TO AMEND SECTION 9-1-36, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE COUNTY COURT JUDGES AMONG THOSE FOR WHOM AN OFFICE
3 ALLOWANCE IS APPROPRIATED; TO AMEND SECTION 43-21-111, MISSISSIPPI
4 CODE OF 1972, TO PROVIDE THAT STATE FUNDING WILL BE CONTINGENT OF
5 A COUNTY'S REGULAR YOUTH COURT REFEREE COMPLYING WITH ANNUAL
6 TRAINING REQUIREMENTS; TO AMEND SECTION 43-21-123, MISSISSIPPI
7 CODE OF 1972, TO PROVIDE FOR STATE AND COUNTY CONTRIBUTIONS TOWARD
8 THE YOUTH COURT BUDGET; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 9-1-36, Mississippi Code of 1972, is
11 amended as follows:

12 9-1-36. (1) Each circuit judge, county judge and chancellor
13 shall receive an office operating allowance for the expenses of
14 operating the office of such judge, including retaining a law
15 clerk, legal research, stenographic help, stationery, stamps,
16 furniture, office equipment, telephone, office rent and other
17 items and expenditures necessary and incident to maintaining the
18 office of judge. Such allowance shall be paid only to the extent
19 of actual expenses incurred by any such judge as itemized and
20 certified by such judge to the Supreme Court and then in an amount
21 of Four Thousand Dollars (\$4,000.00) per annum; however, such
22 judge may expend sums in excess thereof from the compensation
23 otherwise provided for his office. No part of this expense or
24 allowance shall be used to pay an official court reporter for
25 services rendered to said court.

26 (2) In addition to the amounts provided for in subsection
27 (1), there is hereby created a separate office allowance fund for
28 the purpose of providing support staff to judges. This fund shall
29 be managed by the Administrative Office of Courts.

30 (3) Each judge who desires to employ support staff after
31 July 1, 1994, shall make application to the Administrative Office
32 of Courts by submitting to the Administrative Office of Courts a
33 proposed personnel plan setting forth what support staff is deemed
34 necessary. Such plan may be submitted by a single judge or by any
35 combination of judges desiring to share support staff. In the
36 process of the preparation of the plan, the judges, at their
37 request, may receive advice, suggestions, recommendations and
38 other assistance from the Administrative Office of Courts. The
39 Administrative Office of Courts must approve the positions, job
40 descriptions and salaries before the positions may be filled. The
41 Administrative Office of Courts shall not approve any plan which
42 does not first require the expenditure of the funds in the support
43 staff fund for compensation of any of the support staff before
44 expenditure is authorized of county funds for that purpose. Upon
45 approval by the Administrative Office of Courts, the judge or
46 judges may appoint the employees to the position or positions, and
47 each employee so appointed will work at the will and pleasure of
48 the judge or judges who appointed him but will be employees of the
49 Administrative Office of Courts. Upon approval by the
50 Administrative Office of Courts, the appointment of any support
51 staff shall be evidenced by the entry of an order on the minutes
52 of the court. When support staff is appointed jointly by two (2)
53 or more judges, the order setting forth any appointment shall be
54 entered on the minutes of each participating court.

55 (4) The Administrative Office of Courts shall develop and
56 promulgate minimum qualifications for the certification of court
57 administrators. Any court administrator appointed on or after
58 October 1, 1996, shall be required to be certified by the
59 Administrative Office of Courts.

60 (5) Support staff shall receive compensation pursuant to
61 personnel policies established by the Administrative Office of
62 Courts; however, from and after July 1, 1994, the Administrative

63 Office of Courts shall allocate from the support staff fund an
64 amount of Forty Thousand Dollars (\$40,000.00) per fiscal year
65 (July 1 through June 30) per judge for whom support staff is
66 approved for the funding of support staff assigned to a judge or
67 judges. Any employment pursuant to this subsection shall be
68 subject to the provisions of Section 25-1-53.

69 The Administrative Office of Courts may approve expenditure
70 from the fund for additional equipment for support staff appointed
71 pursuant to this section in any year in which the allocation per
72 judge is sufficient to meet the equipment expense after provision
73 for the compensation of the support staff.

74 (6) For the purposes of this section, the following terms
75 shall have the meaning ascribed herein unless the context clearly
76 requires otherwise:

77 (a) "Judges" means circuit judges, county judges and
78 chancellors, or any combination thereof;

79 (b) "Support staff" means court administrators, law
80 clerks, legal research assistants or secretaries, resource
81 administrator and/or case managers appointed by a youth court
82 judge, or any combination thereof, but shall not mean school
83 attendance officers;

84 (c) "Compensation" means the gross salary plus all
85 amounts paid for benefits or otherwise as a result of employment
86 or as required by employment; provided, however, that only salary
87 earned for services rendered shall be reported and credited for
88 Public Employees' Retirement System purposes. Amounts paid for
89 benefits or otherwise, including reimbursement for travel
90 expenses, shall not be reported or credited for retirement
91 purposes.

