

By: Representative Anderson (110th)

To: Judiciary B;  
Accountability, Efficiency,  
Transparency

HOUSE BILL NO. 790

1 AN ACT TO REQUIRE LAW ENFORCEMENT AGENCIES TO CONTACT THE  
2 MISSISSIPPI BUREAU OF INVESTIGATION WHEN THERE IS AN  
3 OFFICER-INVOLVED DEATH, INVOLVING ONE OF ITS OFFICERS; TO REQUIRE  
4 THE BUREAU OF INVESTIGATION TO INVESTIGATE SUCH OFFICER-INVOLVED  
5 DEATHS; TO REQUIRE THE BUREAU OF INVESTIGATION TO PROVIDE THE  
6 RESULTS OF SUCH INVESTIGATION TO THE ATTORNEY GENERAL; TO REQUIRE  
7 THE ATTORNEY GENERAL TO DETERMINE WHETHER THE RESULTS OF THE  
8 INVESTIGATION SHOULD BE PRESENTED TO THE GRAND JURY; TO REQUIRE  
9 THE ATTORNEY GENERAL TO, IF RESULTS REQUIRE PRESENTATION BEFORE  
10 THE GRAND JURY, TO APPOINT A DISTRICT ATTORNEY AS A SPECIAL  
11 PROSECUTOR TO PRESENT THE EVIDENCE TO THE GRAND JURY; TO BRING  
12 FORWARD SECTIONS 45-1-6 AND 99-19-77, MISSISSIPPI CODE OF 1972,  
13 WHICH PROVIDE CERTAIN DUTIES OF THE BUREAU OF INVESTIGATION; TO  
14 BRING FORWARD SECTION 45-3-21, MISSISSIPPI CODE OF 1972, WHICH  
15 PROVIDES FOR THE POWERS AND DUTIES OF THE HIGHWAY SAFETY PATROL;  
16 TO BRING FORWARD SECTION 25-31-21, MISSISSIPPI CODE OF 1972, WHICH  
17 PROVIDES FOR THE IMPANELING OF THE GRAND JURY, FOR PURPOSES OF  
18 AMENDMENT; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** (1) As used in this act, the following terms  
21 shall have the meanings ascribed in this section unless the  
22 context clearly indicates otherwise:

23 (a) "Law enforcement agency" means any agency or unit  
24 of government or any municipality of the state or any political  
25 subdivision thereof, or any agent thereof which has constitutional  
26 or statutory authority to employ or appoint persons as officers,



27 whether such agency or unit has an internal investigation division  
28 or not. The term also includes any private entity which has  
29 contracted with the state or county for the operation and  
30 maintenance of a nonjuvenile detention facility.

31 (b) "Law enforcement officer" means any person who is  
32 elected, appointed or employed full-time or part-time by any unit  
33 of government or municipality of the state or any political  
34 subdivision thereof:

35 (i) Who is vested with authority to bear arms and  
36 make arrests; and

37 (ii) Whose primary responsibility is the  
38 prevention and detection of crime or the enforcement of the penal,  
39 criminal, traffic or highway laws of the state.

40 The term includes all certified supervisory, correctional  
41 officer, correctional probation officer and command personnel  
42 whose duties, in whole or in part, include the supervision,  
43 training, guidance and management responsibilities of full-time  
44 law enforcement officers, part-time law enforcement officers or  
45 auxiliary law enforcement officers.

46 (c) "Officer-involved death" means a death of an  
47 individual that resulted directly from an act or an omission of a  
48 law enforcement officer while the law enforcement officer is on  
49 duty and acting within the scope of his or her authority, or while  
50 the law enforcement officer is off duty but performing activities  
51 that are within the scope of his or her law enforcement duties.



52           (2) When a law enforcement officer is implicated in any  
53 manner in an officer-involved death, the law enforcement agency  
54 that employs the law enforcement officer shall notify the  
55 Mississippi Bureau of Investigation to investigate the  
56 circumstances of the death. Upon notification from a law  
57 enforcement agency, the Mississippi Bureau of Investigation shall  
58 investigate the circumstances of the officer-involved death.  
59 After the investigation is complete, the Mississippi Bureau of  
60 Investigation shall provide all results of the investigation to  
61 the Attorney General.

62           The Attorney General shall assess the results of the  
63 investigation to determine whether the evidence should be brought  
64 before a grand jury. If the Attorney General determines that the  
65 evidence requires presentation to the grand jury, the Attorney  
66 General shall appoint a district attorney to serve as special  
67 prosecutor to present the evidence to the grand jury. The  
68 district attorney chosen by the Attorney General shall not be the  
69 district attorney in the county in which the death occurred. The  
70 special prosecutor shall be responsible for prosecuting any  
71 criminal charges that are filed in connection with the  
72 officer-involved death.

