

By: Representative Baker (74th)

To: Judiciary A

HOUSE BILL NO. 1372

1 AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FUNDING FOR LEGAL ASSISTANTS IN CERTAIN CIRCUIT COURT
3 DISTRICTS; TO AMEND SECTION 25-31-5, MISSISSIPPI CODE OF 1972, IN
4 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 9-1-105, Mississippi Code of 1972, is
7 amended as follows:

8 9-1-105. (1) Whenever any judicial officer is unwilling or
9 unable to hear a case or unable to hold or attend any of the
10 courts at the time and place required by law by reason of the
11 physical disability or sickness of such judicial officer, by
12 reason of the absence of such judicial officer from the state, by
13 reason of the disqualification of such judicial officer pursuant
14 to the provision of Section 165, Mississippi Constitution of 1890,
15 or any provision of the Code of Judicial Conduct, or for any other
16 reason, the Chief Justice of the Mississippi Supreme Court, with
17 the advice and consent of a majority of the justices of the
18 Mississippi Supreme Court, may appoint a person as a special judge
19 to hear the case or attend and hold a court.

20 (2) (a) Upon the request of the Chief Judge of the Court of
21 Appeals or the senior judge of a chancery or circuit court
22 district, or upon his own motion, the Chief Justice of the
23 Mississippi Supreme Court, with the advice and consent of a
24 majority of the justices of the Mississippi Supreme Court, shall
25 have the authority to appoint a special judge to serve on a
26 temporary basis in a circuit or chancery court in the event of an
27 emergency or overcrowded docket. It shall be the duty of any
28 special judge so appointed to assist the court to which he is

29 assigned in the disposition of causes so pending in such court for
30 whatever period of time is designated by the Chief Justice.

31 (b) From and after July 1, 2007, the circuit courts in
32 the Seventh and Twentieth Circuit Court Districts shall receive
33 funding for two (2) additional legal assistants in each district,
34 provided that such legal assistants shall be authorized by order
35 of the Chief Justice upon motion of the circuit court.

36 (3) When a vacancy exists for any of the reasons enumerated
37 in Section 9-1-103, the vacancy has not been filled within seven
38 (7) days by an appointment by the Governor, and there is a pending
39 cause or are pending causes in the court where the vacancy exists
40 that in the interests of justice and in the orderly dispatch of
41 the court's business require the appointment of a special judge,
42 the Chief Justice of the Supreme Court, with the advice and
43 consent of a majority of the justices of the Mississippi Supreme
44 Court, may appoint a qualified person as a special judge to fill
45 the vacancy until the Governor makes his appointment and such
46 appointee has taken the oath of office.

47 (4) If the Chief Justice pursuant to this section shall make
48 an appointment within the authority vested in the Governor by
49 reason of Section 165, Mississippi Constitution of 1890, the
50 Governor may at his election appoint a person to so serve. In the
51 event that the Governor makes such an appointment, any appointment
52 made by the Chief Justice pursuant to this section shall be void
53 and of no further force or effect from the date of the Governor's
54 appointment.

55 (5) When a judicial officer is unwilling or unable to hear a
56 case or unable or unwilling to hold court for a period of time not
57 to exceed two (2) weeks, the trial judge or judges of the affected
58 district or county and other trial judges may agree among
59 themselves regarding the appointment of a person for such case or
60 such limited period of time. The trial judges shall submit a
61 notice to the Chief Justice of the Supreme Court informing him of

62 their appointment. If the Chief Justice does not appoint another
63 person to serve as special judge within seven (7) days after
64 receipt of such notice, the person designated in such order shall
65 be deemed appointed.

66 (6) A person appointed to serve as a special judge may be
67 any currently sitting or retired chancery, circuit or county court
68 judge, Court of Appeals judge or Supreme Court Justice, or any
69 other person possessing the qualifications of the judicial office
70 for which the appointment is made; provided, however, that a judge
71 or justice who was retired from service at the polls shall not be
72 eligible for appointment as a special judge in the district in
73 which he served prior to his defeat.

