

By: Representative Hurst

To: Apportionment and  
Elections; State Affairs

## HOUSE BILL NO. 1580

1 AN ACT TO AMEND SECTION 25-5-5, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE REASONS FOR REMOVAL FROM OFFICE TO INCLUDE BEING  
3 INDICTED FOR A CRIME; TO BRING FORWARD SECTIONS 25-5-1, 25-5-3,  
4 25-5-7, 25-5-9, 25-5-11, 25-5-13, 25-5-15, 25-5-17, 25-5-19,  
5 25-5-21, 25-5-23, 25-5-25, 25-5-27, 25-5-29, 25-5-31, 25-5-33,  
6 25-5-35 AND 25-5-37, MISSISSIPPI CODE OF 1972, WHICH PROVIDE THE  
7 PROCESS FOR REMOVAL FROM OFFICE, FOR THE PURPOSE OF POSSIBLE  
8 AMENDMENT; AND FOR RELATED PURPOSES.

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

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

12 25-5-5. The reasons or causes for removal from office shall  
13 be:

14 Knowingly or \* \* \* willfully failing, neglecting, or refusing  
15 to perform any of the duties required of such officer by law.

16 Being indicted for a crime.

17 **SECTION 2.** Section 25-5-1, Mississippi Code of 1972, is  
18 brought forward as follows:

19 25-5-1. If any public officer, state, district, county or  
20 municipal, shall be convicted or enter a plea of guilty or nolo  
21 contendere in any court of this state or any other state or in any



22 federal court of any felony other than manslaughter or any  
23 violation of the United States Internal Revenue Code, of  
24 corruption in office or speculation therein, or of gambling or  
25 dealing in futures with money coming to his hands by virtue of his  
26 office, any court of this state, in addition to such other  
27 punishment as may be prescribed, shall adjudge the defendant  
28 removed from office; and the office of the defendant shall thereby  
29 become vacant. If any such officer be found by inquest to be of  
30 unsound mind during the term for which he was elected or  
31 appointed, or shall be removed from office by the judgment of a  
32 court of competent jurisdiction or otherwise lawfully, his office  
33 shall thereby be vacated; and in any such case the vacancy shall  
34 be filled as provided by law.

35       When any such officer is found guilty of a crime which is a  
36 felony under the laws of this state or which is punishable by  
37 imprisonment for one (1) year or more, other than manslaughter or  
38 any violation of the United States Internal Revenue Code, in a  
39 federal court or a court of competent jurisdiction of any other  
40 state, the Attorney General of the State of Mississippi shall  
41 promptly enter a motion for removal from office in the circuit  
42 court of Hinds County in the case of a state officer, and in the  
43 circuit court of the county of residence in the case of a  
44 district, county or municipal officer. The court, or the judge in  
45 vacation, shall, upon notice and a proper hearing, issue an order



removing such person from office and the vacancy shall be filled as provided by law.

**SECTION 3.** Section 25-5-3, Mississippi Code of 1972, is brought forward as follows:

25-5-3. The Governor is hereby empowered, in accordance with the provisions of Section 139 of the Mississippi Constitution of 1890, through the procedure and under the regulations prescribed in Sections 25-5-3 through 25-5-37 and for the reasons and causes set forth, to remove any elective county officer in this state; and every elective officer of any county in this state may be removed from office by the Governor at any time when done in compliance with the regulations hereinafter set forth.

**SECTION 4.** Section 25-5-7, Mississippi Code of 1972, is brought forward as follows:

25-5-7. Before the Governor shall consider the removal from a county office of any elective county officer, there shall be first filed with him a petition signed by not less than thirty percent (30%) of the qualified electors of said county demanding the removal of said officer. Such petition shall contain a general statement, in not more than two hundred (200) words, of the ground or grounds on which such removal is demanded, which statement shall be for the information of the officer involved, for the information of the council hereinafter provided, and for the information of the qualified electors of the county.



All removal petitions with reference to only supervisors, justice court judges and constables must be signed by at least fifty-one percent (51%) of the qualified electors of the beat or district from which they were originally elected.

Upon the request of any qualified elector, it shall be the duty of the county and district prosecuting attorney to advise such person as to the provisions of Sections 25-5-3 through 25-5-37 and how to comply with the same.

