

By: Representative Blackmon

To: Judiciary A;
Appropriations

HOUSE BILL NO. 1498

1 AN ACT TO AMEND SECTION 25-32-71, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REPEALER ON THE PUBLIC DEFENDERS TASK FORCE; TO
3 AMEND SECTION 99-40-1, MISSISSIPPI CODE OF 1972, TO CREATE THE
4 DIVISION OF PUBLIC DEFENDER TRAINING IN THE OFFICE OF INDIGENT
5 APPEALS AND TO PROVIDE FOR THE MISSION AND DUTIES OF THE DIVISION;
6 TO CREATE THE PUBLIC DEFENDERS EDUCATION FUND IN THE STATE
7 TREASURY AND TO PROVIDE FOR THE ADMINISTRATION AND USE OF THE
8 FUND; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO
9 PROVIDE FOR A CRIMINAL ASSESSMENT ON CERTAIN CRIMES TO FUND THE
10 PUBLIC DEFENDERS TRAINING FUND; AND FOR RELATE PURPOSES.

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

12 **SECTION 1.** Section 25-32-71, Mississippi Code of 1972, is
13 amended as follows:

14 25-32-71. (1) There is created the Mississippi Public
15 Defender Task Force which shall be composed of eleven (11) members
16 as follows:

17 (a) The President of the Mississippi Public Defender
18 Association, or his designee;

19 (b) The President of the Mississippi Prosecutors
20 Association, or his designee;

21 (c) A representative of the Administrative Office of
22 Courts;

23 (d) A representative of the Mississippi Supreme Court;

24 (e) A representative of the Conference of Circuit
25 Judges;

26 (f) A representative of the Mississippi Attorney
27 General's Office;

28 (g) A representative of the Mississippi Association of
29 Supervisors;

30 (h) The Chairman of the Senate Judiciary Committee, or
31 his designee;

(i) The Chairman of the Senate Appropriations Committee, or his designee;

(j) The Chairman of the House Judiciary En Banc Committee, or his designee;

(k) The Chairman of the House Appropriations Committee, or his designee.

(2) At its first meeting, the task force shall elect a chairman and vice chairman from its membership and shall adopt rules for transacting its business and keeping records. Members of the task force shall receive a per diem in the amount provided in Section 25-3-69 for each day engaged in the business of the task force. Members of the task force other than the legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41 and the legislative members of the task force shall receive the expense allowance provided for in Section 5-1-47.

(3) The duties of the task force shall be to:

(a) Make a comprehensive study of the needs by circuit court districts for state-supported indigent defense counsel, examining existing public defender programs. Reports shall be provided to the Legislature each year at least one (1) month before the convening of the regular session.

(b) Examine and study approaches taken by other states in the implementation and costs of state-supported indigent criminal cases.

(c) To study the relationship between presiding circuit court judges and the appointment of criminal indigent defense counsel.

* * *

SECTION 2. Section 99-40-1, Mississippi Code of 1972, is amended as follows:

64 99-40-1. (1) There is created the Mississippi Office of
65 Indigent Appeals. This office shall consist of six (6) attorneys,
66 two (2) secretaries/paralegals and one (1) financial assistant.
67 One (1) of the attorneys shall serve as director of the office.
68 The director shall be appointed by the Governor and shall serve
69 for a term of four (4) years. The remaining attorneys and other
70 staff shall be appointed by the director and shall serve at the
71 will and pleasure of the director. The director and all other
72 attorneys in the office shall either be active members of The
73 Mississippi Bar, or, if a member in good standing of the bar of
74 another jurisdiction, must apply to and secure admission to The
75 Mississippi Bar within twelve (12) months of the commencement of
76 the person's employment by the office. The attorneys in the
77 office shall practice law exclusively for the office and shall not
78 engage in any other practice. The office shall not engage in any
79 litigation other than that related to the office. The salary for
80 the director shall be equivalent to the salary of district
81 attorneys and the salary of the other attorneys in the office
82 shall be equivalent to the salary of an assistant district
83 attorney.

84 (2) The office shall provide representation on appeal for
85 indigent persons convicted of felonies but not under sentences of
86 death. Representation shall be provided by staff attorneys, or,
87 in the case of conflict or excessive workload, by attorneys
88 selected, employed and compensated by the office on a contract
89 basis. All fees charged by contract counsel and expenses incurred
90 by attorneys in the office and contract counsel must be approved
91 by the court. At the sole discretion of the director, the office
92 may also represent indigent juveniles adjudicated delinquent on
93 appeals from a county court or chancery court to the Mississippi
94 Supreme Court and/or the Mississippi Court of Appeals. The office
95 shall provide advice, education and support to attorneys
96 representing persons under felony charges in the trial courts.

