

By: Representatives Shanks, Newman, Powell, To: Judiciary B
Weathersby

HOUSE BILL NO. 874

1 AN ACT TO AMEND SECTION 19-23-11, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE A COUNTY PROSECUTING ATTORNEY TO OBTAIN WRITTEN CONSENT
3 OF THE DISTRICT ATTORNEY, OR THE SENIOR JUDGE BEFORE BRINGING A
4 MATTER BEFORE A GRAND JURY; TO PROVIDE THAT THE SENIOR JUDGE IS
5 ALLOWED TO PRESIDE ONLY IN THE ABSENCE OF THE DISTRICT ATTORNEY;
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 19-23-11, Mississippi Code of 1972, is
9 amended as follows:

10 19-23-11. (1) The county prosecuting attorney shall appear
11 and represent the state in all investigations for felony before
12 the various justice court judges in his county. He shall also
13 appear before justice court judges and prosecute all cases against
14 persons charged with offenses therein. The county prosecuting
15 attorney shall be the prosecuting attorney for the county court
16 and shall prosecute all state criminal cases therein, and he shall
17 represent the state in criminal cases appealed from the county
18 court to the circuit court.

19 (2) The county prosecuting attorney may assist the district
20 attorney in all criminal cases and in all civil cases where the



21 services of the district attorney are required in which the state,
22 his county or any municipality of his county is interested.

23 (3) The county prosecuting attorney may present * * * a
24 matter to the grand jury of his county only with the written
25 consent of the district attorney of that county, or in the absence
26 of the district attorney, the senior circuit judge whose
27 jurisdiction includes that county. The senior judge may only
28 preside in the absence of the district attorney.

29 (4) The county prosecuting attorney shall have full
30 responsibility for all misdemeanors, youth court proceedings, and
31 all other cases not specifically granted to the district attorney.
32 Provided, however, that in any municipality having a municipal
33 youth court, the municipal prosecutor shall have responsibility
34 for youth court matters in that court.

35 Where any statute of this state confers a jurisdiction,
36 responsibility, duty, privilege or power upon a county attorney or
37 county prosecuting attorney, either solely, jointly or
38 alternatively with a district attorney, such county prosecuting
39 attorney shall be responsible for the prosecution, handling,
40 appearance, disposition or other duty conferred by such statute.
41 Any such provision shall not be construed to bestow such
42 responsibility, jurisdiction or power upon the district attorney
43 where there is no elected county prosecuting attorney, and any
44 such matter shall be handled pursuant to subsection (8) of this
45 section.



46 (5) In any case handled by the county prosecuting attorney
47 pursuant to this section which subsequently results in charges
48 being modified in such a manner that the case would be within the
49 jurisdiction of the district attorney pursuant to Section
50 25-31-11, the responsibility for prosecution shall be transferred
51 to the district attorney. The county prosecuting attorney shall
52 report to the district attorney the disposition of all affidavits,
53 crimes, occurrences or arrests handled by him wherein any person
54 is charged with a crime for which a conviction may result in
55 imprisonment in the State Penitentiary.

56 (6) The validity of any judgment or sentence shall not be
57 affected by the division of jurisdiction under this section, and
58 no judgment or sentence may be reversed or modified upon the basis
59 that the case was not processed according to subsection (5) of
60 this section.

61 (7) A county prosecuting attorney may be designated by the
62 district attorney to appear on behalf of the district attorney
63 pursuant to an agreement relating to appearances in certain courts
64 or proceedings in the county of the county prosecuting attorney.
65 Such agreement shall be filed with the circuit court clerk of any
66 county where such agreement shall be operative. Such agreement
67 shall be binding upon the district attorney and county prosecuting
68 attorney or municipal prosecuting attorney until dissolved by
69 either of them in writing upon five (5) days' notice.



70 (8) In the event that there is no elected county prosecuting
71 attorney serving in a county, the prosecution of such cases shall
72 be handled by a county attorney employed by the board of
73 supervisors of such county pursuant to Section 19-3-49.

74 **SECTION 2.** This act shall take effect and be in force from
75 and after July 1, 2020.