92 (7) Title to all tangible property, excepting stamps,
93 stationery and minor expendable office supplies, procured with
94 funds authorized by this section, shall be and forever remain in

95 the State of Mississippi to be used by the * * * judge * * *
96 during the term of his office and thereafter by his successors.

97 (8) Any * * * judge * * * who did not have a primary office
98 provided by the county on March 1, 1988, shall be allowed an
99 additional Four Thousand Dollars (\$4,000.00) per annum to defray
100 the actual expenses incurred by such judge or chancellor in
101 maintaining an office; however, any * * * judge * * * who had a
102 primary office provided by the county on March 1, 1988, and who
103 vacated the office space after such date for a legitimate reason,
104 as determined by the Department of Finance and Administration,
105 shall be allowed the additional office expense allowance provided
106 under this subsection. The county in which a circuit judge or
107 chancellor sits is authorized to provide funds from any available
108 source to assist in defraying the actual expenses to maintain an
109 office.

110 (9) The Supreme Court, through the Administrative Office of
111 Courts, shall submit to the Department of Finance and
112 Administration the itemized and certified expenses for office
113 operating allowances that are directed to the court pursuant to
114 this section.

115 (10) The Supreme Court, through the Administrative Office of
116 Courts, shall have the power to adopt rules and regulations
117 regarding the administration of the office operating allowance
118 authorized pursuant to this section.

119 **SECTION 2.** Section 43-21-111, Mississippi Code of 1972, is
120 amended as follows:

121 43-21-111. (1) In any county not having a county
122 court, * * * the judge may appoint as provided in Section
123 43-21-123 regular or special referees who shall be attorneys at
124 law and members of the bar in good standing to act in cases
125 concerning children within the jurisdiction of the youth court,
126 and a regular referee shall hold office until removed by the
127 judge. The requirement that regular or special referees appointed

128 pursuant to this subsection be attorneys shall apply only to
129 regular or special referees who were not first appointed regular
130 or special referees prior to July 1, 1991.

131 (2) Any referee appointed pursuant to subsection (1) of this
132 section or subsection (3) of Section 43-21-107 shall be required
133 to receive judicial training approved by the Mississippi Judicial
134 College and shall be required to receive regular annual continuing
135 education in the field of juvenile justice. The amount of
136 judicial training and annual continuing education which shall be
137 satisfactory to fulfill the requirements of this section shall
138 conform with the amount prescribed by the Rules and Regulations
139 for Mandatory Continuing Judicial Education promulgated by the
140 Supreme Court. The Administrative Office of Courts shall maintain
141 a roll of referees appointed under this section, shall enforce the
142 provisions of this subsection and shall maintain records on all
143 such referees regarding such training. The Administrative Office
144 of Courts shall not disburse funds to any county for the budget of
145 a youth court referee or municipal youth court referee who is not
146 in compliance with the judicial training requirements. Should a
147 referee miss two (2) consecutive training sessions sponsored or
148 approved by the Mississippi Judicial College as required by this
149 subsection or fail to attend one (1) such training session within
150 six (6) months of their initial appointment as a referee, the
151 referee shall be disqualified to serve and be immediately removed
152 as a referee and another member of the bar shall be appointed as
153 provided in this section.

154 (3) The judge may direct that hearings in any case or class
155 of cases be conducted in the first instance by the referee. The
156 judge may also delegate his own administrative responsibilities to
157 the referee.

158 (4) All hearings authorized to be heard by a referee shall
159 proceed in the same manner as hearings before the youth court
160 judge. A referee shall possess all powers and perform all the

161 duties of the youth court judge in the hearings authorized to be
162 heard by the referee.

163 (5) An order entered by the referee shall be mailed
164 immediately to all parties and their counsel. A rehearing by the
165 judge shall be allowed if any party files a written motion for a
166 rehearing or on the court's own motion within three (3) days after
167 notice of referee's order. The youth court may enlarge the time
168 for filing a motion for a rehearing for good cause shown. Any
169 rehearing shall be upon the record of the hearing before the
170 referee, but additional evidence may be admitted in the discretion
171 of the judge. A motion for a rehearing shall not act as a
172 supersedeas of the referee's order, unless the judge shall so
173 order.

