MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Watson

To: Judiciary A; Ways and Means

HOUSE BILL NO. 567

AN ACT TO AMEND SECTION 9-21-43, MISSISSIPPI CODE OF 1972, TO SPECIFY THE SOURCES OF FUNDING FOR THE CIVIL LEGAL ASSISTANCE FUND; TO BRING FORWARD SECTIONS 25-7-9, 25-7-13, 27-19-56.99 AND 27-19-56.135, MISSISSIPPI CODE OF 1972, WHICH SPECIFY CHANCERY AND CIRCUIT COURT FEES AND FEES FOR CERTAIN SPECIALIZED MOTOR VEHICLE LICENSE TAGS, FOR THE PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 9-21-43, Mississippi Code of 1972, is amended as follows:

9-21-43. (1) There is *** * *** created in the State Treasury a special fund designated as the Civil Legal Assistance Fund. The funds shall be administered by the Supreme Court through the Administrative Office of Courts. The special fund shall consist of monies that are directed to be paid into the fund by Sections 25-7-9, 25-7-13, 27-19-56.99 and 27-19-56.135, and any other monies made available for the fund by the Legislature. The Administrative Office of Courts may also accept monies from any public or private source for deposit into the fund. Money remaining in the fund at the end of a fiscal year shall not lapse

into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the *** * *** fund.

(2) All monies shall be allocated to only those organizations providing legal services to low income Mississippians. Furthermore, no monies from this fund shall be expended to provide legal services in matters currently prohibited by the Legal Services Corporation, Washington, D.C., and no funds shall be expended on persons who are not financially eligible to receive legal services as directed by the Legal Services Corporation, Washington, D.C.

(3) The monies appropriated shall be distributed to eligible legal services programs based on the percentage of poverty population within the program service area, consistent with the formula used by the Legal Services Corporation.

(4) Monies appropriated to the fund may be used to promote increased participation by the private bar in the delivery of legal services to the indigent through the Mississippi Volunteer Lawyers Project.

(5) Recipients of funds shall have the following duties:

(a) To develop, operate and administer programs within their respective service areas that provide free legal services to indigent clients involved in civil matters;

(b) To report annually to the Supreme Court, through the Administrative Office of Courts, on its activities, including

providing a copy of its annual audit that accounts for the use of the funds; and

(c) To refund annually all unused or uncommitted funds.

SECTION 2. Section 25-7-9, Mississippi Code of 1972, is brought forward as follows:

25-7-9. (1) The clerks of the chancery courts shall charge the following fees:

(a) For the act of certifying copies of filed documents, for each complete document.....$ 1.00

(b) (i) Recording each deed, will, lease, amendment, subordination, lien, release, cancellation, order, decree, oath, etc., per book and page listed where applicable, each deed of trust, or any other document, for the first five (5) pages..... $ 25.00

(ii) Each additional page.....$ 1.00

(c) (i) Recording oil and gas leases, cancellations, etc., including indexing in general indices; for the first five (5) pages.....$ 25.00

(ii) Recording each oil and gas assignment, amendment of assignment, release, etc., first five (5) pages.....$ 25.00

per additional assignee.....$ 18.00

(iii) Each additional page.....$ 1.00

(iv) Sectional index entries per section or subdivision lot.....$ 1.00

(v) Archive fee.....$ 1.00

(vi) Entering marginal notations, if requested on document or by cover letter, pertaining to the recording of any oil and gas document only per book and page.....$ 4.00

(d) (i) Furnishing copies of any papers of record or on file:

If performed by the clerk or his employee, per page.....$ .50

If performed by any other person, per page.....$ .25

(ii) Entering marginal notations on documents of record.....$ 1.00

(e) For each day's attendance on the board of supervisors, for himself and one (1) deputy, each.....$ 20.00

(f) For other services as clerk of the board of supervisors an allowance shall be made to him (payable semiannually at the July and January meetings) out of the county treasury, an annual sum not exceeding.....$3,000.00

(g) For each day's attendance on the chancery court, to be approved by the chancellor:

For the first chancellor sitting only, clerk and two (2) deputies, each.....$ 85.00

For the second chancellor sitting, clerk only.....$ 85.00

Provided that the fees herein prescribed shall be the total remuneration for the clerk and his deputies for attending chancery court.

(h) On order of the court, clerks and not more than two (2) deputies may be allowed five (5) extra days for each term of court for attendance upon the court to get up records.

