

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2714

1 AN ACT TO AMEND SECTION 45-2-1, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CERTAIN COUNTY LEVEL HOMELAND SECURITY PERSONNEL AS
3 POTENTIAL BENEFICIARIES UNDER THE DEATH BENEFITS TRUST FUND
4 ADMINISTERED BY THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTION
5 99-19-73, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
6 PURPOSES.

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

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

10 45-2-1. (1) Whenever used in this section, the term:

11 (a) "Covered individual" means any of the persons
12 specified in this paragraph (a) * * *; it does not include
13 employees of independent contractors. * * *

14 (i) A fire fighter who is trained for the
15 prevention and control of loss of life and property from fire or
16 other emergencies, assigned to fire-fighting activity and required
17 to respond to alarms and perform emergency actions at the location
18 of a fire, hazardous materials or other emergency incident; and
19 either employed by an employer as defined in this section or who
20 is a volunteer fire fighter;

21 (ii) A law enforcement officer who is a lawfully
22 sworn officer or employee of the state or any political
23 subdivision of the state whose duties require the officer or
24 employee to investigate, pursue, apprehend, arrest, transport or
25 maintain custody of persons who are charged with, suspected of
26 committing, or convicted of a crime, whether the officer is on
27 regular duty on full-time status, an auxiliary or reserve officer,
28 or is serving on a temporary or part-time status; or

29 (iii) The director or any staff member of a local
30 emergency management agency as that term is defined in Section
31 33-15-5 and who is employed by an employer as defined in this
32 section.

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

37 * * *

38 (2) (a) The Department of Public Safety shall make a
39 payment, as provided in this section, in the amount of Forty
40 Thousand Dollars (\$40,000.00) when a covered individual, while
41 engaged in the performance of the person's official duties, is
42 accidentally or intentionally killed or receives accidental or
43 intentional bodily injury that results in the loss of the covered
44 individual's life, provided that the killing is not the result of
45 suicide and that the bodily injury is not intentionally
46 self-inflicted.

47 * * *

48 (b) The payment provided * * * in this subsection shall
49 be made to the beneficiary who was designated in writing by the
50 covered individual, signed by the covered individual and delivered
51 to the employer during the covered individual's lifetime. If no
52 such designation is made, then the payment shall be made to the
53 surviving child or children and spouse in equal portions, and if
54 there is no surviving child or spouse, then to the parent or
55 parents. If a beneficiary is not designated and there is no
56 surviving child, spouse or parent, then the payment shall be made
57 to the covered individual's estate.

58 (c) The payment made in this subsection is in addition
59 to any workers' compensation or pension benefits and is exempt
60 from the claims and demands of creditors of the covered
61 individual.

62 (3) (a) There is established in the State Treasury a
63 special fund to be known as the Safety Officials Death Benefits
64 Trust Fund. The trust fund shall be funded by an initial
65 appropriation of Two Hundred Thousand Dollars (\$200,000.00), and
66 shall be comprised of any additional funds made available by the
67 Legislature or by donation, contribution, gift or any other
68 source.

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

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

78 (4) The Department of Public Safety shall be responsible for
79 the management of the trust fund and the disbursement of death
80 benefits authorized under this section. The Department of Public
81 Safety shall adopt rules and regulations necessary to implement
82 and standardize the payment of death benefits under this section,
83 to administer the trust fund created by this section and to carry
84 out the purposes of this section.

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

87 99-19-73. (1) **Traffic violations.** In addition to any
88 monetary penalties and any other penalties imposed by law, there
89 shall be imposed and collected the following state assessment from
90 each person upon whom a court imposes a fine or other penalty for
91 any violation in Title 63, Mississippi Code of 1972, except
92 offenses relating to the Mississippi Implied Consent Law (Section
93 63-11-1 et seq.) and offenses relating to vehicular parking or
94 registration:

95	FUND	AMOUNT
96	State Court Education Fund.....	\$ 1.50
97	State Prosecutor Education Fund.....	1.00
98	Vulnerable Adults Training,	
99	Investigation and Prosecution Trust Fund.....	.50
100	Child Support Prosecution Trust Fund.....	.50
101	Driver Training Penalty Assessment Fund.....	7.00
102	Law Enforcement Officers Training Fund.....	5.00
103	Spinal Cord and Head Injury Trust Fund	
104	(for all moving violations).....	6.00
105	Emergency Medical Services Operating Fund.....	15.00
106	Mississippi Leadership Council on Aging Fund.....	1.00
107	<u>Safety Officials</u> Death Benefits Trust Fund.....	.50
108	Law Enforcement Officers and Fire Fighters	
109	Disability Benefits Trust Fund.....	1.00
110	State Prosecutor Compensation Fund for the purpose	
111	of providing additional compensation for legal	
112	assistants to district attorneys.....	1.50
113	Crisis Intervention Mental Health Fund.....	10.00
114	Drug Court Fund.....	10.00
115	Capital Defense Counsel Fund.....	1.89
116	Indigent Appeals Fund.....	2.29
117	Capital Post-Conviction Counsel Fund.....	2.33
118	Victims of Domestic Violence Fund.....	.49
119	TOTAL STATE ASSESSMENT.....	\$ 67.50

