MISSISSIPPI LEGISLATURE REGULAR SESSION 2012

By: Representative Baria

To: Appropriations

HOUSE BILL NO. 1313

AN ACT TO AMEND SECTION 45-2-1, MISSISSIPPI CODE OF 1972, TO INCREASE FROM $65,000.00 TO $100,000.00 THE DEATH BENEFIT PAYABLE FROM THE LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS DEATH BENEFITS TRUST FUND FOR LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS KILLED IN THE LINE OF DUTY; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO INCREASE FROM FIFTY CENTS TO ONE DOLLAR THE CRIMINAL ASSESSMENT FOR THE LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS DEATH BENEFITS TRUST FUND, IMPOSED ON TRAFFIC VIOLATIONS, IMPLIED CONSENT LAW VIOLATIONS, GAME AND FISH LAW VIOLATIONS, LITTER LAW VIOLATIONS, CERTAIN MISDEMEANOR AND FELONY VIOLATIONS; AND FOR RELATED PURPOSES.

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

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

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

(a) "Covered individual" means a law enforcement officer or fire fighter as defined in this section when employed by an employer as defined in this section; it does not include employees of independent contractors. "Covered individual" also includes volunteer fire fighters.

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

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

(d) "Law enforcement officer" means any lawfully sworn officer or employee of the state or any political subdivision of the state whose duties require the officer or employee to investigate, pursue, apprehend, arrest, transport or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime, whether the officer is on regular duty on full-time status, an auxiliary or reserve officer, or is serving on a temporary or part-time status.

(2) (a) The Department of Public Safety shall make a payment, as provided in this section, in the amount of One Hundred Thousand Dollars ($100,000.00) when a law enforcement officer, while engaged in the performance of the person's official duties, is accidentally or intentionally killed or receives accidental or intentional bodily injury that results in the loss of the covered individual's life, provided that the killing is not the result of suicide and that the bodily injury is not intentionally self-inflicted.

(b) The Department of Public Safety shall make a payment, as provided in this section, in the amount of One Hundred Thousand Dollars ($100,000.00) when a fire fighter, while engaged in the performance of the person's official duties, is accidentally or intentionally killed or receives accidental or intentional bodily injury that results in loss of the covered individual's life, provided that the killing is not the result of suicide and that the bodily injury is not intentionally self-inflicted.

(c) The payment provided for in this subsection shall be made to the beneficiary who was designated in writing by the covered individual, signed by the covered individual and delivered to the employer during the covered individual's lifetime. If no such designation is made, then the payment shall be made to the surviving child or children and spouse in equal portions, and if there is no surviving child or spouse, then to the parent or

parents. If a beneficiary is not designated and there is no surviving child, spouse or parent, then the payment shall be made to the covered individual's estate.

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

(3) (a) There is established in the State Treasury a special fund to be known as the Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund. The trust fund shall be funded by an initial appropriation of Two Hundred Thousand Dollars ($200,000.00), and shall be comprised of any additional funds made available by the Legislature or by donation, contribution, gift or any other source.

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

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

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

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

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

FUND	AMOUNT
State Court Education Fund	$ 1.50
State Prosecutor Education Fund	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund	1.50
Child Support Prosecution Trust Fund	.50
Driver Training Penalty Assessment Fund	7.00
Law Enforcement Officers Training Fund	5.00
Spinal Cord and Head Injury Trust Fund (for all moving violations)	6.00
Emergency Medical Services Operating Fund	20.00
Mississippi Leadership Council on Aging Fund	1.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	1.00
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys	1.50
Crisis Intervention Mental Health Fund	10.00
Drug Court Fund	10.00
Capital Defense Counsel Fund	2.89
Indigent Appeals Fund	2.29
Capital Post-Conviction Counsel Fund	2.33
Victims of Domestic Violence Fund	.49

Public Defenders Education Fund.....	1.00
Domestic Violence Training Fund.....	1.00
Attorney General's Cyber-Crime Unit.....	2.50
TOTAL STATE ASSESSMENT.....	$ 80.50

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

FUND	AMOUNT
Crime Victims' Compensation Fund.....	$ 10.00
State Court Education Fund.....	1.50
State Prosecutor Education Fund.....	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	1.50
Child Support Prosecution Trust Fund.....	.50
Driver Training Penalty Assessment Fund.....	22.00
Law Enforcement Officers Training Fund.....	11.00
Emergency Medical Services Operating Fund.....	45.00
Mississippi Alcohol Safety Education Program Fund.....	5.00
Federal-State Alcohol Program Fund.....	10.00
Mississippi Crime Laboratory Implied Consent Law Fund.....	25.00
Spinal Cord and Head Injury Trust Fund.....	25.00
Capital Defense Counsel Fund.....	2.89
Indigent Appeals Fund.....	2.29
Capital Post-Conviction Counsel Fund.....	2.33
Victims of Domestic Violence Fund.....	.49
State General Fund.....	35.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	1.00
Law Enforcement Officers and Fire Fighters Disability	

Benefits Trust Fund	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys	1.50
Crisis Intervention Mental Health Fund	10.00
Drug Court Fund	10.00
Statewide Victims' Information and Notification System Fund	6.00
Public Defenders Education Fund	1.00
Domestic Violence Training Fund	1.00
Attorney General's Cyber-Crime Unit	2.50
TOTAL STATE ASSESSMENT	$235.50

