

By: Ford

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 259

1 AN ACT TO REENACT SECTIONS 73-3-2 THROUGH 73-3-59,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE BOARD OF BAR ADMISSIONS
3 AND PRESCRIBE ITS POWERS AND DUTIES AND ESTABLISH REGULATIONS
4 REGARDING THE PRACTICE OF LAW IN MISSISSIPPI; TO AMEND SECTION
5 73-3-401, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE
6 REPEALER ON SECTION 73-3-2 THROUGH 73-3-59, MISSISSIPPI CODE OF
7 1972, FROM DECEMBER 31, 2000, TO DECEMBER 31, 2001; AND FOR
8 RELATED PURPOSES.

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

10 SECTION 1. Section 73-3-2, Mississippi Code of 1972, is
11 reenacted as follows:

12 73-3-2. (1) **Power to admit persons to practice.** The power
13 to admit persons to practice as attorneys in the courts of this
14 state is vested exclusively in the Supreme Court of Mississippi.

15 (2) **Qualifications.** (a) Each applicant for admission to
16 the bar, in order to be eligible for examination for admission,
17 shall be at least twenty-one (21) years of age, of good moral
18 character, and shall present to the Board of Bar Admissions
19 satisfactory evidence:

20 (i) That he has successfully completed, or is
21 within sixty (60) days of completion of, a general course of study
22 of law in a law school which is provisionally or fully approved by
23 the section on legal education and admission to the bar of the
24 American Bar Association, and that such applicant has received, or
25 will receive within sixty (60) days, a diploma or certificate from
26 such school evidencing the satisfactory completion of such course,
27 but in no event shall any applicant under this paragraph be
28 admitted to the bar until such applicant actually receives such
29 diploma or certificate. However, an applicant who, as of November

30 1, 1981, was previously enrolled in a law school in active
31 existence in Mississippi for more than ten (10) years prior to the
32 date of application shall be eligible for examination for
33 admission; provided that such an applicant graduated prior to
34 November 1, 1984;

35 (ii) That he has notified the Board of Bar
36 Admissions in writing of an intention to pursue a general course
37 of study of law under the supervision of a Mississippi lawyer
38 prior to July 1, 1979, and in fact began study prior to July 1,
39 1979, and who completed the required course of study prior to
40 November 1, 1984, in accordance with Sections 73-3-13(b) and
41 73-3-15 as the same exist prior to the effective date of this
42 section; or

43 (iii) That in addition to complying with either of
44 the above requirements, he has received a bachelor's degree from
45 an accredited college or university or that he has received credit
46 for the requirements of the first three (3) years of college work
47 from a college or university offering an integrated six-year
48 prelaw and law course, and has completed his law course at a
49 college or university offering such an integrated six-year course.
50 However, applicants who have already begun the general course of
51 study of law as of November 1, 1979, either in a law school or
52 under the supervision of a Mississippi lawyer shall submit proof
53 he has successfully completed two (2) full years of college work.

54 (b) The applicant shall bear the burden of establishing
55 his or her qualifications for admission to the satisfaction of the
56 Board of Bar Admissions. An applicant denied admission for
57 failure to satisfy qualifications for admission shall have the
58 right to appeal from the final order of the board to the Chancery
59 Court of Hinds County, Mississippi, within thirty (30) days of
60 entry of such order of denial.

61 (3) **Creation of Board of Bar Admissions.** There is hereby
62 created a board to be known as the "Board of Bar Admissions" which
63 shall be appointed by the Supreme Court of Mississippi. The board
64 shall consist of nine (9) members, who shall be members in good
65 standing of the Mississippi State Bar and shall serve for terms of
66 three (3) years. Three (3) members shall be appointed from each

67 Supreme Court district, one (1) by each Supreme Court Justice from
68 his district, with the original appointments to be as follows:
69 Three (3) to be appointed for a term of one (1) year, three (3) to
70 be appointed for a term of two (2) years, and three (3) to be
71 appointed for a term of three (3) years, one (1) from each
72 district to be appointed each year. No member of the Board of Bar
73 Admissions may be a member of the Legislature. Vacancies during a
74 term shall be filled by the appointing justice or his successor
75 for the remainder of the unexpired term.

76 The board shall promulgate the necessary rules for the
77 administration of their duties, subject to the approval of the
78 Chief Justice of the Supreme Court.