(i) For public service not otherwise specifically provided for, the chancery court may by order allow the clerk to be paid by the county on the order of the board of supervisors, an annual sum not exceeding.....$5,000.00

(j) For each civil filing, to be deposited into the Civil Legal Assistance Fund.....$ 5.00

The chancery clerk shall itemize on the original document a detailed fee bill of all charges due or paid for filing, recording and abstracting same. No person shall be required to pay such fees until same have been so itemized, but those fees may be demanded before the document is recorded.

(2) The following fee shall be a total fee for all services performed by the clerk with respect to any civil case filed that includes, but is not limited to, divorce, alteration of birth or marriage certificate, removal of minority, guardianship or conservatorship, estate of deceased, adoption, land dispute injunction, settlement of small claim, contempt, modification, partition suit, or commitment, which shall be payable upon filing and shall accrue to the chancery clerk at the time of filing. The

clerk or his successor in office shall perform all duties set forth without additional compensation or fee.....$ 85.00

(3) For every civil case filed:

(a) An additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14.....$ 10.00

(b) An additional fee to be deposited to the credit of the Judicial System Operation Fund established in Section 9-21-45.....$ 40.00

(4) Cost of process shall be borne by the issuing party. Additionally, should the attorney or person filing the pleadings desire the clerk to pay the cost to the sheriff for serving process on one (1) person or more, or to pay the cost of publication, the clerk shall demand the actual charges therefor, at the time of filing.

SECTION 3. Section 25-7-13, Mississippi Code of 1972, is brought forward as follows:

25-7-13. (1) The clerks of the circuit court shall charge the following fees:

(a) Docketing, filing, marking and registering each complaint, petition and indictment.....$ 85.00

The fee set forth in this paragraph shall be the total fee for all services performed by the clerk up to and including entry of judgment with respect to each complaint, petition or

indictment, including all answers, claims, orders, continuances and other papers filed therein, issuing each writ, summons, subpoena or other such instruments, swearing witnesses, taking and recording bonds and pleas, and recording judgments, orders, fiats and certificates; the fee shall be payable upon filing and shall accrue to the clerk at the time of collection. The clerk or his successor in office shall perform all duties set forth above without additional compensation or fee.

(b) Docketing and filing each motion to renew judgment, notice of renewal of judgment, suggestion for a writ of garnishment, suggestion for a writ of execution and judgment debtor actions and issuing all process, filing and recording orders or other papers and swearing witnesses.....$ 35.00

(c) For every civil case filed, an additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14.....$ 10.00

(d) For every civil case filed, an additional fee to be deposited to the credit of the Judicial System Operation Fund established in Section 9-21-45.....$ 40.00

(2) Except as provided in subsection (1) of this section, the clerks of the circuit court shall charge the following fees:

(a) Filing and marking each order or other paper and recording and indexing same.....$ 2.00

(b) Issuing each writ, summons, subpoena, citation, capias and other such instruments.....$ 1.00

(c) Administering an oath and taking bond.....$ 2.00

(d) Certifying copies of filed documents, for each complete document.....$ 1.00

(e) Recording orders, fiats, licenses, certificates, oaths and bonds:

First page.....$ 2.00

Each additional page.....$ 1.00

(f) Furnishing copies of any papers of record or on file and entering marginal notations on documents of record:

If performed by the clerk or his employee,

per page.....$ 1.00

If performed by any other person,

per page.....$ .25

(g) Judgment roll entry.....$ 5.00

(h) Taxing cost and certificate.....$ 1.00

(i) For taking and recording application for marriage license, for filing and recording consent of parents when required by law, for filing and recording medical certificate, filing and recording proof of age, recording and issuing license, recording and filing returns.....$ 35.00

The clerk shall deposit Fourteen Dollars ($14.00) of each fee collected for a marriage license in the Victims of Domestic Violence Fund established in Section 93-21-117, on a monthly basis.

(j) For certified copy of marriage license and search of record, the same fee charged by the Bureau of Vital Statistics of the State Board of Health.

(k) For public service not particularly provided for, the circuit court may allow the clerk, per annum, to be paid by the county on presentation of the circuit court's order, the following amount.....$5,000.00

However, in the counties having two (2) judicial districts, such above allowance shall be made for each judicial district.

