

By: Representative Simpson

To: Local and Private  
Legislation

HOUSE BILL NO. 1493

1 AN ACT TO CREATE THE CIVIL SERVICE COMMISSION FOR THE  
2 HARRISON COUNTY SHERIFF'S DEPARTMENT; TO PROVIDE THE POLICIES AND  
3 PROCEDURES OF SUCH COMMISSION; TO PROVIDE FOR THE MEMBERSHIP OF  
4 SUCH COMMISSION; TO PROVIDE THE TIME THAT SUCH COMMISSION SHALL  
5 MEET; TO PROVIDE THE DUTIES OF SUCH COMMISSION; TO PROVIDE THAT  
6 ANY EMPLOYEE SUBJECT TO PERSONNEL ACTION MAY HAVE A HEARING; TO  
7 REQUIRE SUCH COMMISSION TO MAINTAIN A ROSTER OF ALL PERSONNEL  
8 EMPLOYED BY SUCH COMMISSION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The Civil Service Commission of the Harrison  
11 County Sheriff's Department is hereby created pursuant to the  
12 authority of the Harrison County Board of Supervisors (hereinafter  
13 "supervisors") as expressly determined and created by them, and as  
14 amended from time to time by them. All full-time paid employees  
15 of the Harrison County Sheriff's Department, with the exception of  
16 the sheriff and exempt employees, are subject to the provisions  
17 and protections of these rules pursuant to this act.

18 **SECTION 2.** (1) The membership of the Civil Service  
19 Commission (hereinafter "commission") is established and shall at  
20 all times be composed of three (3) individuals, who shall all be  
21 residents of Harrison County, shall be at least twenty-one (21)  
22 years in age, who shall not be related to the sheriff by blood or  
23 marriage, a citizen of the United States, and who shall have been  
24 a resident citizen of Harrison County for at least five (5) years.

25 (2) All members of the commission shall serve for calendar  
26 year terms of six (6) years, and said terms shall be staggered  
27 such that only one (1) member's term shall expire every two (2)  
28 calendar years. The Sheriff of Harrison County shall appoint or  
29 reappoint members of the commission as terms on the commission  
30 expire. Members of the commission may succeed themselves upon

31 reappointment by the sheriff, and there are no limits upon the  
32 successive terms that a member of the commission can serve.

33 (3) Members of the commission may be removed from the  
34 commission by the supervisors for incompetency, incompatibility,  
35 dereliction of duty, or such other cause as may be determined by  
36 the supervisors. Any member so removed shall be entitled to a  
37 hearing by the supervisors upon reasons or charges being stated,  
38 in writing, setting out the basis for removal and a hearing  
39 conducted before the full supervisors which may be in executive  
40 session at the option of the member, for the purpose of  
41 determining the existence of justification for the member's  
42 removal. If the supervisors determine justification for the  
43 removal of the member, then such member's unexpired term shall be  
44 filled by the supervisors, and may be considered for reappointment  
45 by the sheriff upon expiration of the term. Any member removed  
46 pursuant to this subsection (3) shall have the right of an appeal  
47 to the Circuit Court of Harrison County, First Judicial District,  
48 within thirty (30) days of any decision of the supervisors. The  
49 circuit court shall have jurisdiction only to determine whether  
50 the decision of the supervisors was for "good cause" and shall  
51 extend appropriate administrative deference to the supervisors in  
52 their decision.

53 (4) Members of the commission shall be expected to attend  
54 all scheduled meetings of the commission as determined by the  
55 chairman of the commission. Commission members shall be entitled  
56 to a fee of One Hundred Dollars (\$100.00) per month, or such other  
57 amount as may be determined from time to time by the supervisors  
58 which shall be paid from an account established by the supervisors  
59 expressly for the purpose of the operation of the commission and  
60 to be administered by a designee of the sheriff's department. The  
61 commission shall meet a minimum of one time per month to receive a  
62 report by the sheriff (or his authorized representative) on  
63 personnel matters and policies that may be subject to the

64 oversight of the commission and to schedule hearings concerning  
65 employee matters that will come before the commission. Absence of  
66 any member of the commission for three (3) consecutive meetings as  
67 called by the commission chairman, without notification to the  
68 chair, shall constitute an "abandonment" of the position by the  
69 absenting member. The sheriff shall appoint a new member to fill  
70 the unexpired term abandoned by the absenting member upon  
71 notification of the vacancy by the chairman.

72 (5) The commission chairman shall be elected by the members  
73 of the commission. The commission chairman shall be elected to  
74 serve a term of two (2) years, and may succeed him/herself as  
75 commission chairman throughout his/her term of office and any  
76 successive terms. The chairman shall be the primary spokesperson  
77 of the commission, and shall direct and supervise the duties of  
78 the secretary to the extent that the secretary is engaged in the  
79 performance of commission responsibilities.