79 (4) **Written examination or graduation as prerequisite to**
80 **admission.** Every person desiring admission to the bar, shall be
81 required to take and pass a written bar examination in a manner
82 satisfactory to the Board of Bar Admissions. The Board of Bar
83 Admissions shall conduct not less than two (2) bar examinations
84 each year.

85 (5) **Oath and compensation of board members.** The members of
86 the Board of Bar Admissions shall take and subscribe an oath to be
87 administered by one (1) of the judges of the Supreme Court to
88 faithfully and impartially discharge the duties of the office.
89 The members shall receive compensation as established by the
90 Supreme Court for preparing, giving and grading the examination
91 plus all reasonable and necessary travel expenses incurred in the
92 performance of their duties under the provisions of this section.

93 (6) **Procedure for applicants who have failed.** Any applicant
94 who fails the examination shall be allowed to take the next
95 scheduled examination. A failing applicant may request in writing
96 from the board, within thirty (30) days after the results of the
97 examination have been made public, copies of his answers and model
98 answers used in grading the examination, at his expense. If a
99 uniform, standardized examination is administered, the board shall

100 only be required to provide the examination grade and such other
101 information concerning the applicant's examination results which
102 are available to the board. Any failing applicant shall have a
103 right to a review of his failure by the board. The board shall
104 enter an order on its minutes, prior to the administration of the
105 next bar examination, either granting or denying the applicant's
106 review, and shall notify the applicant of such order. The
107 applicant shall have the right to appeal from this order to the
108 Chancery Court of Hinds County, Mississippi, within thirty (30)
109 days of entry of such order.

110 (7) **Fees.** The board shall set and collect the fees for
111 examination and for admission to the bar. The fees for
112 examination shall be based upon the annual cost of administering
113 the examinations. The fees for admission shall be based upon the
114 cost of conducting an investigation of the applicant and the
115 administrative costs of sustaining the board, which shall include,
116 but shall not be limited to:

- 117 (a) Expenses and travel for board members;
- 118 (b) Office facilities, supplies and equipment; and
- 119 (c) Clerical assistance.

120 All fees collected by the board shall be paid to the State
121 Treasurer, who shall issue receipts therefor and who shall deposit
122 such funds in the State Treasury in a special fund to the credit
123 of said board. All such funds shall be expended only in
124 accordance with the provisions of Chapter 496, Laws of 1962, as
125 amended, being Section 27-103-1 et seq., Mississippi Code of 1972.

126 (8) The board, upon finding the applicant qualified for
127 admission, shall issue to the applicant a certificate of
128 admission. The applicant shall file the certificate and a
129 petition for admission in the Chancery Court of Hinds County,
130 Mississippi, or in the chancery court in the county of his
131 residence, or, in the case of an applicant who is a nonresident of
132 the State of Mississippi, in the chancery court of a county in

133 which the applicant intends to practice. The chancery court
134 shall, in termtime or in vacation, enter on the minutes of that
135 court an order granting to the applicant license to practice in
136 all courts in this state, upon taking by the applicant in the
137 presence of the court, the oath prescribed by law, Section
138 73-3-35, Mississippi Code of 1972.

139 (9) Each application or filing made under this section shall
140 include the social security number(s) of the applicant in
141 accordance with Section 93-11-64, Mississippi Code of 1972.

142 SECTION 2. Section 73-3-25, Mississippi Code of 1972, is
143 reenacted as follows:

144 73-3-25. Any lawyer from another state whose requirements
145 for admission to the bar are equivalent to those of this state,
146 who has practiced not less than five (5) years in a state where he
147 was then admitted may be admitted to the practice in this state
148 upon taking and passing such examination as to his knowledge of
149 law as may be prescribed by rules adopted by the Board of Bar
150 Admissions and approved by the Supreme Court and upon complying
151 with the other requirements as set out in the laws and rules
152 governing admission to the bar. Provided, however, the laws of
153 the state from which the applicant comes grant similar privileges
154 to the applicants from this state.

155 Any lawyer from another state desiring to be admitted to
156 practice in Mississippi must make application to the Board of Bar
157 Admissions. Such applicant shall present to the bar evidence of
158 his good standing in the state from which he came, including a
159 certificate from the clerk of the highest appellate court of the
160 state from which he came, and from two (2) members of the bar of
161 such state, certifying to his qualifications, good standing and
162 moral character of the applicant, and may require the submission
163 of additional evidence by the applicant. Upon satisfactory proof
164 of the applicant's qualifications and upon the applicant's
165 compliance with the requirements of this section, the board shall

166 issue a certificate of admission to the applicant, as prescribed
167 in Section 73-3-2(8). Each such applicant shall pay an
168 application fee prescribed by the Board of Bar Admissions
169 according to Section 73-3-2(7).

