MISSISSIPPI LEGISLATURE REGULAR SESSION 2015

By: Representative Dixon To: Judiciary B

HOUSE BILL NO. 521

AN ACT TO AUTHORIZE A CRIME VICTIM OR THE VICTIM'S RELATIVE TO HIRE THEIR OWN ATTORNEY TO PARTICIPATE IN THE PROSECUTION OF THE CASE INVOLVING THE VICTIM; TO AMEND SECTION 25-31-11, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

SECTION 1. A crime victim or a crime victim's relative within the first degree shall be authorized to hire their own attorney to participate in and represent the interests of the victim in the prosecution of the case involving the victim. The attorney hired by the victim or victim's relative is authorized to participate in the case along with the prosecutor and in such participation the attorney is authorized to present evidence and make his own case necessary to obtain a conviction. The prosecutor shall not limit or control what the victim's attorney does to present his case or what evidence he presents.

SECTION 2. Section 25-31-11, Mississippi Code of 1972, is amended as follows:

25-31-11. (1) It shall be the duty of the district attorney to represent the state in all matters coming before the grand

juries of the counties within his district and to appear in the circuit courts and prosecute for the state in his district all criminal prosecutions and all civil cases in which the state or any county within his district may be interested; but if two (2) or more counties are adversely interested, the district attorney shall not represent either. Any district attorney may also institute and prosecute to final judgment or decree any case in the name of the state against any person or corporation for any violation of the Constitution or the laws of this state, in order to enforce any penalties, fines or forfeitures imposed by law in any court of his district having jurisdiction, with like effect as if the suit was instituted by the Attorney General.

(2) The district attorney may transfer any case handled by him to a county prosecuting attorney when charges in such case no longer constitute a felony.

(3) The validity of any judgment or sentence shall not be affected by the division of jurisdiction under this section, and no judgment or sentence may be reversed or modified upon the basis that the case was not processed according to this section.

(4) A county prosecuting attorney or municipal prosecuting attorney may be designated by the district attorney to appear on behalf of the district attorney pursuant to an agreement relating to appearances in certain courts or proceedings in the county of the county prosecuting attorney or in the municipality of the municipal prosecuting attorney. Such agreement shall be filed

with the circuit court clerk of any county where such agreement shall be operative. Such agreement shall be binding upon the district attorney and county prosecuting attorney or municipal prosecuting attorney until dissolved by either of them in writing upon five (5) days' notice.

(5) Where any statute of this state confers a jurisdiction, responsibility, duty, privilege or power upon a county attorney or county prosecuting attorney, either solely, jointly or alternatively with a district attorney, such county prosecuting attorney shall be responsible for the prosecution, handling, appearance, disposition or other duty conferred by such statute. Any such provision shall not be construed to bestow such responsibility, jurisdiction or power upon the district attorney where there is no elected county prosecuting attorney, and any such matter shall be handled pursuant to Section 19-3-49, Mississippi Code of 1972.

(6) The district attorney or his designated assistant, or the county prosecuting attorney or his designated assistant, shall assist the Attorney General in appeals from his district to the Mississippi Supreme Court and in other post judgment proceedings, and shall appear for oral argument before the Supreme Court when directed by the Supreme Court.

(7) The several district attorneys shall submit reports of revenues and expenditures and shall submit budget requests as required for State General Fund agencies. For purposes of budget

control, the several offices of district attorney shall be considered General Fund agencies and the budget and accounts of the several offices, including salaries, travel expenses, office expenses and any other expenditures or revenues, shall be consolidated for all districts as far as such consolidation is practical.

All revenue or funds allocated or expended by a district attorney, whether such funds are appropriated from state funds, or whether such funds are received from county funds, grants or otherwise, shall be reported to the Legislative Budget Office.

(8) A district attorney shall be authorized to assign the duties of employees regardless of the source of funding for such employees.

(9) A district attorney shall comply with the provisions of Section 1 of this act.

SECTION 3. This act shall take effect and be in force from and after July 1, 2015.