(3) There is created in the State Treasury a special fund to be known as the Indigent Appeals Fund. The purpose of the fund shall be to provide funding for the Mississippi Office of Indigent Appeals. Monies from the funds derived from assessments under Section 99-19-73 shall be distributed by the State Treasurer upon warrants issued by the Mississippi Office of Indigent Appeals. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

(a) Monies appropriated by the Legislature for the purposes of funding the Office of Indigent Appeals;

(b) The interest accruing to the fund;

(c) Monies received under the provisions of Section 99-19-73;

(d) Monies received from the federal government;

(e) Donations; and

(f) Monies received from such other sources as may be provided by law.

(4) There is created in the Office of Indigent Appeals the Division of Public Defendant Training. The division shall be staffed by any necessary personnel as determined and hired by the director. The mission of the division shall be to work closely with the Mississippi Public Defenders Association to provide training and services to public defenders practicing in all state, county and municipal courts. These services shall include, but not be limited to, continuing legal education, case updates and legal research. The division shall provide (a) education and training for public defenders practicing in all state, county and municipal courts; (b) technical assistance for public defenders practicing in all state, county and municipal courts; and (c) current and accurate information for the Legislature pertaining to the needs of public defenders practicing in all state, county and municipal courts.

129 (5) There is created in the State Treasury a special fund to
130 be known as the Public Defenders Education Fund. The purpose of
131 the fund shall be to provide funding for the training of public
132 defenders. Monies from the funds derived from assessments under
133 Section 99-19-73 shall be distributed by the State Treasurer upon
134 warrants issued by the Mississippi Public Defenders Task Force.
135 The fund shall be a continuing fund, not subject to fiscal-year
136 limitations, and shall consist of:

- 137 (a) Monies appropriated by the Legislature for the
138 purposes of public defender training;
139 (b) The interest accruing to the fund;
140 (c) Monies received under the provisions of Section
141 99-19-73;
142 (d) Monies received from the federal government;
143 (e) Donations; and
144 (f) Monies received from such other sources as may be
145 provided by law.

146 **SECTION 3.** Section 99-19-73, Mississippi Code of 1972, is
147 amended as follows:

148 99-19-73. (1) **Traffic violations.** In addition to any
149 monetary penalties and any other penalties imposed by law, there
150 shall be imposed and collected the following state assessment from
151 each person upon whom a court imposes a fine or other penalty for
152 any violation in Title 63, Mississippi Code of 1972, except
153 offenses relating to the Mississippi Implied Consent Law (Section
154 63-11-1 et seq.) and offenses relating to vehicular parking or
155 registration:

FUND	AMOUNT
State Court Education Fund.....	\$ 1.50
State Prosecutor Education Fund.....	1.00
Vulnerable Adults Training,	
Investigation and Prosecution Trust Fund.....	.50
Child Support Prosecution Trust Fund.....	.50

162	Driver Training Penalty Assessment Fund.....	7.00
163	Law Enforcement Officers Training Fund.....	5.00
164	Spinal Cord and Head Injury Trust Fund	
165	(for all moving violations).....	6.00
166	Emergency Medical Services Operating Fund.....	15.00
167	Mississippi Leadership Council on Aging Fund.....	1.00
168	Law Enforcement Officers and Fire Fighters Death	
169	Benefits Trust Fund.....	.50
170	Law Enforcement Officers and Fire Fighters	
171	Disability Benefits Trust Fund.....	1.00
172	State Prosecutor Compensation Fund for the purpose	
173	of providing additional compensation for legal	
174	assistants to district attorneys.....	1.50
175	Crisis Intervention Mental Health Fund.....	10.00
176	Drug Court Fund.....	10.00
177	Capital Defense Counsel Fund.....	1.89
178	Indigent Appeals Fund.....	2.29
179	Capital Post-Conviction Counsel Fund.....	2.33
180	Victims of Domestic Violence Fund.....	.49
181	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
182	TOTAL STATE ASSESSMENT.....	\$ <u>68.50</u>

183 (2) **Implied Consent Law violations.** In addition to any
184 monetary penalties and any other penalties imposed by law, there
185 shall be imposed and collected the following state assessment from
186 each person upon whom a court imposes a fine or any other penalty
187 for any violation of the Mississippi Implied Consent Law (Section
188 63-11-1 et seq.):