73           **SECTION 2.** Section 45-1-6, Mississippi Code of 1972, is  
74 brought forward as follows:

75           45-1-6. (1) The Director of the Mississippi Bureau of  
76 Investigation is authorized to retain on a contractual basis such



77 persons as he shall deem necessary to detect and apprehend  
78 violators of the criminal statutes of this state.

79 (2) Those persons contracting with the Director of the  
80 Mississippi Bureau of Investigation pursuant to subsection (1)  
81 shall be known and hereinafter referred to as "special contract  
82 agents."

83 (3) The investigative services provided for in this section  
84 shall be designed to support local law enforcement efforts.

85 (4) Special contract investigators shall have all powers  
86 necessary and incidental to the fulfillment of their contractual  
87 obligations, including the power of arrest when authorized by the  
88 Director of the Mississippi Bureau of Investigation.

89 (5) No person shall be a special contract investigator  
90 unless he is at least twenty-one (21) years of age.

91 (6) The Director of the Mississippi Bureau of Investigation  
92 shall conduct a background investigation of all potential special  
93 contract investigators. All contract agents must meet the minimum  
94 standard requirements established by the Board on Law Enforcement  
95 Officer Standards and Training.

96 (7) Any contract pursuant to subsection (1) shall be:

97 (a) Reduced to writing; and

98 (b) Terminable upon written notice by either party, and  
99 shall in any event terminate one (1) year from the date of  
100 signing; and

101 (c) Approved as to form by the Attorney General.



102           Such contracts shall not be public records and shall not be  
103 available for inspection under the provisions of a law providing  
104 for the inspection of public records as now or hereafter amended.

105           (8) Special contract investigators shall not be considered  
106 employees of the Mississippi Bureau of Investigation for any  
107 purpose.

108           (9) The Director of the Mississippi Bureau of Investigation  
109 shall have all powers necessary and incidental to the effective  
110 operation of this section.

111           (10) Notwithstanding any other provisions contained in this  
112 section, all contracts authorized under this section and related  
113 matters shall be made available to the Legislative Budget Office  
114 and the Department of Finance and Administration.

115           **SECTION 3.** Section 99-19-77, Mississippi Code of 1972, is  
116 brought forward as follows:

117           99-19-77. In addition to any criminal penalties or fines,  
118 the court may impose an assessment against a defendant convicted  
119 of a felony violation, or a Class I violation that is punishable  
120 as provided in Section 49-7-141, investigated by the Office of the  
121 Attorney General, the district attorneys, sheriffs, the  
122 Mississippi Bureau of Investigation, Mississippi Bureau of  
123 Narcotics, the Mississippi Agricultural and Livestock Theft  
124 Bureau, the Mississippi Department of Wildlife, Fisheries and  
125 Parks and municipal police departments which may cover all  
126 reasonable costs of the investigation. Costs are to be paid to



127 the appropriate governmental entity incurring the particular item  
128 of cost and include, but are not limited to, the cost of  
129 investigators, service of process, court reporters, expert  
130 witnesses and attorney's fees, and transportation costs expended  
131 by the governmental entity in the investigation of such case, and  
132 must be used to augment the governmental entity's existing budget  
133 and not to supplant it.

134         **SECTION 4.** Section 45-3-21, Mississippi Code of 1972, is  
135 brought forward as follows:

136             45-3-21. (1) The powers and duties of the Highway Safety  
137 Patrol shall be, in addition to all others prescribed by law, as  
138 follows:

139             (a) To enforce all of the traffic laws, rules and  
140 regulations of the State of Mississippi upon all highways of the  
141 state highway system and the rights-of-way of such highways;  
142 provided, however, that if any person commits an offense upon the  
143 state highway system and be pursued by a member of the Highway  
144 Safety Patrol, such patrol officer may pursue and apprehend such  
145 offender upon any of the highways or public roads of this state,  
146 or to any other place to which such offender may flee.

147             (b) To enforce all rules and regulations of the  
148 commissioner promulgated pursuant to legal authority.

149             (c) When so directed by the Governor, to enforce any of  
150 the laws of this state upon any of the highways or public roads  
151 thereof.



