

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 peculation 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



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

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

50 25-5-3. The Governor is hereby empowered, in accordance with
51 the provisions of Section 139 of the Mississippi Constitution of
52 1890, through the procedure and under the regulations prescribed
53 in Sections 25-5-3 through 25-5-37 and for the reasons and causes
54 set forth, to remove any elective county officer in this state;
55 and every elective officer of any county in this state may be
56 removed from office by the Governor at any time when done in
57 compliance with the regulations hereinafter set forth.

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

60 25-5-7. Before the Governor shall consider the removal from
61 a county office of any elective county officer, there shall be
62 first filed with him a petition signed by not less than thirty
63 percent (30%) of the qualified electors of said county demanding
64 the removal of said officer. Such petition shall contain a
65 general statement, in not more than two hundred (200) words, of
66 the ground or grounds on which such removal is demanded, which
67 statement shall be for the information of the officer involved,
68 for the information of the council hereinafter provided, and for
69 the information of the qualified electors of the county.



70 All removal petitions with reference to only supervisors,
71 justice court judges and constables must be signed by at least
72 fifty-one percent (51%) of the qualified electors of the beat or
73 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.

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

80 25-5-9. The removal petition shall be in substantially the
81 following form:

REMOVAL PETITION

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

88 Date: _____

89 TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:

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



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

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

103 NAME VOTING PRECINCT

104 1.

105 2. _____

106 3. _____

107 **SECTION 6.** Section 25-5-11, Mississippi Code of 1972, is
108 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



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

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

130 25-5-13. Each and every petition, or separately circulated
131 section thereof, containing signatures shall be verified on the
132 last page thereof in substantially the following form:

133 STATE OF MISSISSIPPI

134
135 County of _____
136 I, _____, a qualified elector of said county do now state
137 under oath that every person who signed the foregoing petition
138 signed his or her name thereto in my presence, and that before the
139 signing of said petition the signator was told that after signing
140 the same his or her name could not be removed from said petition;
141 that I believe that each has stated his or her name and precinct
142 correctly, and that so far as I know each signer is a qualified
143 elector of this county, and I further certify that the date
144 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



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

177 Given under my hand and seal of office, this the _____ day
178 of _____, 20____.

179 _____
180 County Registrar

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

183 25-5-17. Such certificate by the county registrar shall be
184 prima facie evidence of the facts stated therein and of the
185 qualification of the electors whose signatures are thus certified.
186 The Governor shall consider and count only those signatures on
187 such petition as shall be so certified by the registrar; provided,
188 however, that any officer sought to be removed or any citizen of
189 the county shall have the privilege of submitting evidence in
190 writing, under oath, to the Governor as to the question of whether
191 or not any signator to the petition was in fact a qualified
192 elector at the time of the signing of the petition, or has since
193 died. The decision of the Governor as to whether or not any
194 particular person was or was not a qualified elector at the time



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

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

203 25-5-19. The county registrar shall not retain in his
204 possession any such petition or any section thereof for a longer
205 period than two (2) days for the first two hundred (200)
206 signatures thereon and one (1) additional day for each two hundred
207 (200) additional signatures or fraction thereof, and the time
208 consumed in the examination of such petitions shall not be counted
209 in determining the time between the signing and the filing of the
210 petitions. At the expiration of the examination, the registrar
211 shall forthwith file the same with the Governor, with his
212 certificate attached, and shall obtain a written receipt for the
213 same. The forms herein are not mandatory, but directory, and if
214 substantially followed in any petition it shall be sufficient,
215 disregarding clerical and technical errors. If the registrar be
216 unable to examine the petition, he shall so certify the fact to
217 the county election commissioners, who shall in the same manner
218 and time perform all the functions herein required of the
219 registrar. In the event the county registrar is the officer whose



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

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

237 25-5-21. When said petitions shall have been filed with the
238 Governor, within ten (10) days of the filing thereof the Governor
239 shall cause true copies thereof (photostatic copies being
240 sufficient) to be personally delivered by some officer of the
241 county, designated in writing by the Governor, to the officer
242 sought to be removed, and shall in like manner and form cause to
243 be personally served on said officer a notice to appear, if he
244 desires, at a time to be fixed by the Governor to show cause, if



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

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

253 25-5-23. At the time and place designated in said notice,
254 the Governor shall cause to be convened a removal council to be
255 composed of three (3) chancery judges appointed by the Governor,
256 none of whom shall reside in the district in which the officer
257 under question resides, to hear and determine whether there is
258 substantial basis for a removal election consistently with the
259 provisions of Sections 25-5-3 through 25-5-37. The senior
260 chancellor shall serve as the presiding judge of the council. The
261 hearing herein provided may continue from day to day and be
262 recessed from time to time, as in the discretion of the council
263 may be ordered. The qualified electors of the county shall
264 likewise be given notice by proclamation of the Governor of the
265 time and place of such hearing. Any interested citizen or
266 citizens may likewise appear at said time and place and make such
267 representations to the council as, in the discretion of the
268 council, may be material to the issues involved. The council
269 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

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

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

300 25-5-27. The officer named in the removal petition shall
301 continue to perform the duties of his office until the results of
302 said special removal election shall be officially proclaimed. If,
303 however, the officer named in the petition for removal shall offer
304 his resignation before the issuance of the proclamation for the
305 holding of special removal election, it shall be accepted, shall
306 take effect on the date it is offered, and the vacancy shall be
307 filled as provided by law for the filling of any vacancy in an
308 elective county office. The officer who either resigns or is
309 removed shall not be eligible to fill the vacancy caused by his
310 removal or resignation, or serve as deputy in the office from
311 which he resigns or is removed.

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

314 25-5-29. The special removal election shall be conducted and
315 the results thereof canvassed and certified in all respects as
316 nearly as practicable in like manner as general elections, unless
317 otherwise expressly provided in this chapter, but any such
318 election falling within sixty (60) days next preceding a general
319 election date shall be held on the day of the general election by



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

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

324 25-5-31. The ballot at said special removal election shall
325 be in the form usually prescribed for special elections, and shall
326 be headed "Official Ballot." Each ballot shall contain the
327 following instructions to the voters: "Mark a cross (X) or check
328 mark (✓) in the square at the right of "yes" or "no"."
329 Immediately thereunder shall appear the question: "Shall _____
330 (naming the officer) be removed from the office of _____ ?"
331 Immediately under such question shall be printed the words "yes"
332 and "no", and immediately following each of said words shall be
333 placed a square in which the voter may indicate his preference.

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

336 25-5-33. The election commissioners of the county, or a
337 quorum thereof, shall meet at the office of the county registrar
338 at 9:00 a.m. of the day following the special removal election,
339 and shall then proceed to canvass, tabulate, and certify the
340 results of the election as now provided by the general election
341 laws of the State of Mississippi. The certificate of said
342 results, showing the total votes cast for the removal of the
343 officer, the total votes cast against the removal of the officer,
344 and the total number of qualified electors in the county or



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

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

366 25-5-35. A person desiring to contest the proclaimed results
367 of a special removal election may, within twenty (20) days after
368 said proclamation, file a petition in the office of the clerk of
369 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.

