

By: Senator(s) Burton

To: Judiciary, Division B

SENATE BILL NO. 2207
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 45-2-21, MISSISSIPPI CODE OF 1972, TO
2 TRANSFER SUPERVISION AND RESPONSIBILITY OF THE LAW ENFORCEMENT
3 OFFICERS AND FIRE FIGHTERS DISABILITY BENEFITS TRUST FUND FROM THE
4 DEPARTMENT OF PUBLIC SAFETY TO THE ATTORNEY GENERAL'S OFFICE; TO
5 AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO CORRECT THE
6 NAME OF THE DISABILITY BENEFITS TRUST FUND CREATED TO BENEFIT LAW
7 ENFORCEMENT OFFICERS AND FIRE FIGHTERS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 45-2-21, Mississippi Code of 1972, is
10 amended as follows:

11 45-2-21. (1) Whenever used in this section, the term:

12 (a) "Covered individual" means a law enforcement
13 officer or fire fighter as defined in this section while actively
14 engaged in protecting the lives and property of the citizens of
15 this state when employed by an employer as defined in this
16 section; it does not include employees of independent contractors.

17 (b) "Employer" means a state board, commission,
18 department, division, bureau, or agency, or a county, municipality
19 or other political subdivision of the state, which employs,
20 appoints or otherwise engages the services of covered individuals.

21 (c) "Fire fighter" means an individual who is trained
22 for the prevention and control of loss of life and property from
23 fire or other emergencies, who is assigned to fire-fighting
24 activity, and is required to respond to alarms and perform
25 emergency actions at the location of a fire, hazardous materials
26 or other emergency incident.

27 (d) "Law enforcement officer" means any lawfully sworn
28 officer or employee of the state or any political subdivision of
29 the state whose duties require the officer or employee to

30 investigate, pursue, apprehend, arrest, transport or maintain
31 custody of persons who are charged with, suspected of committing,
32 or convicted of a crime.

33 (2) (a) The Attorney General's office shall make a monthly
34 disability benefit payment equal to thirty-four percent (34%) of
35 the covered individual's regular base salary at the time of injury
36 when a covered individual, while engaged in the performance of the
37 individual's official duties, is accidentally or intentionally
38 injured in the line of duty as a direct result of a single
39 incident. The benefit shall be payable for the period of time the
40 covered individual is physically unable to perform the duties of
41 the covered individual's employment, not to exceed twelve (12)
42 total payments for any one (1) injury. Chronic or repetitive
43 injury is not covered. Benefits made available under this section
44 shall be in addition to any workers' compensation benefits and
45 shall be limited to the difference between the amount of workers'
46 compensation benefits and the amount of the covered individual's
47 regular base salary. Compensation under this section shall not be
48 awarded where a penal violation committed by the covered
49 individual contributed to the disability or the injury was
50 intentionally self-inflicted.

51 (b) Payments made under this subsection are exempt from
52 the claims and demands of creditors of the covered individual.

53 (3) (a) There is established in the State Treasury a
54 special fund to be known as the Law Enforcement Officers and Fire
55 Fighters Disability Benefits Trust Fund. The trust fund shall be
56 funded by any funds made available by the Legislature or by
57 donation, contribution, gift or any other source.

58 (b) The State Treasurer shall invest the monies of the
59 trust fund in any of the investments authorized for the funds of
60 the Public Employees' Retirement System under Section 25-11-121,
61 and those investments shall be subject to the limitations
62 prescribed by Section 25-11-121.

63 (c) Unexpended amounts remaining in the trust fund at
64 the end of the state fiscal year shall not lapse into the State
65 General Fund, and any income earned on amounts in the trust fund
66 shall be deposited to the credit of the trust fund.

67 (4) The Attorney General's office shall be responsible for
68 the management of the trust fund and the disbursement of
69 disability benefits authorized under this section. The Attorney
70 General shall adopt rules and regulations necessary to implement
71 and standardize the payment of disability benefits under this
72 section, to administer the trust fund created by this section and
73 to carry out the purposes of this section. The Attorney General's
74 office may expend up to ten percent (10%) of the monies in the
75 trust fund for the administration and management of the trust fund
76 and carrying out the purposes of this section.

