MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Bain

To: Judiciary B;
Appropriations

# HOUSE BILL NO. 795

AN ACT TO AMEND SECTION 9-7-5, MISSISSIPPI CODE OF 1972, TO REVISE THE COMPOSITION OF THE FIRST CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-7, MISSISSIPPI CODE OF 1972, TO CONFORM THE JUDGESHIPS OF THE FIRST CIRCUIT COURT DISTRICT TO THE PRECEDING SECTION; TO CREATE NEW SECTION 9-7-59, MISSISSIPPI CODE OF 1972, TO CREATE THE TWENTY-THIRD CIRCUIT COURT DISTRICT WITH CERTAIN COUNTIES THAT WERE FORMERLY IN THE FIRST CIRCUIT COURT DISTRICT; TO PROVIDE FOR JUDGES TO SERVE THE TWENTY-THIRD CIRCUIT COURT DISTRICT; TO PROVIDE FOR THE APPOINTMENT AND ELECTION OF THE DISTRICT ATTORNEY FOR THE NEWLY CREATED TWENTY-THIRD CIRCUIT COURT DISTRICT; TO AMEND SECTION 25-31-5, MISSISSIPPI CODE OF 1972, TO REVISE THE NUMBER OF LEGAL ASSISTANTS IN THE FIRST CIRCUIT COURT DISTRICT AND TO PROVIDE LEGAL ASSISTANTS FOR THE TWENTY-THIRD CIRCUIT COURT DISTRICT; TO AMEND SECTION 25-31-10, MISSISSIPPI CODE OF 1972, TO REVISE THE NUMBER OF CRIMINAL INVESTIGATORS FOR DISTRICT ATTORNEYS TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 9-7-5, Mississippi Code of 1972, is amended as follows:

9-7-5. The First Circuit Court District is composed of the following counties:

(a) Alcorn County;

*** * ***

( *** * ***b) Prentiss County; and

( * * *c) Tishomingo County.

**SECTION 2.** Section 9-7-7, Mississippi Code of 1972, is amended as follows:

9-7-7. (1) There shall be * * * two (2) judges for the First Circuit Court District.

(2) The * * * two (2) judgeships shall be separate and distinct and denominated for purposes of appointment and election only as "Place One * * *" and "Place Two * * *."

(3) The judges for the First Circuit Court District as it was reconstituted on July 1, 2020, shall be as follows:

(a) The judge to fill Place One * * * must be the judge who was elected to the office of circuit judge in the "Place One" position in the First Circuit Court District in the November 2018 judicial election, if the judge remains a resident of Alcorn, Prentiss or Tishomingo County and has not left office or been removed. If the judge does not remain a resident of Alcorn, Prentiss or Tishomingo County, does leave office or is removed, the vacancy must be filled as provided by Section 23-15-849.

* * *

(b) The vacancy created by virtue of this act in the Place Two position must be filled as provided in Section 23-15-849, and the person appointed by the Governor shall serve until the person elected at a special election held under that section takes office as provided in such section.

**SECTION 3.** The following shall be codified as Section 9-7-59, Mississippi Code of 1972:

9-7-59. (1) The Twenty-third Circuit Court District is composed of the following counties:

(a) Itawamba County;

(b) Lee County;

(c) Monroe County; and

(d) Pontotoc County.

(2) There shall be three (3) judges for the Twenty-third Circuit Court District. For purposes of appointment and election, the three (3) judgeships shall be separate and distinct and denominated for purposes of appointment and election only as "Place One," "Place Two" and "Place Three."

(3) The judges for the Twenty-third Circuit Court District as it is created on July 1, 2020, shall be as follows:

(a) The initial holder of Place One must be that judge who was elected to the office of circuit judge of the First Circuit Court District in the November 2018 judicial election in the "Place Two" position, if the judge remains a resident of Itawamba, Lee, Monroe or Pontotoc County and has not left office or been removed. If the judge does not remain a resident of Lee, Itawamba, Monroe or Pontotoc County, does leave office or is removed, the vacancy must be filled as provided by Section 23-15-849.

