

By: Senator(s) Johnson (19th)

To: County Affairs

## SENATE BILL NO. 2861

1 AN ACT TO AMEND SECTION 19-25-21, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT EACH COUNTY MAY EMPLOY ONE OR MORE CONSTABLES OR  
3 CORONERS TO SERVE AS DEPUTIES FOR THE SHERIFF; TO AMEND SECTION  
4 19-19-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY CONSTABLE  
5 EMPLOYED AS A DEPUTY FOR THE SHERIFF SHALL PERFORM THE LAW  
6 ENFORCEMENT DUTIES OF A REGULAR DEPUTY; TO AMEND SECTION  
7 19-21-105, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY CORONER  
8 EMPLOYED AS A DEPUTY SHALL PERFORM THE LAW ENFORCEMENT DUTIES OF A  
9 DEPUTY SHERIFF; TO AMEND SECTIONS 63-11-5 AND 63-11-19,  
10 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A CONSTABLE OR CORONER  
11 SERVING AS A DEPUTY FOR THE SHERIFF TO PERFORM CHEMICAL TESTS OR  
12 BREATH, BLOOD OR URINE TESTS UNDER THE IMPLIED CONSENT LAW; AND  
13 FOR RELATED PURPOSES.

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

15 SECTION 1. Section 19-25-21, Mississippi Code of 1972, is  
16 amended as follows:

17 19-25-21. The minimum number of deputies having law  
18 enforcement duties for each sheriff shall be based upon the total  
19 population of his county according to the latest federal decennial  
20 census in the following categories:

21 (a) In counties with a total population of more than  
22 fifty thousand (50,000), the sheriff shall regularly employ a  
23 minimum of five (5) deputies having law enforcement duties;

24 (b) In counties with a total population of more than  
25 thirty-five thousand (35,000), and not more than fifty thousand  
26 (50,000), the sheriff shall regularly employ a minimum of four (4)  
27 deputies having law enforcement duties;

28 (c) In counties with a total population of more than  
29 twenty-five thousand (25,000), and not more than thirty-five  
30 thousand (35,000), the sheriff shall regularly employ a minimum of  
31 three (3) deputies having law enforcement duties;

32           (d) In counties with a total population of more than  
33 fifteen thousand (15,000), and not more than twenty-five thousand  
34 (25,000), the sheriff shall regularly employ a minimum of two (2)  
35 deputies having law enforcement duties;

36           (e) In all other counties, the sheriff shall regularly  
37 employ a minimum of one (1) deputy sheriff having law enforcement  
38 duties.

39           In those counties comprised of two (2) judicial districts  
40 having a total population of thirty-five thousand (35,000) or  
41 more, there shall be not less than two (2) deputies in the  
42 judicial district in which the sheriff does not reside, one (1) of  
43 whom shall be the chief deputy in charge of the office, all of  
44 whom shall be subject to the direction of the sheriff. In those  
45 counties comprised of two (2) judicial districts having a total  
46 population of less than thirty-five thousand (35,000), there shall  
47 be at least one (1) deputy in the judicial district in which the  
48 sheriff does not reside who shall be subject to the direction of  
49 the sheriff.

50           Each deputy sheriff who shall have law enforcement duties  
51 shall, at the expense of the county, attend and complete an  
52 appropriate curriculum in the field of law enforcement at the  
53 Mississippi Law Enforcement Officers' Academy within one (1) year  
54 from the date of his appointment, excluding those who have  
55 previously served as sheriff, or have had at least five (5) years'  
56 experience as a full-time law enforcement officer, or have  
57 previously successfully completed a course of training at the  
58 Mississippi Law Enforcement Officers' Academy or at the Jackson  
59 Police Academy. Any deputy sheriff exempted from attendance at  
60 the initial course as herein provided because of previous service  
61 as sheriff or having five (5) years' full-time law enforcement  
62 experience must have served as sheriff or obtained such experience  
63 within a period of ten (10) years prior to the date of his taking  
64 the oath of office. Any deputy sheriff exempted from attendance

65 because of successful completion of a course of training at either  
66 of the aforementioned academies must have completed such course  
67 within five (5) years prior to the date of his taking the oath of  
68 office. Each deputy sheriff shall thereafter, on a periodic and  
69 continuing basis, attend additional advanced courses in law  
70 enforcement at said academy in order that each deputy sheriff will  
71 be properly informed and trained in the modern, technical advances  
72 in the field of law enforcement.