(l) For drawing jurors and issuing venire, to be paid by the county.....$ 5.00

(m) For each day's attendance upon the circuit court term, for himself and necessary deputies allowed by the court, each to be paid by the county.....$ 75.00

(n) Summons, each juror to be paid by the county upon the allowance of the court.....$ 1.00

(o) For issuing each grand jury subpoena, to be paid by the county on allowance by the court, not to exceed Twenty-five Dollars ($25.00) in any one (1) term of court.....$ 1.00

(p) For each civil filing, to be deposited into the Civil Legal Assistance Fund.....$ 5.00

(3) On order of the court, clerks and deputies may be allowed five (5) extra days for attendance upon the court to get up records.

(4) The clerk's fees in state cases where the state fails in the prosecution, or in cases of felony where the defendant is convicted and the cost cannot be made out of his estate, in an amount not to exceed Four Hundred Dollars ($400.00) in one (1) year, shall be paid out of the county treasury on approval of the circuit court, and the allowance thereof by the board of supervisors of the county. In counties having two (2) judicial districts, such allowance shall be made in each judicial district; however, the maximum thereof shall not exceed Eight Hundred Dollars ($800.00). Clerks in the circuit court, in cases where appeals are taken in criminal cases and no appeal bond is filed, shall be allowed by the board of supervisors of the county after approval of their accounts by the circuit court, in addition to the above fees, for making such transcript the rate of Two Dollars ($2.00) per page.

(5) The clerk of the circuit court may retain as his commission on all money coming into his hands, by law or order of the court, a sum to be fixed by the court not exceeding one-half of one percent (1/2 of 1%) on all such sums.

(6) For making final records required by law, including, but not limited to, circuit and county court minutes, and furnishing transcripts of records, the circuit clerk shall charge Two Dollars ($2.00) per page. The same fees shall be allowed to all officers for making and certifying copies of records or papers which they are authorized to copy and certify.

(7) The circuit clerk shall prepare an itemized statement of fees for services performed, cost incurred, or for furnishing copies of any papers of record or on file, and shall submit the statement to the parties or, if represented, to their attorneys within sixty (60) days. A bill for same shall accompany the statement.

SECTION 4. Section 27-19-56.99, Mississippi Code of 1972, is brought forward as follows:

27-19-56.99. (1) Any owner of a motor vehicle, who is a resident of this state, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, and upon payment of the road and bridge privilege taxes, ad valorem taxes and registration fees as prescribed by law for private carriers of passengers, pickup trucks and other noncommercial motor vehicles, and upon payment of an additional annual fee in the amount provided in subsection (3) of this section, shall be issued a special license tag for each motor vehicle registered in his name identifying such person as a supporter of the Civil Legal Assistance Fund. The distinctive license tags so issued shall be of such color and design as the Department of Revenue, with the advice of the Administrative Office of Courts, may prescribe, and shall consist of such letters or numbers, or both, as may be necessary to distinguish each license tag.

(2) Application for the distinctive license tags authorized by this section shall be made to the county tax collector on forms

prescribed by the Department of Revenue. The application and the additional fee imposed under subsection (3) of this section, less Two Dollars ($2.00) thereof to be retained by the tax collector, shall be remitted to the Department of Revenue on a monthly basis as prescribed by the department. The portion of the additional fee retained by the tax collector shall be deposited into the county general fund.

(3) Beginning with any registration year commencing on or after July 1, 2004, any person applying for a distinctive license tag under this section shall pay an additional fee in the amount of Thirty Dollars ($30.00) for each distinctive license tag applied for under this section, which shall be in addition to all other taxes and fees. The additional fee paid shall be for a period of time to run concurrently with the vehicle's established license tag year. The additional fee is due and payable at the time the original application is made for a distinctive license tag under this section and thereafter annually at the time of renewal registration as long as the owner retains the distinctive license tag. If the owner does not wish to retain the distinctive license tag, he must surrender it to the local county tax collector.

(4) The Department of Revenue shall deposit all fees into the State Treasury on the day collected. At the end of each month, the Department of Revenue shall certify to the State Treasurer the total fees collected under this section from the

issuance of the distinctive license tags issued under this section. The State Treasurer shall distribute such collections as follows:

(a) Twenty-four Dollars ($24.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be disbursed to the Civil Legal Assistance Fund created under Section 9-21-43.

(b) One Dollar ($1.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be deposited into the Mississippi Burn Care Fund created pursuant to Section 7-9-70.

(c) Two Dollars ($2.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be deposited to the credit of the State Highway Fund to be expended solely for the repair, maintenance, construction or reconstruction of highways.

(d) One Dollar ($1.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be deposited to the credit of the special fund created in Section 27-19-44.2.