80 (6) The commission shall maintain a secretary, who may be a  
81 full-time employee of the Harrison County Sheriff's Department.  
82 The salary of the secretary shall be the responsibility of the  
83 sheriff. The sheriff shall provide such accommodations as may be  
84 necessary to administratively maintain the secretary and the  
85 commission in the maintenance of its records, documents and  
86 information. The sheriff shall have the responsibility and  
87 prerogative to direct the activity of the secretary, as a  
88 full-time employee of the sheriff's department, to the extent that  
89 the secretary is not engaged in responsibility for the commission.

90 **SECTION 3.** The commission shall meet at least one time per  
91 month at a place and time determined by the chairman. The  
92 chairman, through the commission secretary, shall notify each  
93 member of the commission at least ten (10) days before the meeting  
94 in order to give adequate notice to the members of the meeting.  
95 Business of the commission may take place upon the presence of two  
96 (2) members of the commission at any meeting, and two (2) members

97 of the commission shall constitute a quorum. The secretary of the  
98 commission shall be in attendance at each meeting of the  
99 commission in order to document the action of the commission,  
100 shall maintain all records of the commission, and shall perform  
101 such other duties as may be prescribed by the commission.

102       **SECTION 4.** (1) It shall be the duty of the commission to  
103 oversee and approve the creation and administration of all  
104 personnel rules, regulations and policies of the Harrison County  
105 Sheriff's Department. Such rules, regulations and policies shall  
106 provide for the details in the manner of conducting examinations  
107 of applicants, appointments and promotions of officers, transfers,  
108 reinstatements, demotions, suspensions, discharges, and may also  
109 provide for any other matter connected with the general subject of  
110 personnel administration which may be considered desirable to  
111 further carry out the general purposes of the commission as  
112 constituted and empowered by the supervisors and Mississippi law.  
113 The commission shall further have such authority and oversight  
114 over the manner and method of the employment examination of all  
115 applicants of the department subject to commission protection as  
116 outlined in policies and procedures of the department. Such  
117 authority shall include, but not be limited to, the policies and  
118 provisions by which applicants are examined for positions with the  
119 sheriff's department, the method of conducting interviews and  
120 testing of applicants, and the process by which applicants are  
121 selected, maintained in employment and disciplined.

122       (2) The commission shall conduct such hearings and  
123 examinations as may be necessary to enforce the provisions of the  
124 employment and personnel rules, regulations, policies and  
125 procedures promulgated by them for the Harrison County Sheriff's  
126 Department. The commission shall provide for such policies and  
127 procedures that permit an appellate hearing of any personnel  
128 decisions of the sheriff subject to the provision of this act.  
129 The commission shall, upon a timely and appropriate request of an

130 applicant or employee, and may, upon its own initiative,  
131 investigate and conduct a hearing of personnel action, discipline,  
132 demotion, transfer or discharge. The commission may take  
133 testimony under oath from the employee and any individual that it  
134 determines may be necessary to review the actions of the sheriff.  
135 Any hearing so conducted by the commission shall take place upon  
136 timely and verifiable notice to the employee pursuant to the  
137 personnel policies of the department, and all hearings conducted  
138 shall follow the procedures hereinafter set out.

139 (3) The commission shall further assure, in the formulation  
140 of rules, regulations and policies of the sheriff's department,  
141 that the following behavior will be disciplined appropriately and  
142 objectively upon complete and independent review: incompetency,  
143 inefficiency, inattention to duty, dishonesty, intemperance,  
144 immoral conduct, insubordination, discourteous treatment of the  
145 public or fellow employees, or any other act or omission or  
146 commission tending to injure the public service.

147 (4) It is the duty of the commission to assure that no  
148 employee of the department is disciplined for religious or  
149 political reasons, and that all employee action taken against an  
150 employee is for "good cause" and "good faith." "Good cause" and  
151 "good faith" shall be given a broad meaning that will include, but  
152 not be limited to, assuring that discipline of the department is  
153 not discriminatory or arbitrary in nature, but is fair, balanced,  
154 measured to consider the unique and individual circumstances of  
155 each matter, and is otherwise equitable for both the employee, the  
156 sheriff's department and the public. "Political reasons," as used  
157 in this subsection (4) shall not be construed to allow active  
158 participation in political activity in any election or primary in  
159 Harrison County, and such participation on the part of any  
160 employee shall be "good cause" for removal from employment.

161 **SECTION 5.** (1) A hearing shall be initiated by the timely  
162 request, in writing, of any employee who has been subject to

163 personnel action by the sheriff pursuant to the policies and  
164 procedures of the sheriff's department.

165 (2) Hearings shall be set by the commission giving the  
166 employee and the sheriff at least fourteen (14) days notice of any  
167 hearing. All notices setting hearings shall be given to the  
168 petitioner employee and the sheriff in writing. All hearings  
169 shall be conducted within thirty (30) days of the written request  
170 of an employee for an appeal of the decision of the sheriff  
171 concerning the discipline of the employee.

172 (3) Hearings of the commission shall be conducted generally  
173 following the Mississippi Rules of Evidence and Civil Procedure,  
174 except that no discovery under the Rules of Civil Procedure shall  
175 be allowed. The commission shall retain the authority to  
176 establish an appropriate timetable by which the parties submit  
177 materials to the commission in contemplation and preparation for  
178 any hearing conducted under the provisions of this section.