74 (7) Except as otherwise provided in subsection (2) of this
75 section, the need for an appointment pursuant to this section may
76 be certified to the Chief Justice of the Mississippi Supreme Court
77 by any attorney in good standing or other officer of the court.

78 (8) The order appointing a person as a special judge
79 pursuant to this section shall describe as specifically as
80 possible the duration of the appointment.

81 (9) A special judge appointed pursuant to this section shall
82 take the oath of office, if necessary, and shall, for the duration
83 of his appointment, enjoy the full power and authority of the
84 office to which he is appointed.

85 (10) Any currently sitting justice or judge appointed as a
86 special judge under this section shall receive no additional
87 compensation for his or her service as special judge. Any other
88 person appointed as a special judge hereunder shall, for the
89 period of his service, receive compensation from the state for
90 each day's service a sum equal to 1/260 of the current salary in
91 effect for the judicial office; provided, however, that no retired
92 chancery, circuit or county court judge, retired Court of Appeals
93 judge or any retired Supreme Court Justice appointed as a special
94 judge pursuant to this section may, during any fiscal year,

95 receive compensation in excess of twenty-five percent (25%) of the
96 current salary in effect for a chancery or circuit court judge.
97 Any person appointed as a special judge shall be reimbursed for
98 travel expenses incurred in the performance of the official duties
99 to which he may be appointed hereunder in the same manner as other
100 public officials and employees as provided by Section 25-3-41,
101 Mississippi Code of 1972.

102 (11) If any person appointed as such special judge is
103 receiving retirement benefits by virtue of the provisions of the
104 Public Employees' Retirement Law of 1952, appearing as Sections
105 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
106 shall not be reduced in any sum whatsoever because of such
107 service, nor shall any sum be deducted as contributions toward
108 retirement under said law.

109 (12) The Supreme Court shall have authority to prescribe
110 rules and regulations reasonably necessary to implement and give
111 effect to the provisions of this section.

112 (13) Nothing in this section shall abrogate the right of
113 attorneys engaged in a case to agree upon a member of the bar to
114 preside in a case pursuant to Section 165 of the Mississippi
115 Constitution of 1890.

116 (14) The Supreme Court shall prepare the necessary payroll
117 for special judges appointed pursuant to this section and shall
118 submit such payroll to the Department of Finance and
119 Administration.

120 (15) Special judges appointed pursuant to this section shall
121 direct requests for reimbursement for travel expenses authorized
122 pursuant to this section to the Supreme Court and the Supreme
123 Court shall submit such requests to the Department of Finance and
124 Administration. The Supreme Court shall have the power to adopt
125 rules and regulations regarding the administration of travel
126 expenses authorized pursuant to this section.

127 **SECTION 2.** Section 25-31-5, Mississippi Code of 1972, is
128 amended as follows:

129 25-31-5. (1) The following number of full-time legal
130 assistants are authorized in the following circuit court
131 districts:

132 (a) First Circuit Court District..... eight (8)
133 legal assistants.

134 (b) Second Circuit Court District..... nine (9)
135 legal assistants.

136 (c) Third Circuit Court District..... five (5)
137 legal assistants.

138 (d) Fourth Circuit Court District..... five (5)
139 legal assistants.

140 (e) Fifth Circuit Court District..... four (4)
141 legal assistants.

142 (f) Sixth Circuit Court District..... two (2)
143 legal assistants.

144 (g) Seventh Circuit Court District..... ten (10)
145 legal assistants.

146 (h) Eighth Circuit Court District..... two (2)
147 legal assistants.

148 (i) Ninth Circuit Court District..... two (2)
149 legal assistants.

150 (j) Tenth Circuit Court District..... four (4)
151 legal assistants.

152 (k) Eleventh Circuit Court District..... five (5)
153 legal assistants.

154 (l) Twelfth Circuit Court District..... three (3)
155 legal assistants.

156 (m) Thirteenth Circuit Court District..... two (2)
157 legal assistants.

158 (n) Fourteenth Circuit Court District..... three (3)
159 legal assistants.