189	FUND	AMOUNT
190	Crime Victims' Compensation Fund.....	\$ 10.00
191	State Court Education Fund.....	1.50
192	State Prosecutor Education Fund.....	1.00
193	Vulnerable Adults Training,	
194	Investigation and Prosecution Trust Fund.....	.50

195	Child Support Prosecution Trust Fund.....	.50
196	Driver Training Penalty Assessment Fund.....	22.00
197	Law Enforcement Officers Training Fund.....	11.00
198	Emergency Medical Services Operating Fund.....	15.00
199	Mississippi Alcohol Safety Education Program Fund....	5.00
200	Federal-State Alcohol Program Fund.....	10.00
201	Mississippi Crime Laboratory	
202	Implied Consent Law Fund.....	25.00
203	Spinal Cord and Head Injury Trust Fund.....	25.00
204	Capital Defense Counsel Fund.....	1.89
205	Indigent Appeals Fund.....	2.29
206	Capital Post-Conviction Counsel Fund.....	2.33
207	Victims of Domestic Violence Fund.....	.49
208	State General Fund.....	35.00
209	Law Enforcement Officers and Fire Fighters Death	
210	Benefits Trust Fund.....	.50
211	Law Enforcement Officers and Fire Fighters Disability	
212	Benefits Trust Fund.....	1.00
213	State Prosecutor Compensation Fund for the purpose	
214	of providing additional compensation for legal	
215	assistants to district attorneys.....	1.50
216	Crisis Intervention Mental Health Fund.....	10.00
217	Drug Court Fund.....	10.00
218	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
219	TOTAL STATE ASSESSMENT.....	<u>\$192.50</u>

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

226	FUND	AMOUNT
227	State Court Education Fund.....	\$ 1.50

228	State Prosecutor Education Fund.....	1.00
229	Law Enforcement Officers Training Fund.....	5.00
230	Hunter Education and Training Program Fund.....	5.00
231	State General Fund.....	30.00
232	Law Enforcement Officers and Fire Fighters Death	
233	Benefits Trust Fund.....	.50
234	Law Enforcement Officers and Fire Fighters Disability	
235	Benefits Trust Fund.....	1.00
236	State Prosecutor Compensation Fund for the purpose	
237	of providing additional compensation for legal	
238	assistants to district attorneys.....	1.00
239	Crisis Intervention Mental Health Fund.....	10.00
240	Drug Court Fund.....	10.00
241	Capital Defense Counsel Fund.....	1.89
242	Indigent Appeals Fund.....	2.29
243	Capital Post-Conviction Counsel Fund.....	2.33
244	Victims of Domestic Violence Fund.....	.49
245	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
246	TOTAL STATE ASSESSMENT.....	\$ <u>73.00</u>

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

252	FUND	AMOUNT
253	Statewide Litter Prevention Fund.....	\$ 25.00
254	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
255	TOTAL STATE ASSESSMENT.....	\$ <u>26.00</u>

256 (5) **Other misdemeanors.** In addition to any monetary
257 penalties and any other penalties imposed by law, there shall be
258 imposed and collected the following state assessment from each
259 person upon whom a court imposes a fine or other penalty for any
260 misdemeanor violation not specified in subsection (1), (2) or (3)

261 of this section, except offenses relating to vehicular parking or
262 registration:

263	FUND	AMOUNT
264	Crime Victims' Compensation Fund.....	\$ 10.00
265	State Court Education Fund.....	1.50
266	State Prosecutor Education Fund.....	1.00
267	Vulnerable Adults Training,	
268	Investigation and Prosecution Trust Fund.....	.50
269	Child Support Prosecution Trust Fund.....	.50
270	Law Enforcement Officers Training Fund.....	5.00
271	Capital Defense Counsel Fund.....	1.89
272	Indigent Appeals Fund.....	2.29
273	Capital Post-Conviction Counsel Fund.....	2.33
274	Victims of Domestic Violence Fund.....	.49
275	State General Fund.....	30.00
276	State Crime Stoppers Fund.....	1.50
277	Law Enforcement Officers and Fire Fighters Death	
278	Benefits Trust Fund.....	.50
279	Law Enforcement Officers and Fire Fighters Disability	
280	Benefits Trust Fund.....	1.00
281	State Prosecutor Compensation Fund for the purpose	
282	of providing additional compensation for legal	
283	assistants to district attorneys.....	1.50
284	Crisis Intervention Mental Health Fund.....	10.00
285	Drug Court Fund.....	8.00
286	Judicial Performance Fund.....	2.00
287	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
288	TOTAL STATE ASSESSMENT.....	\$ <u>81.00</u>

