

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1498

BY: Committee

**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:

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

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

126 legal research. The division shall provide (a) education and
127 training for public defenders practicing in all state, county,
128 municipal and youth courts; (b) technical assistance for public
129 defenders practicing in all state, county, municipal and youth
130 courts; and (c) current and accurate information for the
131 Legislature pertaining to the needs of public defenders practicing
132 in all state, county, municipal and youth courts.

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

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

143 (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:

160 FUND	AMOUNT
161 State Court Education Fund.....	\$ 1.50
162 State Prosecutor Education Fund.....	1.00
163 Vulnerable Adults Training, 164 Investigation and Prosecution Trust Fund.....	.50
165 Child Support Prosecution Trust Fund.....	.50
166 Driver Training Penalty Assessment Fund.....	7.00
167 Law Enforcement Officers Training Fund.....	5.00
168 Spinal Cord and Head Injury Trust Fund 169 (for all moving violations).....	6.00
170 Emergency Medical Services Operating Fund.....	15.00
171 Mississippi Leadership Council on Aging Fund.....	1.00
172 Law Enforcement Officers and Fire Fighters Death 173 Benefits Trust Fund.....	.50
174 Law Enforcement Officers and Fire Fighters 175 Disability Benefits Trust Fund.....	1.00
176 State Prosecutor Compensation Fund for the purpose 177 of providing additional compensation for legal 178 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, 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 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 Benefits Trust Fund.....	.50
215 Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	1.00
217 State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal 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	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
250	TOTAL STATE ASSESSMENT.....	<u>\$ 73.00</u>

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, Investigation and Prosecution Trust Fund.....	.50
271 Child Support Prosecution Trust Fund.....	.50
272 Law Enforcement Officers Training Fund.....	5.00
273 Capital Defense Counsel Fund.....	1.89
274 Indigent Appeals Fund.....	2.29
275 Capital Post-Conviction Counsel Fund.....	2.33
276 Victims of Domestic Violence Fund.....	.49
277 State General Fund.....	30.00
278 State Crime Stoppers Fund.....	1.50
279 Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
280 Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	1.00
281 State Prosecutor Compensation Fund for the purpose 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.