MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representatives Ladner, Boyd, Williamson

To: Accountability, Efficiency, Transparency

HOUSE BILL NO. 595

AN ACT TO AMEND SECTION 25-5-1, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REMOVAL OF APPOINTED STATE OFFICERS FOR CERTAIN FORMS OF WILLFUL NEGLECT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-5-1, Mississippi Code of 1972, is amended as follows:

25-5-1. (1) If any public officer, state, district, county or municipal, shall be convicted or enter a plea of guilty or nolo contendere in any court of this state or any other state or in any federal court of any felony other than manslaughter or any violation of the United States Internal Revenue Code, of corruption in office or peculation therein, or of gambling or dealing in futures with money coming to his hands by virtue of his office, any court of this state, in addition to such other punishment as may be prescribed, shall adjudge the defendant removed from office; and the office of the defendant shall thereby become vacant. If any such officer be found by inquest to be of unsound mind during the term for which he was elected or

appointed, or shall be removed from office by the judgment of a court of competent jurisdiction or otherwise lawfully, his office shall thereby be vacated; and in any such case the vacancy shall be filled as provided by law.

(2) When any such officer is found guilty of a crime which is a felony under the laws of this state or which is punishable by imprisonment for one (1) year or more, other than manslaughter or any violation of the United States Internal Revenue Code, in a federal court or a court of competent jurisdiction of any other state, the Attorney General of the State of Mississippi shall promptly enter a motion for removal from office in the circuit court of Hinds County in the case of a state officer, and in the circuit court of the county of residence in the case of a district, county or municipal officer. The court, or the judge in vacation, shall, upon notice and a proper hearing, issue an order removing such person from office and the vacancy shall be filled as provided by law.

(3) In addition to removal as the result of a criminal conviction, an appointed state officer may be removed, and the officer's position vacated, consistent with Article 6, Section 175 of the Constitution of 1890 in the following manner:

(a) The Governor, the State Auditor, the Senate or the House of Representatives, by resolution, may direct a complaint under this section to the Attorney General setting out willful neglect as grounds for removal.

(b) In addition to any common law definitions of willful neglect that may be recognized by the courts of this state, willful neglect shall also consist of:

(i) Failure by the officer to respond to a subpoena issued by a court, executive agency or legislative body;

(ii) Failure to comply with a court-ordered repayment of any funds that have been misspent, or failure to comply with an agreement with the State Auditor or the Attorney General to repay those funds; or

(iii) Failure to attend more than three (3) consecutive meetings of any board, commission or authority to which the officer has been appointed. For purposes of this subparagraph, an officer will not be considered present if the officer participated telephonically in a meeting.

(4) Upon receipt of the complaint or resolution, the Attorney General shall investigate the allegations against any appointed state officer, and if determined to be well-founded, shall petition the Hinds County Circuit Court, First Judicial District, for the removal of the officer. The court, or the judge in vacation, shall, upon notice and a proper hearing, issue an order removing the person from office and the vacancy shall be filled as provided by law.

(5) Any officer removed by authority of this section shall be barred from future service in any position that requires

appointment by the Governor, the Lieutenant Governor or any other officer in the executive branch of government.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.

ST: Appointed state officers; provide for the removal of for certain forms of willful neglect.