**SECTION 5.** Section 25-5-9, Mississippi Code of 1972, is brought forward as follows:

25-5-9. The removal petition shall be in substantially the following form:

**REMOVAL PETITION**

(WARNING. - It is a misdemeanor, punishable by fine and imprisonment, for any person to sign any removal petition with any name other than his own, or knowingly to sign his name more than once to such petition, or knowingly to sign such petition when he is not a qualified elector.)

Date: \_\_\_\_\_

**TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:**

We, the undersigned qualified electors of \_\_\_\_\_ County, State of Mississippi, respectfully demand that \_\_\_\_\_, holding the office of \_\_\_\_\_ in said county, be removed from office by the Governor for the following reasons, to wit: (Setting out the reasons for removal in not more than two hundred (200) words);



that a special election, after lawful notice, be called to permit the qualified electors of said county to vote on the question of whether or not the said officer shall be removed;

That we each for himself say that: I am a qualified elector of said county, and my voting precinct is correctly written after my name, and that it was stated to me prior to the signing of said petition that after signing the same I would not be permitted to remove my name from said petition.

NAME

VOTING PRECINCT

1. \_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

**SECTION 6.** Section 25-5-11, Mississippi Code of 1972, is brought forward as follows:

25-5-11. Such petitions may be circulated and signed in sections; that is, there may be more than one copy of the petition circulated, provided they contain identical language. All petitions, all copies thereof, and all sheets for signature shall be dated as of the day of the first signature to said petition or any section thereof, shall be printed on good quality bond paper on pages 8-1/2 inches in width by 13 inches in length with a margin of not less than two inches at the top for binding, and the signature sheets shall have numbered lines printed thereon for consecutive signatures. No signature affixed to such petition can thereafter be withdrawn, and there shall be printed at the bottom



of each page of the petition and all copies thereof, including pages for signatures only, in twelve point type, the following warning: "No signature affixed to this petition may thereafter be withdrawn." The death of any signator before final certification of the petition shall cancel his signature. No petition may be considered unless filed with the clerk of the election commissioner, as the case may be, within sixty days of the date of the first signature thereon as hereinbefore defined.

**SECTION 7.** Section 25-5-13, Mississippi Code of 1972, is brought forward as follows:

25-5-13. Each and every petition, or separately circulated section thereof, containing signatures shall be verified on the last page thereof in substantially the following form:

STATE OF MISSISSIPPI

County of \_\_\_\_\_

I, \_\_\_\_\_, a qualified elector of said county do now state under oath that every person who signed the foregoing petition signed his or her name thereto in my presence, and that before the signing of said petition the signator was told that after signing the same his or her name could not be removed from said petition; that I believe that each has stated his or her name and precinct correctly, and that so far as I know each signer is a qualified elector of this county, and I further certify that the date appearing on the foregoing petition is the correct date on which



145 the first signature was affixed to said petition or any section  
146 thereof.

147 (Signature) \_\_\_\_\_

148 Sworn to and subscribed before me, this \_\_\_\_\_ day of  
149 \_\_\_\_\_, 20\_\_\_\_.

150 \_\_\_\_\_  
151 \_\_\_\_\_

152 **SECTION 8.** Section 25-5-15, Mississippi Code of 1972, is  
153 brought forward as follows:

154 25-5-15. Before the submission of the petitions to the  
155 Governor to be filed by him, all sections of the same shall be  
156 consolidated and delivered to the county registrar of the county  
157 in which the petition has been circulated. No signatures shall be  
158 thereafter added. The county registrar shall compare the  
159 signatures of the persons appearing on said petition with the  
160 names of the qualified electors appearing on the poll books of  
161 said county, and shall attach to said petition, or to each section  
162 of the petition if the same has been circulated in sections, the  
163 following certificate:

164 STATE OF MISSISSIPPI

165 County of \_\_\_\_\_

166 I, \_\_\_\_\_, county registrar in and for the county and state  
167 aforesaid, do hereby certify that I have compared the signatures  
168 on the preceding sheets of the removal petition attached hereto,  
169 and to the best of my knowledge and belief the said petition (or



section of petition) contains the signatures of \_\_\_\_\_ qualified electors of said county (or beat, as case may be), and I have drawn a line in red ink through the names of those signators who appear by the records in my office not to be qualified electors, or who have died. I further certify that as of the date of the petitions there were \_\_\_\_\_ qualified electors in this county (or beat, as the case may be).