289 (6) **Other felonies.** In addition to any monetary penalties
290 and any other penalties imposed by law, there shall be imposed and
291 collected the following state assessment from each person upon
292 whom a court imposes a fine or other penalty for any felony

293 violation not specified in subsection (1), (2) or (3) of this
294 section:

295	FUND	AMOUNT
296	Crime Victims' Compensation Fund.....	\$ 10.00
297	State Court Education Fund.....	1.50
298	State Prosecutor Education Fund.....	1.00
299	Vulnerable Adults Training,	
300	Investigation and Prosecution Trust Fund.....	.50
301	Child Support Prosecution Trust Fund.....	.50
302	Law Enforcement Officers Training Fund.....	5.00
303	Capital Defense Counsel Fund.....	1.89
304	Indigent Appeals Fund.....	2.29
305	Capital Post-Conviction Counsel Fund.....	2.33
306	Victims of Domestic Violence Fund.....	.49
307	State General Fund.....	60.00
308	Criminal Justice Fund.....	50.00
309	Law Enforcement Officers and Fire Fighters Death	
310	Benefits Trust Fund.....	.50
311	Law Enforcement Officers and Fire Fighters Disability	
312	Benefits Trust Fund.....	1.00
313	State Prosecutor Compensation Fund for the purpose	
314	of providing additional compensation for legal	
315	assistants to district attorneys.....	1.50
316	Crisis Intervention Mental Health Fund.....	10.00
317	Drug Court Fund.....	10.00
318	<u>Public Defenders Education Fund.....</u>	<u>1.00</u>
319	TOTAL STATE ASSESSMENT.....	<u>\$159.50</u>

320 (7) If a fine or other penalty imposed is suspended, in
321 whole or in part, such suspension shall not affect the state
322 assessment under this section. No state assessment imposed under
323 the provisions of this section may be suspended or reduced by the
324 court.

325 (8) After a determination by the court of the amount due, it
326 shall be the duty of the clerk of the court to promptly collect
327 all state assessments imposed under the provisions of this
328 section. The state assessments imposed under the provisions of
329 this section may not be paid by personal check. It shall be the
330 duty of the chancery clerk of each county to deposit all such
331 state assessments collected in the circuit, county and justice
332 courts in such county on a monthly basis with the State Treasurer
333 pursuant to appropriate procedures established by the State
334 Auditor. The chancery clerk shall make a monthly lump-sum deposit
335 of the total state assessments collected in the circuit, county
336 and justice courts in such county under this section, and shall
337 report to the Department of Finance and Administration the total
338 number of violations under each subsection for which state
339 assessments were collected in the circuit, county and justice
340 courts in such county during such month. It shall be the duty of
341 the municipal clerk of each municipality to deposit all such state
342 assessments collected in the municipal court in such municipality
343 on a monthly basis with the State Treasurer pursuant to
344 appropriate procedures established by the State Auditor. The
345 municipal clerk shall make a monthly lump-sum deposit of the total
346 state assessments collected in the municipal court in such
347 municipality under this section, and shall report to the
348 Department of Finance and Administration the total number of
349 violations under each subsection for which state assessments were
350 collected in the municipal court in such municipality during such
351 month.

352 (9) It shall be the duty of the Department of Finance and
353 Administration to deposit on a monthly basis all such state
354 assessments into the proper special fund in the State Treasury.
355 The monthly deposit shall be based upon the number of violations
356 reported under each subsection and the pro rata amount of such
357 assessment due to the appropriate special fund. The Department of

358 Finance and Administration shall issue regulations providing for
359 the proper allocation of these special funds.

360 (10) The State Auditor shall establish by regulation
361 procedures for refunds of state assessments, including refunds
362 associated with assessments imposed before July 1, 1990, and
363 refunds after appeals in which the defendant's conviction is
364 reversed. The Auditor shall provide in such regulations for
365 certification of eligibility for refunds and may require the
366 defendant seeking a refund to submit a verified copy of a court
367 order or abstract by which such defendant is entitled to a refund.
368 All refunds of state assessments shall be made in accordance with
369 the procedures established by the Auditor.

370 **SECTION 4.** This act shall take effect and be in force from
371 and after July 1, 2007.