

Senate Amendments to House Bill No. 1498

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

15 25-32-71. (1) There is created the Mississippi Public
16 Defender Task Force which shall be composed of thirteen (13)
17 members as follows:

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

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

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

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

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

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

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

31 (h) A representative of The Mississippi Bar;

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

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

35 (k) The Chairman of the Senate Appropriations
36 Committee, or his designee;

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

39 (m) The Chairman of the House Appropriations Committee,
40 or his designee.

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

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

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

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

62 (c) To study the relationship between presiding circuit
63 and youth court judges and the appointment of criminal and
64 delinquency indigent defense counsel.

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

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

68 99-40-1. (1) There is created the Mississippi Office of
69 Indigent Appeals. This office shall consist of six (6) attorneys,
70 two (2) secretaries/paralegals and one (1) financial assistant.
71 One (1) of the attorneys shall serve as director of the office.
72 The director shall be appointed by the Governor and shall serve
73 for a term of four (4) years. The remaining attorneys and other

74 staff shall be appointed by the director and shall serve at the
75 will and pleasure of the director. The director and all other
76 attorneys in the office shall either be active members of The
77 Mississippi Bar, or, if a member in good standing of the bar of
78 another jurisdiction, must apply to and secure admission to The
79 Mississippi Bar within twelve (12) months of the commencement of
80 the person's employment by the office. The attorneys in the
81 office shall practice law exclusively for the office and shall not
82 engage in any other practice. The office shall not engage in any
83 litigation other than that related to the office. The salary for
84 the director shall be equivalent to the salary of district
85 attorneys and the salary of the other attorneys in the office
86 shall be equivalent to the salary of an assistant district
87 attorney.

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

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

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

(b) The interest accruing to the fund;

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

(d) Monies received from the federal government;

(e) Donations; and

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

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

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

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

(b) The interest accruing to the fund;

144 (c) Monies received under the provisions of Section
145 99-19-73;
146 (d) Monies received from the federal government;
147 (e) Donations; and
148 (f) Monies received from such other sources as may be
149 provided by law.

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

152 99-19-73. (1) **Traffic violations.** In addition to any
153 monetary penalties and any other penalties imposed by law, there
154 shall be imposed and collected the following state assessment from
155 each person upon whom a court imposes a fine or other penalty for
156 any violation in Title 63, Mississippi Code of 1972, except
157 offenses relating to the Mississippi Implied Consent Law (Section
158 63-11-1 et seq.) and offenses relating to vehicular parking or
159 registration:

FUND	AMOUNT
State Court Education Fund.....	\$ 1.50
State Prosecutor Education Fund.....	1.00
Vulnerable Adults Training, Investigation and Prosecution Trust Fund.....	.50
Child Support Prosecution Trust Fund.....	.50
Driver Training Penalty Assessment Fund.....	7.00
Law Enforcement Officers Training Fund.....	5.00
Spinal Cord and Head Injury Trust Fund (for all moving violations).....	6.00
Emergency Medical Services Operating Fund.....	15.00
Mississippi Leadership Council on Aging Fund.....	1.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys.....	1.50

179	Crisis Intervention Mental Health Fund.....	10.00
180	Drug Court Fund.....	10.00
181	Capital Defense Counsel Fund.....	1.89
182	Indigent Appeals Fund.....	2.29
183	Capital Post-Conviction Counsel Fund.....	2.33
184	Victims of Domestic Violence Fund.....	.49
185	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
186	TOTAL STATE ASSESSMENT.....	\$ <u>68.50</u>

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

193	FUND	AMOUNT
194	Crime Victims' Compensation Fund.....	\$ 10.00
195	State Court Education Fund.....	1.50
196	State Prosecutor Education Fund.....	1.00
197	Vulnerable Adults Training,	
198	Investigation and Prosecution Trust Fund.....	.50
199	Child Support Prosecution Trust Fund.....	.50
200	Driver Training Penalty Assessment Fund.....	22.00
201	Law Enforcement Officers Training Fund.....	11.00
202	Emergency Medical Services Operating Fund.....	15.00
203	Mississippi Alcohol Safety Education Program Fund....	5.00
204	Federal-State Alcohol Program Fund.....	10.00
205	Mississippi Crime Laboratory	
206	Implied Consent Law Fund.....	25.00
207	Spinal Cord and Head Injury Trust Fund.....	25.00
208	Capital Defense Counsel Fund.....	1.89
209	Indigent Appeals Fund.....	2.29
210	Capital Post-Conviction Counsel Fund.....	2.33
211	Victims of Domestic Violence Fund.....	.49
212	State General Fund.....	35.00
213	Law Enforcement Officers and Fire Fighters Death	