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

FUND	AMOUNT
State Court Education Fund	$ 1.50
State Prosecutor Education Fund	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund	1.50
Law Enforcement Officers Training Fund	5.00
Hunter Education and Training Program Fund	5.00
State General Fund	30.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	1.00
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys	1.00

Crisis Intervention Mental Health Fund..... 10.00

Drug Court Fund..... 10.00

Capital Defense Counsel Fund..... 2.89

Indigent Appeals Fund..... 2.29

Capital Post-Conviction Counsel Fund..... 2.33

Victims of Domestic Violence Fund..... .49

Public Defenders Education Fund..... 1.00

Domestic Violence Training Fund..... 1.00

Attorney General's Cyber-Crime Unit..... 2.50

TOTAL STATE ASSESSMENT.....$ 80.50

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

FUND	AMOUNT
Statewide Litter Prevention Fund.....	$ 25.00
TOTAL STATE ASSESSMENT.....	$ 25.00

(5) **Speeding, reckless and careless driving violations.** In addition to any assessment imposed under subsection (1) or (2) of this section, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for driving a vehicle on a road or highway:

(a) At a speed that exceeds the posted speed limit by at least ten (10) miles per hour but not more than twenty (20) miles per hour.....$ 10.00

(b) At a speed that exceeds the posted speed limit by at least twenty (20) miles per hour but not more than thirty (30) miles per hour.....$ 20.00

(c) At a speed that exceeds the posted speed limit by thirty (30) miles per hour or more.....$ 30.00

(d) In violation of Section 63-3-1201, which is the offense of reckless driving.....$ 10.00

(e) In violation of Section 63-3-1213, which is the offense of careless driving.....$ 10.00

All assessments collected under this subsection shall be deposited into the Mississippi Trauma Care Systems Fund established under Section 41-59-75.

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

FUND	AMOUNT
Crime Victims' Compensation Fund	$ 10.00
State Court Education Fund	1.50
State Prosecutor Education Fund	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund	1.50
Child Support Prosecution Trust Fund	.50
Law Enforcement Officers Training Fund	5.00
Capital Defense Counsel Fund	2.89
Indigent Appeals Fund	2.29
Capital Post-Conviction Counsel Fund	2.33
Victims of Domestic Violence Fund	.49
State General Fund	30.00
State Crime Stoppers Fund	1.50
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	1.00
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	1.00
State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys	1.50

Crisis Intervention Mental Health Fund.....	10.00
Drug Court Fund.....	8.00
Judicial Performance Fund.....	2.00
Statewide Victims' Information and Notification System Fund.....	6.00
Public Defenders Education Fund.....	1.00
Domestic Violence Training Fund.....	1.00
Attorney General's Cyber-Crime Unit.....	2.50
Information Exchange Network Fund.....	4.00
TOTAL STATE ASSESSMENT.....	$ 98.00

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

FUND	AMOUNT
Crime Victims' Compensation Fund.....	$ 10.00
State Court Education Fund.....	1.50
State Prosecutor Education Fund.....	2.00
Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	1.50
Child Support Prosecution Trust Fund.....	.50
Law Enforcement Officers Training Fund.....	5.00
Capital Defense Counsel Fund.....	2.89
Indigent Appeals Fund.....	2.29
Capital Post-Conviction Counsel Fund.....	2.33
Victims of Domestic Violence Fund.....	.49
State General Fund.....	60.00
Criminal Justice Fund.....	50.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	1.00
Law Enforcement Officers and Fire Fighters Disability	

Benefits Trust Fund..... 1.00

State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys..... 1.50

Crisis Intervention Mental Health Fund..... 10.00

Drug Court Fund..... 10.00

Statewide Victims' Information and Notification System Fund..... 6.00

Public Defenders Education Fund..... 1.00

Domestic Violence Training Fund..... 1.00

Attorney General's Cyber-Crime Unit..... 2.50

Crime Laboratory DNA Identification System Fund..... 100.00

TOTAL STATE ASSESSMENT.....$272.50

(8) **Additional assessments on certain violations:**

(a) **Railroad crossing violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation involving railroad crossings under Section 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013 or 77-9-249:

Operation Lifesaver Fund.....$25.00

(b) **Drug violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation of Section 41-29-139:

Drug Evidence Disposition Fund.....$25.00

(9) If a fine or other penalty imposed is suspended, in whole or in part, such suspension shall not affect the state assessment under this section. No state assessment imposed under

the provisions of this section may be suspended or reduced by the court.

(10) After a determination by the court of the amount due, it shall be the duty of the clerk of the court to promptly collect all state assessments imposed under the provisions of this section. The state assessments imposed under the provisions of this section may not be paid by personal check. It shall be the duty of the chancery clerk of each county to deposit all such state assessments collected in the circuit, county and justice courts in such county on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The chancery clerk shall make a monthly lump-sum deposit of the total state assessments collected in the circuit, county and justice courts in such county under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the circuit, county and justice courts in such county during such month. It shall be the duty of the municipal clerk of each municipality to deposit all such state assessments collected in the municipal court in such municipality on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The municipal clerk shall make a monthly lump-sum deposit of the total state assessments collected in the municipal court in such municipality under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the municipal court in such municipality during such month.

(11) It shall be the duty of the Department of Finance and Administration to deposit on a monthly basis all such state assessments into the proper special fund in the State Treasury. The monthly deposit shall be based upon the number of violations

reported under each subsection and the pro rata amount of such assessment due to the appropriate special fund. The Department of Finance and Administration shall issue regulations providing for the proper allocation of these special funds.

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2012.