

By: Representatives Banks, Stamps, Crudup

To: County Affairs;
Appropriations

HOUSE BILL NO. 1283

1 AN ACT TO AMEND SECTION 25-32-5, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE COMPENSATION OF ALL COUNTY PUBLIC DEFENDERS SHALL
3 NOT BE LESS THAN THE COMPENSATION OF THE DISTRICT ATTORNEY; TO
4 BRING FORWARD SECTIONS 25-32-7, 99-18-1, 99-18-9 AND 99-40-1,
5 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 25-32-5, Mississippi Code of 1972, is
9 amended as follows:

10 25-32-5. Compensation for the public defender shall be fixed
11 by the board of supervisors or boards of supervisors, if two (2)
12 or more counties are acting jointly; provided, however, the
13 compensation for a public defender, who shall be full-time,
14 representing an entire circuit court district shall not be less
15 than the compensation of the district attorney * * *. The
16 compensation for a public defender representing one (1) county
17 shall not be less than the compensation of the * * * district
18 attorney and the compensation for a public defender representing
19 two (2) or more counties, but less than the entire circuit court
20 district, shall not be less than * * * the district attorney. No



21 full-time public defender or full-time assistant public defenders
22 shall engage nor be associated with any person in the private
23 practice of law. Part-time public defenders or part-time
24 assistant public defenders may engage in the private practice of
25 the law as long as such practice does not relate to the
26 prosecution of criminal matters.

27 **SECTION 2.** Section 25-32-7, Mississippi Code of 1972, is
28 brought forward as follows:

29 25-32-7. (1) The public defender shall be provided with
30 office space, secretarial assistance, and all reasonable expenses
31 of operating the office, at least equal to or more than the county
32 prosecuting attorney, or the district attorney if the public
33 defender represents the entire circuit court district. The
34 compensation and expenses of the public defender's office shall be
35 paid by the county or counties if two (2) or more counties are
36 acting jointly. The funds shall be paid upon allowance by the
37 board of supervisors by order spread upon the minutes of the
38 board.

39 (2) The public defender is authorized to assign the duties
40 of and exercise supervision over all employees of the office
41 without regard to the source of funding for those employees.

42 **SECTION 3.** Section 99-18-1, Mississippi Code of 1972, is
43 brought forward as follows:

44 99-18-1. (1) There is hereby created the Office of State
45 Public Defender. The Office of State Public Defender shall



46 consist of a State Defender who shall be appointed by the Governor
47 with the advice and consent of the Senate for a term of four (4)
48 years and staffed by any necessary personnel as determined and
49 hired by the State Defender.

50 (2) Funding for the Office of State Public Defender shall
51 come from funds available in the Capital Defense Counsel Fund, the
52 Indigent Appeals Fund and the Public Defenders Education Fund as
53 determined by the State Defender. The State Defender shall have
54 the authority to transfer funds between the various funds to
55 efficiently and effectively accomplish the mission of the Office
56 of State Public Defender and its divisions.

57 (3) The State Defender must be a duly licensed attorney
58 admitted to the practice of law in this state, have practiced in
59 the area of criminal law for at least five (5) years and shall
60 meet all qualifications to serve as lead trial and appellate
61 counsel in death penalty cases as may be set by the Supreme Court
62 of Mississippi. The salary of the State Defender shall be no more
63 than the maximum amount allowed by statute for a district
64 attorney.

65 (4) The State Defender may be removed by the Governor upon
66 finding that the State Defender is not qualified under law, has
67 failed to perform the duties of the office, or has acted beyond
68 the scope of the authority granted by law for the office.

69 (5) The Office of State Public Defender shall be responsible
70 for the administration, budget and finances of the Divisions of



71 Capital Defense Counsel, Indigent Appeals and Public Defender
72 Training, which shall be divisions of the Office of State Public
73 Defender.

74 (6) The State Defender may simultaneously serve as State
75 Defender and as director of one or more divisions but shall
76 receive no additional compensation for doing so. Nothing in this
77 chapter shall prohibit the State Defender from directly
78 representing clients of the office. Nothing in this chapter shall
79 be construed to prevent an employee of one (1) division of the
80 Office of the State Public Defender from working, in whole or in
81 part, for another division.

82 (7) The State Defender shall coordinate the collection and
83 dissemination of statistical data and make such reports as are
84 required of the divisions, develop plans and proposals for further
85 development of a statewide public defender system in coordination
86 with the Mississippi Public Defenders Task Force and to act as
87 spokesperson for all matters relating to indigent defense
88 representation.

89 (8) From and after July 1, 2016, the expenses of this agency
90 shall be defrayed by appropriation from the State General Fund and
91 all user charges and fees authorized under this section shall be
92 deposited into the State General Fund as authorized by law.