214	Benefits Trust Fund.....	.50
215	Law Enforcement Officers and Fire Fighters Disability	
216	Benefits Trust Fund.....	1.00
217	State Prosecutor Compensation Fund for the purpose	
218	of providing additional compensation for legal	
219	assistants to district attorneys.....	1.50
220	Crisis Intervention Mental Health Fund.....	10.00
221	Drug Court Fund.....	10.00
222	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
223	TOTAL STATE ASSESSMENT.....	\$ <u>192.50</u>

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

230	FUND	AMOUNT
231	State Court Education Fund.....	\$ 1.50
232	State Prosecutor Education Fund.....	1.00
233	Law Enforcement Officers Training Fund.....	5.00
234	Hunter Education and Training Program Fund.....	5.00
235	State General Fund.....	30.00
236	Law Enforcement Officers and Fire Fighters Death	
237	Benefits Trust Fund.....	.50
238	Law Enforcement Officers and Fire Fighters Disability	
239	Benefits Trust Fund.....	1.00
240	State Prosecutor Compensation Fund for the purpose	
241	of providing additional compensation for legal	
242	assistants to district attorneys.....	1.00
243	Crisis Intervention Mental Health Fund.....	10.00
244	Drug Court Fund.....	10.00
245	Capital Defense Counsel Fund.....	1.89
246	Indigent Appeals Fund.....	2.29
247	Capital Post-Conviction Counsel Fund.....	2.33
248	Victims of Domestic Violence Fund.....	.49

249 Public Defenders Education Fund..... 1.00
250 TOTAL STATE ASSESSMENT..... \$ 73.00

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

256	FUND	AMOUNT
257	Statewide Litter Prevention Fund.....	\$ 25.00
258	TOTAL STATE ASSESSMENT.....	\$ 25.00

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

266	FUND	AMOUNT
267	Crime Victims' Compensation Fund.....	\$ 10.00
268	State Court Education Fund.....	1.50
269	State Prosecutor Education Fund.....	1.00
270	Vulnerable Adults Training,	
271	Investigation and Prosecution Trust Fund.....	.50
272	Child Support Prosecution Trust Fund.....	.50
273	Law Enforcement Officers Training Fund.....	5.00
274	Capital Defense Counsel Fund.....	1.89
275	Indigent Appeals Fund.....	2.29
276	Capital Post-Conviction Counsel Fund.....	2.33
277	Victims of Domestic Violence Fund.....	.49
278	State General Fund.....	30.00
279	State Crime Stoppers Fund.....	1.50
280	Law Enforcement Officers and Fire Fighters Death	
281	Benefits Trust Fund.....	.50
282	Law Enforcement Officers and Fire Fighters Disability	
283	Benefits Trust Fund.....	1.00

284	State Prosecutor Compensation Fund for the purpose	
285	of providing additional compensation for legal	
286	assistants to district attorneys.....	1.50
287	Crisis Intervention Mental Health Fund.....	10.00
288	Drug Court Fund.....	8.00
289	Judicial Performance Fund.....	2.00
290	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
291	TOTAL STATE ASSESSMENT.....	\$ <u>81.00</u>

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

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

319	Crisis Intervention Mental Health Fund.....	10.00
320	Drug Court Fund.....	10.00
321	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
322	TOTAL STATE ASSESSMENT.....	<u>\$159.50</u>

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

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

353 collected in the municipal court in such municipality during such
354 month.

355 (9) It shall be the duty of the Department of Finance and
356 Administration to deposit on a monthly basis all such state
357 assessments into the proper special fund in the State Treasury.
358 The monthly deposit shall be based upon the number of violations
359 reported under each subsection and the pro rata amount of such
360 assessment due to the appropriate special fund. The Department of
361 Finance and Administration shall issue regulations providing for
362 the proper allocation of these special funds.

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

373 **SECTION 4.** This act shall take effect and be in force from
374 and after July 1, 2007; and shall stand repealed from and after
375 June 30, 2007.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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

SS26\HB1498A.2J

John O. Gilbert
Secretary of the Senate