73 In addition to any deputies employed under this section, each  
74 county may employ one (1) or more constables or coroners to serve  
75 as deputies for the sheriff.

76 SECTION 2. Section 19-19-5, Mississippi Code of 1972, is  
77 amended as follows:

78 19-19-5. (1) It shall be the duty of every constable to  
79 keep and preserve the peace within his county, by faithfully  
80 aiding and assisting in executing the criminal laws of the state;  
81 to give information, without delay, to some justice court judge or  
82 other proper officer, of all riots, routs and unlawful assemblies,  
83 and of every violation of the penal laws which may come to his  
84 knowledge in any manner whatsoever; to execute and return all  
85 process, civil and criminal, lawfully directed to him, according  
86 to the command thereof; and to pay over all monies, when collected  
87 by him to the person lawfully authorized to receive the same. No  
88 constable shall receive any fee provided by law for making an  
89 arrest, or attending any trial, wherein the defendant has been  
90 arrested, or is being tried for any violation of the motor vehicle  
91 laws committed on any designated United States highway located  
92 within the district or county of the constable.

93 (2) During a constable's term of office, each constable  
94 shall attend and, to the extent to which he is physically able,  
95 participate in a curriculum, with a duration of two (2) weeks,  
96 which addresses the nature and scope of specific duties and  
97 responsibilities of a constable and which includes firearm use and

safety training, to be established by the Board on Law Enforcement Officers Standards and Training in the field of law enforcement at the Mississippi Law Enforcement Officers' Training Academy or such other police academies that are approved by the Board on Law Enforcement Officers Standards and Training pursuant to Section 45-6-9. The board of supervisors of the county shall be responsible for paying, only one (1) time, the tuition, living and travel expenses incurred by any constable of that county in attendance at such training program or curriculum. If such constable does not attend and, to the extent to which he is physically able, participate in such program or curriculum, any further training which may be required by this section shall be completed at the expense of such constable. No constable shall be entitled to the receipt of any fees, costs or compensation authorized by law after the first twenty-four (24) months in office if he fails to attend the academy and, to the extent to which he is physically able, participate in the appropriate program or curriculum. Any constable who does not complete the required training before January 1, 1994, may execute and return civil process but thereafter shall not be paid any fees, costs or compensation for executing such process and shall not be allowed to exercise any law enforcement functions or to carry a firearm in the performance of his duties until he has completed such training. The provisions of this subsection shall apply to constables elected at the November 1991 general election and to those who are elected at subsequent elections. The provisions of this subsection shall not apply to a person who has received a certificate from the Board on Law Enforcement Officers Standards and Training evidencing satisfaction of subsections (2) and (3) of Section 45-6-11, or who is exempt from the requirements of subsections (2) and (3) of Section 45-6-11 by the provisions of subsection (1) of Section 45-6-11.

(3) Any constable employed as a deputy for the sheriff shall

131 perform the law enforcement duties of a regular deputy provided in  
132 Section 19-25-19.

133 SECTION 3. Section 19-21-105, Mississippi Code of 1972, is  
134 amended as follows:

135 19-21-105. (1) Each coroner elected in the 1987 general  
136 election and thereafter shall attend the Mississippi Crime  
137 Laboratory and State Medical Examiner Death Investigation Training  
138 School provided for in subsection (5) of Section 41-61-57, and  
139 shall successfully complete subsequent testing on the subject  
140 material prior to taking the oath of office. If the elected  
141 coroner fails to successfully complete the school and testing, he  
142 shall not be eligible to take the oath of office.

143 (2) Upon successful completion of the death investigation  
144 training school, the coroner shall take the oath of office, and he  
145 then shall be designated the chief county medical examiner or  
146 chief county medical examiner investigator, as provided in  
147 subsection (2) of Section 41-61-57, and shall perform the duties  
148 of such office as required by law.

149 (3) Any coroner employed as a deputy for the sheriff shall  
150 perform the law enforcement duties of a deputy provided in Section  
151 19-5-19.