Given under my hand and seal of office, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
County Registrar

**SECTION 9.** Section 25-5-17, Mississippi Code of 1972, is brought forward as follows:

25-5-17. Such certificate by the county registrar shall be prima facie evidence of the facts stated therein and of the qualification of the electors whose signatures are thus certified. The Governor shall consider and count only those signatures on such petition as shall be so certified by the registrar; provided, however, that any officer sought to be removed or any citizen of the county shall have the privilege of submitting evidence in writing, under oath, to the Governor as to the question of whether or not any signator to the petition was in fact a qualified elector at the time of the signing of the petition, or has since died. The decision of the Governor as to whether or not any particular person was or was not a qualified elector at the time





of the signing of the petition, or whether or not any particular person has since died, shall be final and shall not be subject to review. The status of the signator as to whether or not he or she was a qualified elector at the time of signing the petition shall be determined as of the date of the petition and not by any other date.

**SECTION 10.** Section 25-5-19, Mississippi Code of 1972, is brought forward as follows:

25-5-19. The county registrar shall not retain in his possession any such petition or any section thereof for a longer period than two (2) days for the first two hundred (200) signatures thereon and one (1) additional day for each two hundred (200) additional signatures or fraction thereof, and the time consumed in the examination of such petitions shall not be counted in determining the time between the signing and the filing of the petitions. At the expiration of the examination, the registrar shall forthwith file the same with the Governor, with his certificate attached, and shall obtain a written receipt for the same. The forms herein are not mandatory, but directory, and if substantially followed in any petition it shall be sufficient, disregarding clerical and technical errors. If the registrar be unable to examine the petition, he shall so certify the fact to the county election commissioners, who shall in the same manner and time perform all the functions herein required of the registrar. In the event the county registrar is the officer whose



removal is sought by said petition, then said petition shall be delivered to one (1) of the county election commissioners of the county in which the petition has been circulated, and the county election commissioners of such county shall in the same manner and within the same time perform all functions herein required of the registrar. A fee of Five Cents (5¢) per signature shall be allowed for the aforesaid examination of said petitions, to be paid out of the general funds of the county upon due proof of said examination. Any registrar or any board of county election commissioners or member thereof who willfully fails or refuses to perform the duty or duties herein required of him or them shall be subject to a civil penalty of One Thousand Dollars (\$1,000.00), to be recovered in the chancery court of the county by suit which may be filed by any qualified elector who signed said petition or any section thereof.

**SECTION 11.** Section 25-5-21, Mississippi Code of 1972, is brought forward as follows:

25-5-21. When said petitions shall have been filed with the Governor, within ten (10) days of the filing thereof the Governor shall cause true copies thereof (photostatic copies being sufficient) to be personally delivered by some officer of the county, designated in writing by the Governor, to the officer sought to be removed, and shall in like manner and form cause to be personally served on said officer a notice to appear, if he desires, at a time to be fixed by the Governor to show cause, if



any he can, why the question of his removal should not be submitted to a vote of the qualified electors as hereinafter provided, which said notice shall be served upon said officer at least twenty (20) days prior to the date when his appearance is required. The place of hearing shall be the county courthouse of the county in which the officer resides.

**SECTION 12.** Section 25-5-23, Mississippi Code of 1972, is brought forward as follows:

25-5-23. At the time and place designated in said notice, the Governor shall cause to be convened a removal council to be composed of three (3) chancery judges appointed by the Governor, none of whom shall reside in the district in which the officer under question resides, to hear and determine whether there is substantial basis for a removal election consistently with the provisions of Sections 25-5-3 through 25-5-37. The senior chancellor shall serve as the presiding judge of the council. The hearing herein provided may continue from day to day and be recessed from time to time, as in the discretion of the council may be ordered. The qualified electors of the county shall likewise be given notice by proclamation of the Governor of the time and place of such hearing. Any interested citizen or citizens may likewise appear at said time and place and make such representations to the council as, in the discretion of the council, may be material to the issues involved. The council shall promulgate rules for such hearings, which shall be in



270 writing, but all representations shall be made under oath, to be  
271 administered by some member of the council. It shall not be  
272 necessary that a stenographic record be kept of such  
273 representations, either for or against removal, but the testimony  
274 taken shall be heard as nearly as practicable in compliance with  
275 the usually applicable rules of evidence. All decisions of the  
276 council on any question, preliminary or final, including the  
277 question of whether just cause for an election has been shown,  
278 shall be final and not subject to review.