120 (2) **Implied Consent Law violations.** In addition to any
121 monetary penalties and any other penalties imposed by law, there
122 shall be imposed and collected the following state assessment from
123 each person upon whom a court imposes a fine or any other penalty
124 for any violation of the Mississippi Implied Consent Law (Section
125 63-11-1 et seq.):

126	FUND	AMOUNT
127	Crime Victims' Compensation Fund.....	\$ 10.00

128	State Court Education Fund.....	1.50
129	State Prosecutor Education Fund.....	1.00
130	Vulnerable Adults Training,	
131	Investigation and Prosecution Trust Fund.....	.50
132	Child Support Prosecution Trust Fund.....	.50
133	Driver Training Penalty Assessment Fund.....	22.00
134	Law Enforcement Officers Training Fund.....	11.00
135	Emergency Medical Services Operating Fund.....	15.00
136	Mississippi Alcohol Safety Education Program Fund....	5.00
137	Federal-State Alcohol Program Fund.....	10.00
138	Mississippi Crime Laboratory	
139	Implied Consent Law Fund.....	25.00
140	Spinal Cord and Head Injury Trust Fund.....	25.00
141	Capital Defense Counsel Fund.....	1.89
142	Indigent Appeals Fund.....	2.29
143	Capital Post-Conviction Counsel Fund.....	2.33
144	Victims of Domestic Violence Fund.....	.49
145	State General Fund.....	35.00
146	<u>Safety Officials</u> Death Benefits Trust Fund.....	.50
147	Law Enforcement Officers and Fire Fighters Disability	
148	Benefits Trust Fund.....	1.00
149	State Prosecutor Compensation Fund for the purpose	
150	of providing additional compensation for legal	
151	assistants to district attorneys.....	1.50
152	Crisis Intervention Mental Health Fund.....	10.00
153	Drug Court Fund.....	10.00
154	TOTAL STATE ASSESSMENT.....	\$191.50

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

161	FUND	AMOUNT
162	State Court Education Fund.....	\$ 1.50
163	State Prosecutor Education Fund.....	1.00
164	Law Enforcement Officers Training Fund.....	5.00
165	Hunter Education and Training Program Fund.....	5.00
166	State General Fund.....	30.00
167	<u>Safety Officials</u> Death Benefits Trust Fund.....	.50
168	Law Enforcement Officers and Fire Fighters Disability	
169	Benefits Trust Fund.....	1.00
170	State Prosecutor Compensation Fund for the purpose	
171	of providing additional compensation for legal	
172	assistants to district attorneys.....	1.00
173	Crisis Intervention Mental Health Fund.....	10.00
174	Drug Court Fund.....	10.00
175	Capital Defense Counsel Fund.....	1.89
176	Indigent Appeals Fund.....	2.29
177	Capital Post-Conviction Counsel Fund.....	2.33
178	Victims of Domestic Violence Fund.....	.49
179	TOTAL STATE ASSESSMENT.....	\$ 72.00

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

185	FUND	AMOUNT
186	Statewide Litter Prevention Fund.....	\$ 25.00
187	TOTAL STATE ASSESSMENT.....	\$ 25.00

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

193 of this section, except offenses relating to vehicular parking or
 194 registration:

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

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

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

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

253 (8) After a determination by the court of the amount due, it
254 shall be the duty of the clerk of the court to promptly collect
255 all state assessments imposed under the provisions of this
256 section. The state assessments imposed under the provisions of
257 this section may not be paid by personal check. It shall be the
258 duty of the chancery clerk of each county to deposit all such

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

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

288 (10) The State Auditor shall establish by regulation
289 procedures for refunds of state assessments, including refunds
290 associated with assessments imposed before July 1, 1990, and
291 refunds after appeals in which the defendant's conviction is

292 reversed. The Auditor shall provide in such regulations for
293 certification of eligibility for refunds and may require the
294 defendant seeking a refund to submit a verified copy of a court
295 order or abstract by which such defendant is entitled to a refund.
296 All refunds of state assessments shall be made in accordance with
297 the procedures established by the Auditor.

298 **SECTION 3.** This act shall take effect and be in force from
299 and after July 1, 2007.