77 **SECTION 2.** Section 99-19-73, Mississippi Code of 1972, is
78 amended as follows:

79 99-19-73. (1) **Traffic violations.** In addition to any
80 monetary penalties and any other penalties imposed by law, there
81 shall be imposed and collected the following state assessment from
82 each person upon whom a court imposes a fine or other penalty for
83 any violation in Title 63, Mississippi Code of 1972, except
84 offenses relating to the Mississippi Implied Consent Law (Section
85 63-11-1 et seq.) and offenses relating to vehicular parking or
86 registration:

| 87 FUND | 88 AMOUNT |
|--|-----------|
| 88 State Court Education Fund..... | \$ 1.50 |
| 89 State Prosecutor Education Fund..... | 1.00 |
| 90 Vulnerable Adults Training, | |
| 91 Investigation and Prosecution Trust Fund..... | .50 |
| 92 Child Support Prosecution Trust Fund..... | .50 |
| 93 Driver Training Penalty Assessment Fund..... | 7.00 |
| 94 Law Enforcement Officers Training Fund..... | 5.00 |
| 95 Spinal Cord and Head Injury Trust Fund | |

| | | |
|-----|--|----------|
| 96 | (for all moving violations)..... | 6.00 |
| 97 | Emergency Medical Services Operating Fund..... | 15.00 |
| 98 | Mississippi Leadership Council on Aging Fund..... | 1.00 |
| 99 | Law Enforcement Officers and Fire Fighters Death | |
| 100 | Benefits Trust Fund..... | .50 |
| 101 | Law Enforcement Officers <u>and Fire Fighters</u> | |
| 102 | Disability Benefits Trust Fund..... | 1.00 |
| 103 | State Prosecutor Compensation Fund for the purpose | |
| 104 | of providing additional compensation for legal | |
| 105 | assistants to district attorneys..... | 1.50 |
| 106 | Crisis Intervention Mental Health Fund..... | 10.00 |
| 107 | Drug Court Fund..... | 10.00 |
| 108 | Capital Defense Counsel Fund..... | 1.89 |
| 109 | Indigent Appeals Fund..... | 2.29 |
| 110 | Capital Post-Conviction Counsel Fund..... | 2.33 |
| 111 | Victims of Domestic Violence Fund..... | .49 |
| 112 | TOTAL STATE ASSESSMENT..... | \$ 67.50 |

113 (2) **Implied Consent Law violations.** In addition to any
114 monetary penalties and any other penalties imposed by law, there
115 shall be imposed and collected the following state assessment from
116 each person upon whom a court imposes a fine or any other penalty
117 for any violation of the Mississippi Implied Consent Law (Section
118 63-11-1 et seq.):

| | | |
|-----|--|----------|
| 119 | FUND | AMOUNT |
| 120 | Crime Victims' Compensation Fund..... | \$ 10.00 |
| 121 | State Court Education Fund..... | 1.50 |
| 122 | State Prosecutor Education Fund..... | 1.00 |
| 123 | Vulnerable Adults Training, | |
| 124 | Investigation and Prosecution Trust Fund..... | .50 |
| 125 | Child Support Prosecution Trust Fund..... | .50 |
| 126 | Driver Training Penalty Assessment Fund..... | 22.00 |
| 127 | Law Enforcement Officers Training Fund..... | 11.00 |
| 128 | Emergency Medical Services Operating Fund..... | 15.00 |

| | | |
|-----|--|----------|
| 129 | Mississippi Alcohol Safety Education Program Fund.... | 5.00 |
| 130 | Federal-State Alcohol Program Fund..... | 10.00 |
| 131 | Mississippi Crime Laboratory | |
| 132 | Implied Consent Law Fund..... | 25.00 |
| 133 | Spinal Cord and Head Injury Trust Fund..... | 25.00 |
| 134 | Capital Defense Counsel Fund..... | 1.89 |
| 135 | Indigent Appeals Fund..... | 2.29 |
| 136 | Capital Post-Conviction Counsel Fund..... | 2.33 |
| 137 | Victims of Domestic Violence Fund..... | .49 |
| 138 | State General Fund..... | 35.00 |
| 139 | Law Enforcement Officers and Fire Fighters Death | |
| 140 | Benefits Trust Fund..... | .50 |
| 141 | Law Enforcement Officers and <u>Fire Fighters</u> Disability | |
| 142 | Benefits Trust Fund..... | 1.00 |
| 143 | State Prosecutor Compensation Fund for the purpose | |
| 144 | of providing additional compensation for legal | |
| 145 | assistants to district attorneys..... | 1.50 |
| 146 | Crisis Intervention Mental Health Fund..... | 10.00 |
| 147 | Drug Court Fund..... | 10.00 |
| 148 | TOTAL STATE ASSESSMENT..... | \$191.50 |