(b) The initial holder of "Place Two" must be that judge who was elected to the office of circuit judge of the First Circuit Court District in the November 2018 judicial election in the "Place Three" position, if the judge remains a resident of Lee, Itawamba, Monroe or Pontotoc County and has not left office or been removed. If the judge does not remain a resident of Lee, Itawamba, Monroe or Pontotoc County, does leave office or is removed, the vacancy must be filled as provided by Section 23-15-849.

(c) The vacancy created by virtue of this act in the Place Three position must be filled as provided in Section 23-15-849, and the person appointed by the Governor shall serve until the person elected at the November 2020 regular special election takes office in January 2021.

**SECTION 4.** The office of district attorney created by virtue of this act for the Twenty-third Circuit Court District must be filled initially by appointment of the Governor as provided by Section 23-15-843, with such person remaining district attorney until a person is elected in the November 2020 general election. The person who is elected in the November 2020 general election shall take office in January 2021.

**SECTION 5.** Section 25-31-5, Mississippi Code of 1972, is amended as follows:

**[Until January 1, 2023, this section shall read as follows:]**

25-31-5. (1) The following number of full-time legal assistants are authorized in the following circuit court districts:

(a) First Circuit Court District..... * * *four (4) legal assistants.

(b) Second Circuit Court District..... ten (10) legal assistants.

(c) Third Circuit Court District..... five (5) legal assistants.

(d) Fourth Circuit Court District..... six (6) legal assistants.

(e) Fifth Circuit Court District..... five (5) legal assistants.

(f) Sixth Circuit Court District..... two (2) legal assistants.

(g) Seventh Circuit Court District.....eleven (11) legal assistants.

(h) Eighth Circuit Court District..... three (3) legal assistants.

(i) Ninth Circuit Court District..... three (3) legal assistants.

(j) Tenth Circuit Court District..... four (4) legal assistants.

(k) Eleventh Circuit Court District..... five (5) legal assistants.

(l) Twelfth Circuit Court District..... five (5) legal assistants.

(m) Thirteenth Circuit Court District..... four (4) legal assistants.

(n) Fourteenth Circuit Court District..... five (5) legal assistants.

(o) Fifteenth Circuit Court District..... six (6) legal assistants.

(p) Sixteenth Circuit Court District ..... five (5) legal assistants.

(q) Seventeenth Circuit Court District..... seven (7) legal assistants.

(r) Eighteenth Circuit Court District..... two (2) legal assistants.

(s) Nineteenth Circuit Court District..... six (6) legal assistants.

(t) Twentieth Circuit Court District..... six (6) legal assistants.

(u) Twenty-first Circuit Court District..... three (3) legal assistants.

(v) Twenty-second Circuit Court District..... three (3) legal assistants.

(w) Twenty-third Circuit Court District..... four (4) legal assistants.

(2) In addition to any legal assistants authorized pursuant to subsection (1) of this section, the following number of full-time legal assistants are authorized (i) in the following circuit court districts if funds are appropriated by the Legislature to adequately fund the salaries, expenses and fringe benefits of such legal assistants, or (ii) in any of the following circuit court districts in which the board of supervisors of one or more of the counties in a circuit court district adopts a resolution to pay all of the salaries, supplemental pay, expenses and fringe benefits of legal assistants authorized in such district pursuant to this subsection:

(a) First Circuit Court District..... two (2) legal assistants.

(b) Second Circuit Court District..... two (2) legal assistants.

(c) Third Circuit Court District..... two (2) legal assistants.

(d) Fourth Circuit Court District..... two (2) legal assistants.

(e) Fifth Circuit Court District..... two (2) legal assistants.

(f) Sixth Circuit Court District..... two (2) legal assistants.

(g) Seventh Circuit Court District..... two (2) legal assistants.

(h) Eighth Circuit Court District..... two (2) legal assistants.

(i) Ninth Circuit Court District..... two (2) legal assistants.

(j) Tenth Circuit Court District..... two (2) legal assistants.