93 (9) From and after July 1, 2016, no state agency shall
94 charge another state agency a fee, assessment, rent or other



95 charge for services or resources received by authority of this
96 section.

97 **SECTION 4.** Section 99-18-9, Mississippi Code of 1972, is
98 brought forward as follows:

99 99-18-9. The Capital Defense Director appointed under this
100 chapter shall be compensated at no more than the maximum amount
101 allowed by statute for a district attorney, and other attorneys in
102 the office shall be compensated at no more than the maximum amount
103 allowed by statute for an assistant district attorney.

104 **SECTION 5.** Section 99-40-1, Mississippi Code of 1972, is
105 brought forward as follows:

106 99-40-1. (1) There is created the Indigent Appeals Division
107 within the Office of the State Public Defender. This office shall
108 consist of the Indigent Appeals Director who must be an attorney
109 in good standing with The Mississippi Bar, and staffed by any
110 necessary personnel as determined and hired by the State Defender.
111 The Indigent Appeals Director shall be appointed by the State
112 Defender. The remaining attorneys and other staff shall be
113 appointed by the State Defender and shall serve at the will and
114 pleasure of the State Defender. The Indigent Appeals Director and
115 all other attorneys in the office shall either be active members
116 of The Mississippi Bar, or, if a member in good standing of the
117 bar of another jurisdiction, must apply to and secure admission to
118 The Mississippi Bar within twelve (12) months of the commencement
119 of the person's employment by the office. The attorneys in the



120 office shall practice law exclusively for the office and shall not
121 engage in any other practice. The office shall not engage in any
122 litigation other than that related to the office. The salary for
123 the Indigent Appeals Director shall be equivalent to the salary of
124 district attorneys and the salary of the other attorneys in the
125 office shall be equivalent to the salary of an assistant district
126 attorney.

127 (2) The office shall provide representation on appeal for
128 indigent persons convicted of felonies but not under sentences of
129 death. Representation shall be provided by staff attorneys, or,
130 in the case of conflict or excessive workload as determined by the
131 State Defender, by attorneys selected, employed and compensated by
132 the office on a contract basis. All fees charged by contract
133 counsel and expenses incurred by attorneys in the office and
134 contract counsel must be approved by the court. At the sole
135 discretion of the State Defender, the office may also represent
136 indigent juveniles adjudicated delinquent on appeals from a county
137 court or chancery court to the Mississippi Supreme Court or the
138 Mississippi Court of Appeals. The office shall provide advice,
139 education and support to attorneys representing persons under
140 felony charges in the trial courts.

141 (3) There is created in the State Treasury a special fund to
142 be known as the Indigent Appeals Fund. The purpose of the fund
143 shall be to provide funding for the Indigent Appeals Division.
144 Monies from the funds derived from assessments under Section



145 99-19-73 shall be distributed by the State Treasurer upon warrants
146 issued by the State Defender. The fund shall be a continuing
147 fund, not subject to fiscal-year limitations, and shall consist
148 of:

- 149 (a) Monies appropriated by the Legislature for the
150 purposes of funding the Indigent Appeals Division;
- 151 (b) The interest accruing to the fund;
- 152 (c) Monies received under the provisions of Section
153 99-19-73;
- 154 (d) Monies received from the federal government;
- 155 (e) Donations; and
- 156 (f) Monies received from such other sources as may be
157 provided by law.

158 (4) (a) There is created in the Office of the State Public
159 Defender the Public Defender Training Division. The division
160 shall be staffed by any necessary personnel as determined and
161 hired by the State Defender. The mission of the division shall be
162 to work closely with the Mississippi Public Defenders Association
163 to provide training and services to public defenders practicing in
164 all state, county and municipal courts. These services shall
165 include, but not be limited to, continuing legal education, case
166 updates and legal research. The division shall provide (i)
167 education and training for public defenders practicing in all
168 state, county, municipal and youth courts; (ii) technical
169 assistance for public defenders practicing in all state, county,



170 municipal and youth courts; and (iii) current and accurate
171 information for the Legislature pertaining to the needs of public
172 defenders practicing in all state, county, municipal and youth
173 courts.

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

182 (i) Monies appropriated by the Legislature for the
183 purposes of public defender training;

184 (ii) The interest accruing to the fund;

185 (iii) Monies received under the provisions of
186 Section 99-19-73;

187 (iv) Monies received from the federal government;

188 (v) Donations; and

189 (vi) Monies received from such other sources as
190 may be provided by law.

191 **SECTION 6.** This act shall take effect and be in force from
192 and after July 1, 2022.

