

By: Representatives Ladner, Hopkins,
Williamson

To: Apportionment and
Elections

HOUSE BILL NO. 35

1 AN ACT TO AMEND SECTION 25-5-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR THE REMOVAL OF APPOINTED STATE OFFICERS FOR CERTAIN
3 FORMS OF WILLFUL NEGLECT; AND FOR RELATED PURPOSES.

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

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

7 25-5-1. (1) If any public officer, state, district, county
8 or municipal, shall be convicted or enter a plea of guilty or nolo
9 contendere in any court of this state or any other state or in any
10 federal court of any felony other than manslaughter or any
11 violation of the United States Internal Revenue Code, of
12 corruption in office or peculation therein, or of gambling or
13 dealing in futures with money coming to his hands by virtue of his
14 office, any court of this state, in addition to such other
15 punishment as may be prescribed, shall adjudge the defendant
16 removed from office; and the office of the defendant shall thereby
17 become vacant. If any such officer be found by inquest to be of
18 unsound mind during the term for which he was elected or



19 appointed, or shall be removed from office by the judgment of a
20 court of competent jurisdiction or otherwise lawfully, his office
21 shall thereby be vacated; and in any such case the vacancy shall
22 be filled as provided by law.

23 (2) When any such officer is found guilty of a crime which
24 is a felony under the laws of this state or which is punishable by
25 imprisonment for one (1) year or more, other than manslaughter or
26 any violation of the United States Internal Revenue Code, in a
27 federal court or a court of competent jurisdiction of any other
28 state, the Attorney General of the State of Mississippi shall
29 promptly enter a motion for removal from office in the circuit
30 court of Hinds County in the case of a state officer, and in the
31 circuit court of the county of residence in the case of a
32 district, county or municipal officer. The court, or the judge in
33 vacation, shall, upon notice and a proper hearing, issue an order
34 removing such person from office and the vacancy shall be filled
35 as provided by law.

36 (3) In addition to removal as the result of a criminal
37 conviction, an appointed state officer may be removed, and the
38 officer's position vacated, consistent with Article 6, Section 175
39 of the Constitution of 1890 in the following manner:

40 (a) The Governor, the State Auditor, the Senate or the
41 House of Representatives, by resolution, may direct a complaint
42 under this section to the Attorney General setting out willful
43 neglect as grounds for removal.



44 (b) In addition to any common law definitions of
45 willful neglect that may be recognized by the courts of this
46 state, willful neglect shall also consist of:

47 (i) Failure by the officer to respond to a
48 subpoena issued by a court, executive agency or legislative body;

49 (ii) Failure to comply with a court-ordered
50 repayment of any funds that have been misspent, or failure to
51 comply with an agreement with the State Auditor or the Attorney
52 General to repay those funds; or

53 (iii) Failure to attend more than three (3)
54 consecutive meetings of any board, commission or authority to
55 which the officer has been appointed. For purposes of this
56 subparagraph, an officer will not be considered present if the
57 officer participated telephonically in a meeting.

58 (4) Upon receipt of the complaint or resolution, the
59 Attorney General shall investigate the allegations against any
60 appointed state officer, and if determined to be well-founded,
61 shall petition the Hinds County Circuit Court, First Judicial
62 District, for the removal of the officer. The court, or the judge
63 in vacation, shall, upon notice and a proper hearing, issue an
64 order removing the person from office and the vacancy shall be
65 filled as provided by law.

66 (5) Any officer removed by authority of this section shall
67 be barred from future service in any position that requires



68 appointment by the Governor, the Lieutenant Governor or any other
69 officer in the executive branch of government.

70 **SECTION 2.** This act shall take effect and be in force from
71 and after July 1, 2023.