170 SECTION 3. Section 73-3-31, Mississippi Code of 1972, is
171 reenacted as follows:

172 73-3-31. The educational requirements both as to general
173 education and legal education shall not apply to any person who
174 may have graduated from a law school prior to October 1, 1954.

175 SECTION 4. Section 73-3-35, Mississippi Code of 1972, is
176 reenacted as follows:

177 73-3-35. Every attorney and counselor-at-law, before he
178 shall be permitted to practice, shall produce his license in each
179 court where he intends to practice, and in the presence of such
180 court, shall take the following oath or affirmation to wit:

181 "I do solemnly swear (or affirm) that I will demean myself,
182 as an attorney and counselor of this court, according to the best
183 of my learning and ability, and with all good fidelity as well to
184 the court as to the client; that I will use no falsehood nor delay
185 any person's cause for lucre or malice, and that I will support
186 the Constitution of the State of Mississippi so long as I continue
187 a citizen thereof. So help me God."

188 And thereupon the name of such person, with the date of his
189 admission, shall be entered in a roll or book to be kept in each
190 court for that purpose.

191 SECTION 5. Section 73-3-37, Mississippi Code of 1972, is
192 reenacted as follows:

193 73-3-37. It is the duty of attorneys:

194 (1) To support the Constitution and laws of this state and
195 of the United States;

196 (2) To maintain the respect due to courts of justice and
197 judicial officers;

198 (3) To employ for the purpose of maintaining the causes

199 confided to them, such means only as are consistent with truth,
200 and never to seek to mislead by any artifice or false statement of
201 the law;

202 (4) To maintain inviolate the confidence and, at every peril
203 to themselves, to preserve the secrets of their clients;

204 (5) To abstain from all offensive personalities, and to
205 advance no fact prejudicial to the honor or reputation of a party
206 or witness, unless required by the justice of the cause with which
207 they are charged;

208 (6) To encourage neither the commencement nor continuance of
209 an action or proceeding from any motives of passion or personal
210 interest;

211 (7) Never to reject, for any consideration personal to
212 themselves, the cause of the defenseless or oppressed.

213 SECTION 6. Section 73-3-39, Mississippi Code of 1972, is
214 reenacted as follows:

215 73-3-39. (1) It is hereby declared to be the public policy
216 of the State of Mississippi that the practice of law before any
217 court or administrative agency is a matter of privilege and not a
218 matter of right.

219 (2) Subject to the conditions, rules and regulations adopted
220 by the Supreme Court of Mississippi, any attorney or
221 counselor-at-law of another state, in good professional standing,
222 of good moral character and who is familiar with the ethics,
223 principles, practices, customs and usages of the legal profession
224 in the State of Mississippi may appear and plead in any special
225 cause before any court or administrative agency in this state;
226 provided, however, that in so appearing such attorney or
227 counselor-at-law shall subject himself to the jurisdiction of the
228 State Board of Bar Admissions and shall consent to the application
229 of the provisions of this article.

230 (3) Upon petition of two (2) members in good standing of the
231 bar of any county of the State of Mississippi, not members of the

232 same firm, representing that any attorney or counselor-at-law of
233 another state is appearing in any cause before any court or
234 administrative agency of this state and raising the question of
235 the qualifications of such attorney or counselor-at-law as set out
236 in subsection (2) of this section or compliance by such attorney
237 with the conditions, rules and regulations adopted by the Supreme
238 Court of Mississippi, the State Board of Bar Admissions shall, or
239 upon its own initiative may, make inquiry as to the professional
240 standing, moral character, familiarity with the ethics,
241 principles, practices, customs and usages of the legal profession
242 in the State of Mississippi of any such attorney or
243 counselor-at-law of another state and shall inquire as to such
244 attorney's professional standing with his local bar and into the
245 question of whether or not such attorney is familiar with and
246 willing to abide by the ethics, principles, practices, customs and
247 usages of the legal profession in the State of Mississippi.

248 (4) In conducting the inquiry referred to in the preceding
249 section, the State Board of Bar Admissions shall have authority to
250 require the appearance of the attorney or counselor-at-law
251 involved before it and shall have the power to subpoena witnesses
252 and require the production of evidence, oral and documentary, and
253 issue appropriate process therefor, and to do any and all other
254 things which may be required to determine fully and completely the
255 facts as issued before it. After such hearing the State Board of
256 Bar Admissions shall make such determination as, in its opinion
257 and sound discretion, is justified from the evidence before it and
258 may permit or refuse to permit the said attorney or
259 counselor-at-law to continue to appear and plead in such special
260 cause.