279 The elective officer concerned shall be entitled to be  
280 represented by counsel of his choice at said hearing.

281 **SECTION 13.** Section 25-5-25, Mississippi Code of 1972, is  
282 brought forward as follows:

283 25-5-25. The council shall keep minutes of its final  
284 judgments, and the disposition of each petition shall be recorded  
285 therein. If it be the judgment of the council that sufficient  
286 cause has not been shown to justify the removal of the officer,  
287 then the petition shall be dismissed and no new petition shall be  
288 filed or entertained for a period of one (1) year from the date of  
289 the order dismissing the petition.

290 If, however, the council shall be of the opinion that  
291 sufficient cause has been shown to justify the removal of the  
292 officer, then notice to the qualified electors of the county  
293 involved shall be given, in accordance with the general election  
294 laws of the State of Mississippi in the matter of filling



vacancies in county offices, that an election shall be held in said county to determine the question of whether or not said county official shall be removed from office.

**SECTION 14.** Section 25-5-27, Mississippi Code of 1972, is brought forward as follows:

25-5-27. The officer named in the removal petition shall continue to perform the duties of his office until the results of said special removal election shall be officially proclaimed. If, however, the officer named in the petition for removal shall offer his resignation before the issuance of the proclamation for the holding of special removal election, it shall be accepted, shall take effect on the date it is offered, and the vacancy shall be filled as provided by law for the filling of any vacancy in an elective county office. The officer who either resigns or is removed shall not be eligible to fill the vacancy caused by his removal or resignation, or serve as deputy in the office from which he resigns or is removed.

**SECTION 15.** Section 25-5-29, Mississippi Code of 1972, is brought forward as follows:

25-5-29. The special removal election shall be conducted and the results thereof canvassed and certified in all respects as nearly as practicable in like manner as general elections, unless otherwise expressly provided in this chapter, but any such election falling within sixty (60) days next preceding a general election date shall be held on the day of the general election by



the same managers designated to hold the general election, but on the special ballots provided in Section 25-5-31.

**SECTION 16.** Section 25-5-31, Mississippi Code of 1972, is brought forward as follows:

25-5-31. The ballot at said special removal election shall be in the form usually prescribed for special elections, and shall be headed "Official Ballot." Each ballot shall contain the following instructions to the voters: "Mark a cross (X) or check mark (✓) in the square at the right of "yes" or "no"."

Immediately thereunder shall appear the question: "Shall \_\_\_\_ (naming the officer) be removed from the office of \_\_\_\_ ?" Immediately under such question shall be printed the words "yes" and "no", and immediately following each of said words shall be placed a square in which the voter may indicate his preference.

**SECTION 17.** Section 25-5-33, Mississippi Code of 1972, is brought forward as follows:

25-5-33. The election commissioners of the county, or a quorum thereof, shall meet at the office of the county registrar at 9:00 a.m. of the day following the special removal election, and shall then proceed to canvass, tabulate, and certify the results of the election as now provided by the general election laws of the State of Mississippi. The certificate of said results, showing the total votes cast for the removal of the officer, the total votes cast against the removal of the officer, and the total number of qualified electors in the county or



supervisors district in which said election was held, shall be forwarded to the Governor. If a majority of all qualified electors of said county or supervisors district in which said election shall have been held shall not have voted in said election, either for or against the removal, or if a majority of the qualified electors voting in the election shall oppose removal, the officer shall not be removed and shall not thereafter during his term of office be subject to another removal election. If a majority of all qualified electors of said county or supervisors district in which said election shall have been held have voted either for or against removal, and if a majority of the qualified electors voting in said election shall vote for the removal of the officer, then the Governor shall issue his proclamation declaring the office vacant, removing said officer, and appointing a suitable person to fill the vacancy until the same can be filled in a special election to be held not more than sixty (60) days after the aforesaid proclamation of the Governor. No officer shall be subject to a removal petition until he shall have served at least one (1) year of his term.