(5) A regular license tag must be properly displayed as required by law until replaced by a distinctive license tag under this section. The regular license tag must be surrendered to the tax collector upon issuance of the distinctive license tag under this section. The tax collector shall issue up to two (2) license

decals for each distinctive license tag issued under this section, which will expire the same month and year as the regular license tag.

(6) In the case of loss or theft of a distinctive license tag issued under this section, the owner may make application and affidavit for a replacement distinctive license tag as provided by Section 27-19-37. The fee for a replacement distinctive license tag shall be Ten Dollars ($10.00). The tax collector receiving such application and affidavit shall be entitled to retain and deposit into the county general fund five percent (5%) of the fee for such replacement license tag and the remainder shall be distributed proportionately in the same manner as funds from the sale of regular distinctive license tags issued under this section.

SECTION 5. Section 27-19-56.135, Mississippi Code of 1972, is brought forward as follows:

27-19-56.135. (1) Beginning with any registration year commencing on or after July 1, 2011, any owner of a motor vehicle who is a member of The Mississippi Bar, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, and upon payment of the road and bridge privilege taxes, ad valorem taxes and registration fees as prescribed by law for private carriers of passengers, pickup trucks and other noncommercial motor vehicles, and upon payment of an additional annual fee in the amount provided in subsection (3), shall be

issued a special license tag for each motor vehicle registered in his name identifying such person as an attorney. The distinctive license tags so issued shall be of such color and design as the Department of Revenue, with the advice of The Mississippi Bar and the Magnolia Bar Association, may prescribe, and shall consist of such letters or numbers, or both, as may be necessary to distinguish each license tag.

(2) Application for the distinctive license tags authorized by this section shall be made to the county tax collector on forms prescribed by the Department of Revenue. The applicant's bar identification card shall be presented at that time as proof of membership in The Mississippi Bar. The application and the additional fee imposed under subsection (3) of this section, less Two Dollars ($2.00) thereof to be retained by the tax collector, shall be remitted to the Department of Revenue on a monthly basis as prescribed by the department. The portion of the additional fee retained by the tax collector shall be deposited into the county general fund.

(3) Any person applying for a distinctive license tag under this section shall pay an additional fee in the amount of Thirty Dollars ($30.00) for each distinctive license tag applied for under this section, which shall be in addition to all other taxes and fees. The additional fee paid shall be for a period of time to run concurrently with the vehicle's established license tag year. The additional fee is due and payable at the time the

original application is made for a distinctive license tag under this section and thereafter annually at the time of renewal registration as long as the owner retains the distinctive license tag. If the owner does not wish to retain the distinctive license tag, he must surrender it to the local county tax collector.

(4) The Department of Revenue shall deposit all fees into the State Treasury on the day collected. At the end of each month, the Department of Revenue shall certify to the State Treasurer the total fees collected under this section from the issuance of the distinctive license tags issued under this section. The State Treasurer shall distribute such collections as follows:

(a) Twenty-four Dollars ($24.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be disbursed to the Mississippi Civil Legal Assistance Fund.

(b) One Dollar ($1.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be deposited into the Mississippi Burn Care Fund created pursuant to Section 7-9-70.

(c) Two Dollars ($2.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be deposited to the credit of the State Highway Fund to be expended solely for the repair, maintenance, construction or reconstruction of highways.

(d) One Dollar ($1.00) of each additional fee collected on distinctive license tags issued pursuant to this section shall be deposited to the credit of the special fund created in Section 27-19-44.2.

(5) A regular license tag must be properly displayed as required by law until replaced by a distinctive license tag under this section. The regular license tag must be surrendered to the tax collector upon issuance of the distinctive license tag under this section. The tax collector shall issue up to two (2) license decals for each distinctive license tag issued under this section, which will expire the same month and year as the regular license tag.

(6) In the case of loss or theft of a distinctive license tag issued under this section, the owner may make application and affidavit for a replacement distinctive license tag as provided by Section 27-19-37. The fee for a replacement distinctive license tag shall be Ten Dollars ($10.00). The tax collector receiving such application and affidavit shall be entitled to retain and deposit into the county general fund five percent (5%) of the fee for such replacement license tag and the remainder shall be distributed proportionately in the same manner as funds from the sale of regular distinctive license tags issued under this section.

(7) In order for a distinctive license tag to be issued under this section, the provisions of Section 27-19-44(3) must be satisfied for the distinctive license tag before July 1, 2014.

SECTION 6. This act shall take effect and be in force from and after July 1, 2021.

ST: Civil Legal Assistance Fund; specify funding to from certain sources.