261 (5) The action or decision of the Board of Bar Admissions in
262 administering this section is hereby declared to be a judicial
263 function and not administrative in character, and appeals from the
264 decision of said board may be taken in accordance with the

265 provisions of Section 11-51-75, Mississippi Code of 1972.

266 (6) Any attorney or counselor-at-law who wilfully makes any
267 false or misleading statement to said board touching upon the
268 matters under inquiry shall be guilty of perjury, shall be
269 punished according to law upon conviction thereof, and the
270 judgment of the court imposing such punishment shall, in addition,
271 provide that such attorney or counselor-at-law shall be
272 perpetually barred from practice before any court or
273 administrative agency of this state.

274 (7) Any such attorney or counselor-at-law of another state
275 who shall appear or plead in any court or administrative agency in
276 this state after his qualifications shall have been called into
277 question by the petition hereinbefore mentioned or by the State
278 Board of Bar Admissions acting upon its own initiative and before
279 having obtained an order from the said State Board of Bar
280 Admissions authorizing his appearance shall be guilty of a
281 misdemeanor and, upon conviction thereof, shall be fined not less
282 than One Hundred Dollars (\$100.00) nor more than One Thousand
283 Dollars (\$1,000.00), or imprisoned in the county jail for not more
284 than six (6) months, or both such fine and imprisonment.

285 SECTION 7. Section 73-3-41, Mississippi Code of 1972, is
286 reenacted as follows:

287 73-3-41. Every person who has been or shall hereafter be
288 convicted of felony in a court of this or any other state or a
289 court of the United States, manslaughter or a violation of the
290 Internal Revenue Code excepted, shall be incapable of obtaining a
291 license to practice law. Any court of the State of Mississippi in
292 which a licensed attorney shall have been convicted of a felony,
293 other than manslaughter or a violation of the Internal Revenue
294 Code, shall enter an order disbarring the attorney.

295 SECTION 8. Section 73-3-43, Mississippi Code of 1972, is
296 reenacted as follows:

297 73-3-43. It shall not be lawful for a clerk of any court of

298 record or the deputy or assistant of any such clerk, or for any
299 sheriff or his deputy, to exercise the profession or employment of
300 an attorney or counselor-at-law, or to be engaged in the practice
301 of law, or to receive any fee or reward for any such services
302 rendered during his continuance in such position; and any person
303 offending herein shall be guilty of a misdemeanor, and, upon
304 conviction, to be fined in a sum not exceeding Five Hundred
305 Dollars (\$500.00) and be removed from office; but this shall not
306 prohibit the clerk of any court of record or the sheriff of any
307 county from practicing in any of the courts so far as to enable
308 them to bring to conclusion civil cases in which such clerk or
309 sheriff are employed and which are actually filed and pending at
310 the time when such clerk or sheriff is appointed or nominated in a
311 party primary and subsequently elected to office.

312 SECTION 9. Section 73-3-45, Mississippi Code of 1972, is
313 reenacted as follows:

314 73-3-45. If any justice court judge or the partner in the
315 practice of law of any justice court judge shall appear before a
316 justice court judge of his district as attorney or counsel in any
317 misdemeanor case over which he has jurisdiction, or in any appeal
318 of any such case from the judgment of such officer, or in any
319 certiorari to any such officer for the same, he shall be guilty of
320 a misdemeanor and, on conviction, shall be fined not more than
321 Five Hundred Dollars (\$500.00), or be imprisoned not more than six
322 (6) months, or both.

323 SECTION 10. Section 73-3-47, Mississippi Code of 1972, is
324 reenacted as follows:

325 73-3-47. If the partner in the practice of law of any
326 justice court judge shall appear before such justice court judge
327 of his district, as attorney or counsel in any case, civil or
328 criminal, or in any appeal from the judgment of such officer, or
329 in any certiorari to such officer, he shall be guilty of a
330 misdemeanor and, on conviction, shall be fined not more than Five

331 Hundred Dollars (\$500.00), or be imprisoned not more than six (6)
332 months, or both.

333 SECTION 11. Section 73-3-49, Mississippi Code of 1972, is
334 reenacted as follows:

335 73-3-49. Where two (2) or more attorneys at law of this
336 state are associated together in practice as attorneys or
337 counselors-at-law, and one (1) of such attorneys shall be district
338 attorney of his district or the county attorney of his county, it
339 shall be unlawful for such other attorney, or partner, to appear
340 and defend in any of the courts of that county any person charged
341 with a misdemeanor or felony, and this section shall apply, even
342 though such association may exist only for the transaction of
343 civil business in a particular court.

