

By: Representative Anderson (110th)

To: Judiciary B;
Accountability, Efficiency,
Transparency

HOUSE BILL NO. 467

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,



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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

(a) Reduced to writing; and

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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



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

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



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

(a) When requested by the sheriff or board of supervisors of any county or the mayor of any municipality on the grounds that mob violence, crimes of violence, acts and conduct of terrorism, riots or acts of intimidation, or either, calculated to 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



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

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

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

(5) Patrol officers shall have no interest in any costs in the prosecution of any case through any court; nor shall any patrol officer receive any fee as a witness in any court held in 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, 2021.