**SECTION 18.** Section 25-5-35, Mississippi Code of 1972, is brought forward as follows:

25-5-35. A person desiring to contest the proclaimed results of a special removal election may, within twenty (20) days after said proclamation, file a petition in the office of the clerk of the chancery court of the county, setting forth the grounds upon



370 which the election is contested. The chancellor shall forthwith  
371 be notified in writing of the filing of such petition and shall  
372 forthwith fix a day, not less than ten (10) nor more than twenty  
373 (20) days distant, for hearing the contest. If the contest shall  
374 be filed by a citizen who voted in the removal election, process  
375 according to law for hearings in vacation shall be served on the  
376 officer sought to be removed. If the petition be filed by the  
377 officer sought to be removed, process in like manner and form  
378 shall be had on any one (1) of the citizens shown to have  
379 circulated the removal petition or any section thereof. On the  
380 day fixed, at the county courthouse, beginning at 9:00 a.m.  
381 Central Standard Time, some chancellor of a district other than  
382 that of the county of the contest, to be designated in writing by  
383 the Chief Justice of the Supreme Court, shall proceed to hear and  
384 determine the contest under the laws applicable to general  
385 elections. No question shall be considered or adjudicated by the  
386 chancellor on such appeal except that of whether the election was  
387 lawfully held in compliance with the general election laws of the  
388 State of Mississippi, and mere irregularities not affecting the  
389 final result shall not serve to invalidate the election. In those  
390 cases where the chancellor adjudicates that the election was not  
391 lawfully held within the requirements of the general election laws  
392 of the state, then, subject to the right of appeal herein  
393 prescribed, he shall fix the date of another election on the same  
394 question and shall direct the county election commissioners to





395 proceed accordingly. Appeals from the decree of the chancery  
396 court may be taken to the Supreme Court, but such appeal shall be  
397 perfected within fifteen (15) days from the date of the decree  
398 sought to be appealed. The Supreme Court shall treat the same as  
399 a preference case to be determined with all reasonable expedition.  
400 Upon order of the Chief Justice, such appeals may be heard and  
401 determined at a time when the court otherwise would be in recess.  
402 Pending final determination of the contest, no appeal to the  
403 chancery court or to the Supreme Court shall supersede the  
404 proclaimed results of a special removal election.

405       **SECTION 19.** Section 25-5-37, Mississippi Code of 1972, is  
406 brought forward as follows:

407       25-5-37. (1) Any person who signs any removal petition with  
408 any name other than his own, or who knowingly signs his name more  
409 than once to such petition, or who knowingly signs such petition  
410 when he is not a qualified elector shall be guilty of a felony  
411 and, upon conviction, may be punished as such for a term in the  
412 Penitentiary not to exceed five (5) years.

413       (2) Any person who knowingly executes any affidavit required  
414 by Sections 25-5-3 through 25-5-37 knowing the same to be false,  
415 or who issues any certificate required by the same knowing it to  
416 be false, or who makes any statement of any kind required by said  
417 sections to be under oath, either in writing or orally, knowing  
418 the same to be false shall be guilty of perjury and, upon



419 conviction, may be punished by imprisonment in the State  
420 Penitentiary for a term not to exceed ten (10) years.

421 (3) It shall be a felony for any officer sought to be  
422 removed under the provisions of the aforesaid sections to attempt  
423 by force, threats, bribery, or intimidation to hinder or interfere  
424 with the free circulation or signing of any removal petition and,  
425 upon conviction thereof, he shall be punished by imprisonment in  
426 the State Penitentiary for not less than one (1) year nor more  
427 than five (5) years.

428 (4) Any person in the possession of a removal petition who  
429 either willfully suppresses, neglects, or fails to cause same to  
430 be filed with the county registrar shall be guilty of a  
431 misdemeanor and, upon conviction thereof, shall be punished by  
432 imprisonment in the county jail not to exceed six (6) months or by  
433 fine not to exceed Five Hundred Dollars (\$500.00), or by both such  
434 fine and imprisonment.

435 **SECTION 20.** This act shall take effect and be in force from  
436 and after July 1, 2025.