179 (4) Upon request for a hearing and at least fourteen (14)  
180 days before the date set for hearing by the commission, the  
181 sheriff will provide the employee with a specific reason(s) for  
182 any employment action, and will provide the employee with any  
183 documents or material relied upon by the sheriff in support of his  
184 disciplinary decision.

185 (5) The decision of the sheriff shall be given deference  
186 upon any personnel action. Decisions, however, that are contrary  
187 to the policies and procedures instituted and adopted for the  
188 sheriff's department by the commission, shall be reviewed by the  
189 commission and may be affirmed, modified or reversed, with or  
190 without pay, to the extent that it is determined that the sheriff  
191 did not adhere to those policies. The commission may also affirm,  
192 modify or reverse, with or without pay, any personnel decision of  
193 the sheriff if it is similarly found violative of any statute or  
194 law, either state or federal.

195           (6) The employee shall be considered to be the petitioner at  
196 any hearing, and shall bear the burden of demonstrating the lack  
197 of justification, factually or legally, for the decision of the  
198 sheriff by the preponderance of the credible evidence.

199           (7) The commission shall have the power to subpoena  
200 witnesses in furtherance of the development of the proof and  
201 testimony, and a request for all witnesses requested by the  
202 petitioner and sheriff shall be made, in writing to the  
203 commission, no less than seven (7) days before the date set for  
204 the hearing.

205           (8) The petitioner shall provide the commission with a short  
206 and plain statement of the specifics of his or her grievance no  
207 less than seven (7) days prior to the hearing. The sheriff shall  
208 provide any response or rebuttal no later than three (3) days  
209 before the hearing. The failure of the petitioner or the sheriff  
210 to provide the required statement may result in postponement of  
211 the hearing at the discretion of the commission, or provide such  
212 other relief as may be appropriate in the interest of fairness.

213           (9) The petitioner and sheriff shall be entitled to counsel  
214 at any hearing scheduled and conducted under these rules. A court  
215 reporter will be present at any hearing, except upon notice to the  
216 petitioner. The Harrison County Sheriff's Department may, at its  
217 option, cause the hearing to be transcribed, at its own costs, or  
218 in the event of an appeal to circuit court, the costs of  
219 transcribing the hearing will be borne by the party requesting the  
220 transcript.

221           (10) The commission shall conduct the hearing until  
222 completed, which may if practicable extend over the course of  
223 several days, as may be necessary and practicable and in the  
224 interest of fairness.

225           (11) Any decision of the commission shall be in writing, and  
226 shall be provided to the petitioner and sheriff contemporaneously.

227 Any decision of the commission shall be enforced immediately by  
228 the sheriff.

229 (12) Appeals of any decision of the commission may be taken  
230 within thirty (30) days, by filing, in writing, a notice of an  
231 appeal, which shall be taken before the Circuit Court of Harrison  
232 County, First Judicial District. Upon notification of a request  
233 for an appeal of the decision, the commission shall, within thirty  
234 (30) days, prepare and provide the papers, documents and evidence  
235 introduced and made a part of the record as taken before the  
236 commission. The transcript of the hearing proceedings shall be at  
237 the costs of the party appealing to the circuit court. The  
238 circuit court shall be limited to reviewing the action and  
239 decision of the commission to the extent that such decision is  
240 contrary to existing law or is otherwise in contravention of state  
241 or federal law, including the provisions of the United States and  
242 Mississippi Constitutions. Any appeal taken by the sheriff or  
243 employee shall not act as a supersedeas of any decision of the  
244 commission, and the decision of the commission shall be  
245 enforceable by the sheriff until such time as the circuit court,  
246 by judgment, may alter or amend the decision of the commission.

247 (13) Any hearing conducted by the commission shall be a  
248 public hearing. The commission may, if circumstances require,  
249 temporarily postpone any hearing in order to provide for  
250 sufficient accommodations for the public to the extent that  
251 members of the public exceed the capacity of the accommodations or  
252 impair the ability of the commission to properly conduct the  
253 hearing.

254 **SECTION 6.** The commission shall maintain a roster of all  
255 personnel employed with the Harrison County Sheriff's Department,  
256 and may from time to time make reasonable inquiry of department  
257 employees concerning personnel management as may be determined  
258 necessary, and shall make such modifications or amendments in the  
259 personnel policies and procedures to ensure proper personnel



260 management. In maintaining the personnel roster, the commission  
261 shall assure that only the most qualified individuals are hired,  
262 promoted and/or employment otherwise continued or maintained with  
263 the Harrison County Sheriff's Department, and that further, all  
264 personnel hired by the sheriff's department are afforded complete  
265 and objective review of any personnel decision of the sheriff and  
266 the supervisory staff of the department.

267       **SECTION 7.** The rules and regulations of the commission may  
268 be amended from time to time, as needed to the extent not  
269 inconsistent with the laws of the State of Mississippi, upon  
270 publication to the Harrison County Sheriff's Department through  
271 the secretary of the commission.

272       **SECTION 8.** This act shall take effect and be in force from  
273 and after its passage.