174 (6) The salary for the referee shall be * * * as provided in
175 Section 43-21-123 * * *.

176 (7) * * * The judge of the chancery court may appoint a
177 suitable person as referee to two (2) or more counties within his
178 district * * *.

179 **SECTION 3.** Section 43-21-123, Mississippi Code of 1972, is
180 amended as follows:

181 43-21-123. (1) Except for expenses provided by state funds
182 and/or other monies, the board of supervisors, or the municipal
183 governing board where there is a municipal youth court, shall
184 adequately provide funds for the operation of the youth court
185 division of the appropriate court in conjunction with the
186 regular * * * court budget * * *. In preparation for said
187 funding, on an annual basis at the time requested, the youth court
188 judge, regular youth court referee or administrator shall prepare
189 and submit to the board of supervisors, or the municipal governing
190 board of the youth court wherever the youth court is a municipal
191 court, an annual budget which will identify the number, staff
192 position, title and amount of annual or monthly compensation of
193 each position as well as provide for other expenditures necessary

194 to the functioning and operation of the youth court. When the
195 budget of the youth court or youth court judge is approved by the
196 board of supervisors or the governing authority of the
197 municipality, then the youth court, youth court judge, regular
198 youth court referee or administrator may employ such persons as
199 provided in the budget from time to time.

200 (2) The board of supervisors of any county in which there is
201 located a youth court, and the governing authority of any
202 municipality in which there is located a municipal youth court,
203 are each authorized to reimburse the youth court judges and other
204 county-employed youth court employees or personnel for reasonable
205 travel and expenses incurred in the performance of their duties
206 and in attending educational meetings offering professional
207 training to such persons as budgeted.

208 (3) (a) In order to ensure that all youth courts not served
209 by a county court have sufficient support funds to carry on the
210 business of the youth court, the Administrative Office of Courts
211 shall establish a formula for providing state support payable from
212 the General Fund for the support of the youth courts. Youth court
213 support funds shall be available to each regular youth court
214 referee and municipal youth court referee so long as the senior
215 chancellor does not elect to employ a youth court administrator as
216 set forth in paragraph (b), and each regular youth court referee
217 shall have the individual discretion to appropriate those funds as
218 expense monies to assist in hiring secretarial staff and acquiring
219 materials incident to carrying on the business of the court within
220 the referee's private practice of law, or may direct the use of
221 those funds through the county budget for court support supplies
222 or services. The regular youth court referee and municipal youth
223 court referee shall be accountable for assuring through private or
224 county employees the proper preparation and filing of all
225 necessary tracking and other documentation attendant to the
226 administration of the youth court. The formula developed by the

227 Administrative Office of Courts for providing youth court support
228 funds shall be reviewed by the Administrative Office of Courts
229 every two (2) years to ensure that the youth court support funds
230 provided herein are proportional to each youth court's caseload.
231 The Administrative Office of Courts shall approve of the use of
232 the youth court support funds provided in this subsection in
233 accordance with its established procedures.

234 (b) In lieu of accepting any referee support funds as
235 provided in this subsection, when permitted by the Administrative
236 Office of Courts, the senior chancellors of Chancery Districts
237 One, Two, Three, Four, Six, Seven, Nine, Ten, Thirteen, Fourteen,
238 Fifteen and Eighteen may appoint a youth court administrator for
239 the district whose responsibility will be to perform all
240 reporting, tracking and other duties of a court administrator for
241 all youth courts in the district which are under the chancery
242 court system. The Administrative Office of Courts shall allocate
243 to each such chancellor a sum not to exceed Thirty Thousand
244 Dollars (\$30,000.00) per year to cover the salary, fringe benefits
245 and equipment of such administrator, and an additional sum not to
246 exceed One Thousand Nine Hundred Dollars (\$1,900.00) to cover
247 travel expenses of the administrator.

248 **SECTION 4.** All new programs authorized under this Senate
249 Bill No. 2968, 2007 Regular Session, shall be subject to the
250 availability of funds specifically appropriated therefor by the
251 Legislature during the 2007 Regular Session or any subsequent
252 session. It is the intent of the Legislature that this act shall
253 be codified, but that no amendment to a code section or repeal of
254 a code section enacted by this Senate Bill No. 2968, 2007 Regular
255 Session, shall take effect until the Legislature has funded any
256 new programs authorized hereunder by line item appropriation, said
257 line item appropriation to be certified by the Legislative Budget
258 Office to the Secretary of State.

259 **SECTION 5.** This act shall take effect and be in force from
260 and after July 1, 2007.