149 (3) **Game and Fish Law violations.** In addition to any
150 monetary penalties and any other penalties imposed by law, there
151 shall be imposed and collected the following state assessment from
152 each person upon whom a court imposes a fine or other penalty for
153 any violation of the game and fish statutes or regulations of this
154 state:

| | | |
|-----|--|---------|
| 155 | FUND | AMOUNT |
| 156 | State Court Education Fund..... | \$ 1.50 |
| 157 | State Prosecutor Education Fund..... | 1.00 |
| 158 | Law Enforcement Officers Training Fund..... | 5.00 |
| 159 | Hunter Education and Training Program Fund..... | 5.00 |
| 160 | State General Fund..... | 30.00 |
| 161 | Law Enforcement Officers and Fire Fighters Death | |

| | | |
|-----|--|----------|
| 162 | Benefits Trust Fund..... | .50 |
| 163 | Law Enforcement Officers <u>and Fire Fighters</u> Disability | |
| 164 | Benefits Trust Fund..... | 1.00 |
| 165 | State Prosecutor Compensation Fund for the purpose | |
| 166 | of providing additional compensation for legal | |
| 167 | assistants to district attorneys..... | 1.00 |
| 168 | Crisis Intervention Mental Health Fund..... | 10.00 |
| 169 | Drug Court Fund..... | 10.00 |
| 170 | Capital Defense Counsel Fund..... | 1.89 |
| 171 | Indigent Appeals Fund..... | 2.29 |
| 172 | Capital Post-Conviction Counsel Fund..... | 2.33 |
| 173 | Victims of Domestic Violence Fund..... | .49 |
| 174 | TOTAL STATE ASSESSMENT..... | \$ 72.00 |

175 (4) **Litter Law violations.** In addition to any monetary
176 penalties and any other penalties imposed by law, there shall be
177 imposed and collected the following state assessment from each
178 person upon whom a court imposes a fine or other penalty for any
179 violation of Section 97-15-29 or 97-15-30:

| | | |
|-----|---------------------------------------|----------|
| 180 | FUND | AMOUNT |
| 181 | Statewide Litter Prevention Fund..... | \$ 25.00 |
| 182 | TOTAL STATE ASSESSMENT..... | \$ 25.00 |

183 (5) **Other misdemeanors.** In addition to any monetary
184 penalties and any other penalties imposed by law, there shall be
185 imposed and collected the following state assessment from each
186 person upon whom a court imposes a fine or other penalty for any
187 misdemeanor violation not specified in subsection (1), (2) or (3)
188 of this section, except offenses relating to vehicular parking or
189 registration:

| | | |
|-----|---------------------------------------|----------|
| 190 | FUND | AMOUNT |
| 191 | Crime Victims' Compensation Fund..... | \$ 10.00 |
| 192 | State Court Education Fund..... | 1.50 |
| 193 | State Prosecutor Education Fund..... | 1.00 |
| 194 | Vulnerable Adults Training, | |

| | | |
|-----|--|----------|
| 195 | Investigation and Prosecution Trust Fund..... | .50 |
| 196 | Child Support Prosecution Trust Fund..... | .50 |
| 197 | Law Enforcement Officers Training Fund..... | 5.00 |
| 198 | Capital Defense Counsel Fund..... | 1.89 |
| 199 | Indigent Appeals Fund..... | 2.29 |
| 200 | Capital Post-Conviction Counsel Fund..... | 2.33 |
| 201 | Victims of Domestic Violence Fund..... | .49 |
| 202 | State General Fund..... | 30.00 |
| 203 | State Crime Stoppers Fund..... | 1.50 |
| 204 | Law Enforcement Officers and Fire Fighters Death | |
| 205 | Benefits Trust Fund..... | .50 |
| 206 | Law Enforcement Officers <u>and Fire Fighters</u> Disability | |
| 207 | Benefits Trust Fund..... | 1.00 |
| 208 | State Prosecutor Compensation Fund for the purpose | |
| 209 | of providing additional compensation for legal | |
| 210 | assistants to district attorneys..... | 1.50 |
| 211 | Crisis Intervention Mental Health Fund..... | 10.00 |
| 212 | Drug Court Fund..... | 8.00 |
| 213 | Judicial Performance Fund..... | 2.00 |
| 214 | TOTAL STATE ASSESSMENT..... | \$ 80.00 |