152 SECTION 4. Section 63-11-5, Mississippi Code of 1972, is  
153 amended as follows:

154 63-11-5. (1) Any person who operates a motor vehicle upon  
155 the public highways, public roads and streets of this state shall  
156 be deemed to have given his consent, subject to the provisions of  
157 this chapter, to a chemical test or tests of his breath for the  
158 purpose of determining alcohol concentration. A person shall give  
159 his consent to a chemical test or tests of his breath, blood or  
160 urine for the purpose of determining the presence in his body of  
161 any other substance which would impair a person's ability to  
162 operate a motor vehicle. The test or tests shall be administered  
163 at the direction of any highway patrol officer, any sheriff or his

duly commissioned deputies, any constable or coroner serving as a  
deputy for the sheriff as authorized under Section 19-25-21, any  
police officer in any incorporated municipality, any national park  
ranger, any officer of a state-supported institution of higher  
learning campus police force if such officer is exercising this  
authority in regard to a violation that occurred on campus  
property, or any security officer appointed and commissioned  
pursuant to the Pearl River Valley Water Supply District Security  
Officer Law of 1978 if such officer is exercising this authority  
in regard to a violation that occurred within the limits of the  
Pearl River Valley Water Supply District, when such officer has  
reasonable grounds and probable cause to believe that the person  
was driving or had under his actual physical control a motor  
vehicle upon the public streets or highways of this state while  
under the influence of intoxicating liquor or any other substance  
which had impaired such person's ability to operate a motor  
vehicle. No such test shall be administered by any person who has  
not met all the educational and training requirements of the  
appropriate course of study prescribed by the Board on Law  
Enforcement Officers Standards and Training; provided, however,  
that sheriffs and elected chiefs of police shall be exempt from  
such educational and training requirement. No such tests shall be  
given by any officer or any agency to any person within fifteen  
(15) minutes of consumption of any substance by mouth.

(2) If the officer has reasonable grounds and probable cause  
to believe such person to have been driving a motor vehicle upon  
the public highways, public roads, and streets of this state while  
under the influence of intoxicating liquor, such officer shall  
inform such person that his failure to submit to such chemical  
test or tests of his breath shall result in the suspension of his  
privilege to operate a motor vehicle upon the public streets and  
highways of this state for a period of ninety (90) days in the  
event such person has not previously been convicted of a violation

of Section 63-11-30, or, for a period of one (1) year in the event of any previous conviction of such person under Section 63-11-30.

(3) The traffic ticket, citation or affidavit issued to a person arrested for a violation of this chapter shall conform to the requirements of Section 63-9-21(3)(b).

(4) Any person arrested under the provisions of this chapter shall be informed that he has the right to telephone for the purpose of requesting legal or medical assistance immediately after being booked for a violation under this chapter.

(5) The Commissioner of Public Safety and the State Crime Laboratory created pursuant to Section 45-1-17 are hereby authorized from and after the passage of this section to adopt procedures, rules and regulations, applicable to the Implied Consent Law.

SECTION 5. Section 63-11-19, Mississippi Code of 1972, is amended as follows:

63-11-19. A chemical analysis of the person's breath, blood or urine, to be considered valid under the provisions of this section, shall have been performed according to methods approved by the State Crime Laboratory created pursuant to Section 45-1-17 and the Commissioner of Public Safety and performed by an individual possessing a valid permit issued by the State Crime Laboratory for making such analysis. The State Crime Laboratory and the Commissioner of Public Safety are authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the State Crime Laboratory. The State Crime Laboratory shall not approve the permit required herein for any law enforcement officer other than a member of the State Highway Patrol, a sheriff or his deputies, a constable serving as a deputy for the sheriff under Section 19-25-21, a coroner serving as a deputy for the sheriff under

230 Section 19-25-21, a city policeman, an officer of a  
231 state-supported institution of higher learning campus police  
232 force, a security officer appointed and commissioned pursuant to  
233 the Pearl River Valley Water Supply District Security Officer Law  
234 of 1978, a national park ranger, a national park ranger  
235 technician, a military policeman stationed at a United States  
236 military base located within this state other than a military  
237 policeman of the Army or Air National Guard or of Reserve Units of  
238 the Army, Air Force, Navy or Marine Corps, or a conservation  
239 officer employed by the Mississippi Department of Wildlife,  
240 Fisheries and Parks. The permit given a conservation officer  
241 shall authorize such officer to administer tests only for  
242 violations of Sections 59-23-1 through 59-23-7.

243       The State Crime Laboratory shall make periodic, but not less  
244 frequently than quarterly, tests of the methods, machines or  
245 devices used in making chemical analysis of a person's breath as  
246 shall be necessary to ensure the accuracy thereof, and shall issue  
247 its certificate to verify the accuracy of the same.

248       SECTION 6. This act shall take effect and be in force from  
249 and after July 1, 1999.