344 Any attorney violating this section shall be deemed guilty of
345 a misdemeanor and, on conviction shall be fined in the sum of not
346 less than Ten Dollars (\$10.00) nor more than One Hundred Dollars
347 (\$100.00), and shall forfeit his license to practice law in this
348 state.

349 SECTION 12. Section 73-3-51, Mississippi Code of 1972, is
350 reenacted as follows:

351 73-3-51. It shall be unlawful for the Attorney General or
352 any assistant attorney general, or any district attorney, or any
353 attorney at law associated in the practice as attorney or
354 counselor-at-law with any attorney general or district attorney,
355 to accept employment from or to represent as attorney or
356 counselor-at-law any railroad corporation, street railway
357 corporation, telephone or telegraph corporation, express company,
358 or other common carrier, or public service corporation whatsoever,
359 and any attorney violating this section shall be guilty of a
360 misdemeanor and, on conviction, shall be fined in a sum not less
361 than Ten Dollars (\$10.00) nor more than One Hundred Dollars
362 (\$100.00), and shall forfeit his license to practice law in this
363 state.

364 SECTION 13. Section 73-3-55, Mississippi Code of 1972, is
365 reenacted as follows:

366 73-3-55. It shall be unlawful for any person to engage in
367 the practice of law in this state who has not been licensed
368 according to law. Any person violating the provisions of this
369 section shall be deemed guilty of a misdemeanor, and, upon
370 conviction, shall be punished in accordance with the provisions of
371 Section 97-23-43. Any person who shall for fee or reward or
372 promise, directly or indirectly, write or dictate any paper or
373 instrument of writing, to be filed in any cause or proceeding
374 pending, or to be instituted in any court in this state, or give
375 any counsel or advice therein, or who shall write or dictate any
376 bill of sale, deed of conveyance, deed of trust, mortgage,
377 contract, or last will and testament, or shall make or certify to
378 any abstract of title to real estate other than his own or in
379 which he may own an interest, shall be held to be engaged in the
380 practice of law. This section shall not, however, prevent title
381 or abstract of title guaranty companies incorporated under the
382 laws of this state from making abstract or certifying titles to
383 real estate where it acts through some person as agent, authorized
384 under the laws of the State of Mississippi to practice law; nor
385 shall this section prevent any abstract company chartered under
386 the laws of the State of Mississippi with a paid-up capital of
387 Fifty Thousand Dollars (\$50,000.00) or more from making or
388 certifying to abstracts of title to real estate through the
389 president, secretary or other principal officer of such company.

390 SECTION 14. Section 73-3-57, Mississippi Code of 1972, is
391 reenacted as follows:

392 73-3-57. It shall be unlawful for an attorney at law, either
393 before or after action brought, to promise, or give or offer to
394 promise or give, a valuable consideration to any person as an
395 inducement to placing, or in consideration of having placed in his
396 hands, or in the hands of any partnership of which he is a member,

397 a demand of any kind, for the purpose of bringing suit or making
398 claim against another, or to employ a person to search for and
399 procure clients to be brought to such attorney.

400 SECTION 15. Section 73-3-59, Mississippi Code of 1972, is
401 reenacted as follows:

402 73-3-59. Any attorney at law who shall violate the
403 provisions of the preceding section shall be guilty of a
404 misdemeanor and shall be removed and disbarred from acting as an
405 attorney at law, and any person who shall, before or after suit
406 brought, receive or agree to receive from any attorney at law,
407 compensation for services in seeking out or placing in the hands
408 of an attorney a demand of any kind for suit or a compromise,
409 shall be guilty of a misdemeanor.

410 SECTION 16. Section 73-3-401, Mississippi Code of 1972, is
411 amended as follows:

412 73-3-401. Sections 73-3-2 through 73-3-59, which create the
413 Board of Bar Admissions and prescribe its duties and powers, and
414 which provide certain regulations regarding the practice of law in
415 this state, shall stand repealed as of December 31, 2003.

416 SECTION 17. This act shall take effect and be in force from
417 and after July 1, 2000.