215 (6) **Other felonies.** In addition to any monetary penalties
216 and any other penalties imposed by law, there shall be imposed and
217 collected the following state assessment from each person upon
218 whom a court imposes a fine or other penalty for any felony
219 violation not specified in subsection (1), (2) or (3) of this
220 section:

| | | |
|-----|---|----------|
| 221 | FUND | AMOUNT |
| 222 | Crime Victims' Compensation Fund..... | \$ 10.00 |
| 223 | State Court Education Fund..... | 1.50 |
| 224 | State Prosecutor Education Fund..... | 1.00 |
| 225 | Vulnerable Adults Training, | |
| 226 | Investigation and Prosecution Trust Fund..... | .50 |
| 227 | Child Support Prosecution Trust Fund..... | .50 |

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|-----|--|----------|
| 228 | Law Enforcement Officers Training Fund..... | 5.00 |
| 229 | Capital Defense Counsel Fund..... | 1.89 |
| 230 | Indigent Appeals Fund..... | 2.29 |
| 231 | Capital Post-Conviction Counsel Fund..... | 2.33 |
| 232 | Victims of Domestic Violence Fund..... | .49 |
| 233 | State General Fund..... | 60.00 |
| 234 | Criminal Justice Fund..... | 50.00 |
| 235 | Law Enforcement Officers and Fire Fighters Death | |
| 236 | Benefits Trust Fund..... | .50 |
| 237 | Law Enforcement Officers <u>and Fire Fighters</u> Disability | |
| 238 | Benefits Trust Fund..... | 1.00 |
| 239 | State Prosecutor Compensation Fund for the purpose | |
| 240 | of providing additional compensation for legal | |
| 241 | assistants to district attorneys..... | 1.50 |
| 242 | Crisis Intervention Mental Health Fund..... | 10.00 |
| 243 | Drug Court Fund..... | 10.00 |
| 244 | TOTAL STATE ASSESSMENT..... | \$158.50 |

245 (7) If a fine or other penalty imposed is suspended, in
246 whole or in part, such suspension shall not affect the state
247 assessment under this section. No state assessment imposed under
248 the provisions of this section may be suspended or reduced by the
249 court.

250 (8) After a determination by the court of the amount due, it
251 shall be the duty of the clerk of the court to promptly collect
252 all state assessments imposed under the provisions of this
253 section. The state assessments imposed under the provisions of
254 this section may not be paid by personal check. It shall be the
255 duty of the chancery clerk of each county to deposit all such
256 state assessments collected in the circuit, county and justice
257 courts in such county on a monthly basis with the State Treasurer
258 pursuant to appropriate procedures established by the State
259 Auditor. The chancery clerk shall make a monthly lump-sum deposit
260 of the total state assessments collected in the circuit, county

261 and justice courts in such county under this section, and shall
262 report to the Department of Finance and Administration the total
263 number of violations under each subsection for which state
264 assessments were collected in the circuit, county and justice
265 courts in such county during such month. It shall be the duty of
266 the municipal clerk of each municipality to deposit all such state
267 assessments collected in the municipal court in such municipality
268 on a monthly basis with the State Treasurer pursuant to
269 appropriate procedures established by the State Auditor. The
270 municipal clerk shall make a monthly lump-sum deposit of the total
271 state assessments collected in the municipal court in such
272 municipality under this section, and shall report to the
273 Department of Finance and Administration the total number of
274 violations under each subsection for which state assessments were
275 collected in the municipal court in such municipality during such
276 month.

277 (9) It shall be the duty of the Department of Finance and
278 Administration to deposit on a monthly basis all such state
279 assessments into the proper special fund in the State Treasury.
280 The monthly deposit shall be based upon the number of violations
281 reported under each subsection and the pro rata amount of such
282 assessment due to the appropriate special fund. The Department of
283 Finance and Administration shall issue regulations providing for
284 the proper allocation of these special funds.

285 (10) The State Auditor shall establish by regulation
286 procedures for refunds of state assessments, including refunds
287 associated with assessments imposed before July 1, 1990, and
288 refunds after appeals in which the defendant's conviction is
289 reversed. The Auditor shall provide in such regulations for
290 certification of eligibility for refunds and may require the
291 defendant seeking a refund to submit a verified copy of a court
292 order or abstract by which such defendant is entitled to a refund.

293 All refunds of state assessments shall be made in accordance with
294 the procedures established by the Auditor.

295 **SECTION 3.** This act shall take effect and be in force from
296 and after its passage.