152           (d) Upon the request of the State Tax Commission, and  
153 with the approval of the Governor, to enforce all of the  
154 provisions of law with reference to the registration, license and  
155 taxation of vehicles using the highways of this state, and  
156 relative to the sizes, weights and load limits of such vehicles,  
157 and to enforce the provisions of all other laws administered by  
158 the State Tax Commission upon any of the highways or public roads  
159 of this state; and for such purpose the Highway Safety Patrol  
160 shall have the authority to collect and receive all taxes which  
161 may be due under any of such laws, and to report and remit same to  
162 the State Tax Commission in the manner required by law, or the  
163 rules and regulations of the commission.

164           (e) Upon request of the Mississippi Transportation  
165 Commission, and when so instructed by the commissioner, to aid and  
166 assist in the enforcement of all laws which such agencies are  
167 authorized or required to enforce, and in the enforcement of the  
168 rules and regulations of such agencies, including the Mississippi  
169 Motor Carrier Regulatory Law of 1938 and rules and regulations  
170 promulgated thereunder.

171           (f) To arrest without warrant any person or persons  
172 committing or attempting to commit any misdemeanor, felony or  
173 breach of the peace within their presence or view, and to pursue  
174 and so arrest any person committing such an offense to and at any  
175 place in the State of Mississippi where he may go or be. Nothing



176 herein shall be construed as granting the Mississippi Highway  
177 Safety Patrol general police powers.

178 (g) To aid and assist any law enforcement officer whose  
179 life or safety is in jeopardy. Additionally, officers of the  
180 Highway Safety Patrol may arrest without warrant any fugitive from  
181 justice who has escaped or who is using the highways of the state  
182 in an attempt to flee. With the approval of the commissioner or  
183 his designee, officers of the Highway Safety Patrol may assist  
184 other law enforcement agencies in manhunts for convicted felons  
185 who have escaped and/or for alleged felons where there is probable  
186 cause to believe that the person being sought committed the felony  
187 and a felony had actually been committed.

188 (h) To cooperate with the State Forest Service by  
189 reporting all forest fires.

190 (i) Upon request of the sheriff or his designee, or  
191 board of supervisors of any county or the chief of police or mayor  
192 of any municipality, and when so instructed by the commissioner or  
193 his designee, to respond to calls for assistance in a law  
194 enforcement incident; such request and action shall be noted and  
195 clearly reflected on the radio logs of both the Mississippi  
196 Highway Safety Patrol district substation and that of the  
197 requesting agency, entered on the local NCIC terminal, if  
198 available, and a request in writing shall follow within  
199 forty-eight (48) hours. Additionally, the time of commencement





200 and termination of the specific law enforcement incident shall be  
201 clearly noted on the radio logs of both law enforcement agencies.

202 (2) The Legislature declares that the primary law  
203 enforcement officer in any county in the State of Mississippi is  
204 the duly qualified and elected sheriff thereof, but for the  
205 purposes of this subsection there is hereby vested in the  
206 Department of Public Safety, in addition to the powers hereinabove  
207 mentioned and the other provisions of this section under the terms  
208 and limitations hereinafter mentioned and for the purpose of  
209 insuring domestic tranquility and for the purpose of preventing or  
210 suppressing, or both, crimes of violence, acts and conduct  
211 calculated to, or which may, provoke or lead to violence and/or  
212 incite riots, mobs, mob violence, a breach of the peace, and acts  
213 of intimidation or terror, the powers and duties to include the  
214 enforcement of all the laws of the State of Mississippi relating  
215 to such purposes, to investigate any violation of the laws of the  
216 State of Mississippi and to aid in the arrest and prosecution of  
217 persons charged with violating the laws of the State of  
218 Mississippi which relate to such purposes. Investigators of the  
219 Bureau of Investigation of the Department of Public Safety shall  
220 have general police powers to enforce all the laws of the State of  
221 Mississippi. All officers of the Department of Public Safety  
222 charged with the enforcement of the laws administered by that  
223 agency, for the purposes herein set forth, shall have full power  
224 to investigate, prevent, apprehend and arrest law violators



225 anywhere in the state, and shall be vested with the power of  
226 general police officers in the performance of their duties. The  
227 officers of the Department of Public Safety are authorized and  
228 empowered to carry and use firearms and other weapons deemed  
229 necessary in the discharge of their duties as such and are also  
230 empowered to serve warrants and subpoenas issued under the  
231 authority of the State of Mississippi. The Governor shall be  
232 authorized to offer and pay suitable rewards to persons aiding in  
233 the investigation, apprehension and conviction of persons charged  
234 with acts of violence, or threats of violence or intimidation or  
235 acts of terrorism. The additional powers herein granted to or  
236 vested in the Department of Public Safety or any of its officers  
237 or employees by this section, excepting investigating powers, and  
238 those powers of investigators who shall have general police power,  
239 being the investigators in the Bureau of Investigation of the  
240 Department of Public Safety, shall not be exercised by the  
241 Department of Public Safety, or any of its officers or employees,  
242 except upon authority and direction of the Governor or Acting  
243 Governor, by proclamation duly signed, in the following instances,  
244 to wit:

245           (a) When requested by the sheriff or board of  
246 supervisors of any county or the mayor of any municipality on the  
247 grounds that mob violence, crimes of violence, acts and conduct of  
248 terrorism, riots or acts of intimidation, or either, calculated to  
249 or which may provoke violence or incite riots, mobs, mob violence,



250 violence, or lead to any breach of the peace, or either, and acts  
251 of intimidation or terror are anticipated, and when such acts or  
252 conduct in the opinion of the Governor or Acting Governor would  
253 provoke violence or any of the foregoing acts or conduct set out  
254 in this subsection, and the sheriff or mayor, as the case may be,  
255 lacks adequate police force to prevent or suppress the same.

256           (b) Acting upon evidence submitted to him by the  
257 Department of Public Safety, or other investigating agency  
258 authorized by the Governor or Acting Governor to make such  
259 investigations, because of the failure or refusal of the sheriff  
260 of any county or mayor of any municipality to take action or  
261 employ such means at his disposal, to prevent or suppress the  
262 acts, conduct or offenses provided for in subsection (1) of this  
263 section, the Governor or Acting Governor deems it necessary to  
264 invoke the powers and authority vested in the Department of Public  
265 Safety.

266           (c) The Governor or Acting Governor is hereby  
267 authorized and empowered to issue his proclamation invoking the  
268 powers and authority vested by this paragraph, as provided in  
269 paragraphs (a) and (b) of this subsection, and when the Governor  
270 or Acting Governor issues said proclamation in accordance  
271 herewith, said proclamation shall become effective upon the  
272 signing thereof and shall continue in full force and effect for a  
273 period of ninety (90) days, or for a shorter period if otherwise  
274 ordered by the Governor or Acting Governor. At the signing of the



275 proclamation by the Governor or Acting Governor, the Department of  
276 Public Safety and its officers and employees shall thereupon be  
277 authorized to exercise the additional power and authority vested  
278 in them by this paragraph. The Governor and Acting Governor may  
279 issue additional proclamations for periods of ninety (90) days  
280 each under the authority of paragraphs (a) and (b) of this  
281 subsection (2).

282 (3) All proclamations issued by the Governor or Acting  
283 Governor shall be filed in the Office of the Secretary of State on  
284 the next succeeding business day.

285 (4) It is not the intention of this section to vest the wide  
286 powers and authority herein provided for, as general powers of the  
287 Department of Public Safety, and the same are not hereby so  
288 vested, but to limit these general powers to cases and incidents  
289 wherein it is deemed necessary to prevent or suppress the offenses  
290 and conditions herein mentioned in this and other subsections of  
291 this section, and under the terms and conditions hereinabove  
292 enumerated, it being the sense of the Legislature that the prime  
293 duties of the Department of Public Safety are to patrol the  
294 highways of this state and enforce the highway safety laws.

295 (5) Patrol officers shall have no interest in any costs in  
296 the prosecution of any case through any court; nor shall any  
297 patrol officer receive any fee as a witness in any court held in  
298 this state, whether a state or federal court.



299 (6) Provided, however, that the general police power vested  
300 by virtue of the terms of subsection (2) of this section is solely  
301 for the purposes set out in said subsection.

302 **SECTION 5.** Section 25-31-21, Mississippi Code of 1972, is  
303 brought forward as follows:

304 25-31-21. If, at the time of impaneling the grand jury in  
305 any circuit court, the district attorney be absent or unable to  
306 perform his duties or, if after impaneling of the grand jury, the  
307 district attorney be absent or unable to perform his duties or be  
308 disqualified, the court shall forthwith appoint some attorney at  
309 law to act for the state in the place of the district attorney  
310 during his absence or inability or disqualification, and the  
311 person appointed shall have the power to discharge all the duties  
312 of the office during the absence or inability or disqualification  
313 of the district attorney, and shall receive a reasonable  
314 compensation for his services, to be allowed by the court and  
315 certified to the auditor, who shall issue his warrant therefor.  
316 Such allowance shall be deducted from the salary of the district  
317 attorney, and shall not exceed the amount of the salary of the  
318 district attorney for the number of days allotted by law for the  
319 term of the court at which such appointees shall act.

320 **SECTION 6.** This act shall take effect and be in force from  
321 and after July 1, 2020.