- 160 (o) Fifteenth Circuit Court District..... five (5)
 161 legal assistants.
- 162 (p) Sixteenth Circuit Court District..... four (4)
 163 legal assistants.
- 164 (q) Seventeenth Circuit Court District.... six (6)
 165 legal assistants.
- 166 (r) Eighteenth Circuit Court District..... two (2)
 167 legal assistants.
- 168 (s) Nineteenth Circuit Court District..... four (4)
 169 legal assistants.
- 170 (t) Twentieth Circuit Court District..... four (4)
 171 legal assistants.
- 172 (u) Twenty-first Circuit Court District... two (2)
 173 legal assistants.
- 174 (v) Twenty-second Circuit Court District.. two (2)
 175 legal assistants.

176 (2) In addition to any legal assistants authorized pursuant
 177 to subsection (1) of this section, the following number of
 178 full-time legal assistants are authorized (i) in the following
 179 circuit court districts if funds are appropriated by the
 180 Legislature to adequately fund the salaries, expenses and fringe
 181 benefits of such legal assistants, or (ii) in any of the following
 182 circuit court districts in which the board of supervisors of one
 183 or more of the counties in a circuit court district adopts a
 184 resolution to pay all of the salaries, supplemental pay, expenses
 185 and fringe benefits of legal assistants authorized in such
 186 district pursuant to this subsection:

- 187 (a) First Circuit Court District..... two (2)
 188 legal assistants.
- 189 (b) Second Circuit Court District..... two (2)
 190 legal assistants.
- 191 (c) Third Circuit Court District..... two (2)
 192 legal assistants.

193 (d) Fourth Circuit Court District..... two (2)
194 legal assistants.

195 (e) Fifth Circuit Court District..... two (2)
196 legal assistants.

197 (f) Sixth Circuit Court District..... two (2)
198 legal assistants.

199 (g) Seventh Circuit Court District..... two (2)
200 legal assistants.

201 (h) Eighth Circuit Court District..... two (2)
202 legal assistants.

203 (i) Ninth Circuit Court District..... two (2)
204 legal assistants.

205 (j) Tenth Circuit Court District..... two (2)
206 legal assistants.

207 (k) Eleventh Circuit Court District..... two (2)
208 legal assistants.

209 (l) Twelfth Circuit Court District..... two (2)
210 legal assistants.

211 (m) Thirteenth Circuit Court District..... two (2)
212 legal assistants.

213 (n) Fourteenth Circuit Court District..... two (2)
214 legal assistants.

215 (o) Fifteenth Circuit Court District..... two (2)
216 legal assistants.

217 (p) Sixteenth Circuit Court District..... two (2)
218 legal assistants.

219 (q) Seventeenth Circuit Court District..... two (2)
220 legal assistants.

221 (r) Eighteenth Circuit Court District..... two (2)
222 legal assistants.

223 (s) Nineteenth Circuit Court District..... two (2)
224 legal assistants.

225 (t) Twentieth Circuit Court District..... two (2)

226 legal assistants.

227 (u) Twenty-first Circuit Court District.... two (2)

228 legal assistants.

229 (v) Twenty-second Circuit Court District... two (2)

230 legal assistants.

231 (3) The board of supervisors of any county may pay all or a
232 part of the salary, supplemental pay, expenses and fringe benefits
233 of any district attorney or legal assistant authorized in the
234 circuit court district to which such county belongs pursuant to
235 this section.

236 (4) The district attorney of any circuit court district may
237 employ additional legal assistants or criminal investigators, or
238 both, without regard to any limitation on the number of legal
239 assistants authorized in this section or criminal investigators
240 authorized by other provisions of law to the extent that the
241 district attorney's office receives federal funds which may be
242 expended for those positions in an amount sufficient to pay all of
243 the salary, supplemental pay, expenses and fringe benefits of the
244 positions. Such funds shall be transferred by the district
245 attorney to the Department of Finance and Administration, which
246 shall disburse the funds to such employees in the same manner as
247 state-funded criminal investigators and full-time legal
248 assistants.

249 (5) Legal assistants may be provided for the Seventh and
250 Twentieth Circuit Court Districts as provided in Section 1 of this
251 act.

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