(k) Eleventh Circuit Court District..... two (2) legal assistants.

(l) Twelfth Circuit Court District..... two (2) legal assistants.

(m) Thirteenth Circuit Court District..... two (2) legal assistants.

(n) Fourteenth Circuit Court District..... two (2) legal assistants.

(o) Fifteenth Circuit Court District..... two (2) legal assistants.

(p) Sixteenth Circuit Court District..... two (2) legal assistants.

(q) Seventeenth Circuit Court District..... two (2) legal assistants.

(r) Eighteenth Circuit Court District..... two (2) legal assistants.

(s) Nineteenth Circuit Court District..... two (2) legal assistants.

(t) Twentieth Circuit Court District..... two (2)

legal assistants.

(u) Twenty-first Circuit Court District..... two (2) legal assistants.

(v) Twenty-second Circuit Court District..... two (2) legal assistants.

(w) Twenty-third Circuit Court District ..... two (2) legal assistants.

(3) The board of supervisors of any county may pay all or a part of the salary, supplemental pay, expenses and fringe benefits of any district attorney or legal assistant authorized in the circuit court district to which such county belongs pursuant to this section.

(4) The district attorney of any circuit court district may employ additional legal assistants or criminal investigators, or both, without regard to any limitation on the number of legal assistants authorized in this section or criminal investigators authorized by other provisions of law to the extent that the district attorney's office receives funds from any source. Any source shall include, but is not limited to, office generated funds, funds from a county, a combination of counties, a municipality, a combination of municipalities, federal funds, private grants or foundations, or by means of an Interlocal Cooperative Agreement authorized by Section 17-13-1 which may be expended for those positions in an amount sufficient to pay all of the salary, supplemental pay, expenses and fringe benefits of the

positions. Such funds may either be paid out of district attorney accounts, transferred by the district attorney to the Department of Finance and Administration or to one or more of the separate counties comprising the circuit court district, and said funds shall be disbursed to such employees in the same manner as state-funded criminal investigators and full-time legal assistants. The district attorney shall report to the board of supervisors of each county comprising the circuit court district the amount and source of the supplemental salary, expenses and fringe benefits, and the board in each county shall spread the same on its minutes. The district attorney shall also report such information to the Department of Finance and Administration which shall make such information available to the Legislative Budget Office.

(5) The district attorney shall be authorized to assign the duties of a legal assistant regardless of the source of funding for such legal assistants.

**[From and after January 1, 2023, this section shall read as follows:]**

25-31-5. (1) The following number of full-time legal assistants are authorized in the following circuit court districts:

(a) First Circuit Court District.....nine (9) legal assistants.

(b) Second Circuit Court District.....ten (10) legal assistants.

(c) Third Circuit Court District.....five (5) legal assistants.

(d) Fourth Circuit Court District.....six (6) legal assistants.

(e) Fifth Circuit Court District.....five (5) legal assistants.

(f) Sixth Circuit Court District.....two (2) legal assistants.

(g) Seventh Circuit Court District.....eleven (11) legal assistants.

(h) Eighth Circuit Court District.....three (3) legal assistants.

(i) Ninth Circuit Court District.....three (3) legal assistants.

(j) Tenth Circuit Court District.....four (4) legal assistants.

(k) Eleventh Circuit Court District.....five (5) legal assistants.

(l) Twelfth Circuit Court District.....five (5) legal assistants.

(m) Thirteenth Circuit Court District.....four (4) legal assistants.

(n) Fourteenth Circuit Court District.....five (5) legal assistants.

(o) Fifteenth Circuit Court District.....six (6) legal assistants.

(p) Sixteenth Circuit Court District.....five (5) legal assistants.

(q) Seventeenth Circuit Court District.....three (3) legal assistants.

(r) Eighteenth Circuit Court District.....two (2) legal assistants.

(s) Nineteenth Circuit Court District.....six (6) legal assistants.

(t) Twentieth Circuit Court District.....six (6) legal assistants.

(u) Twenty-first Circuit Court District.....three (3) legal assistants.

(v) Twenty-second Circuit Court District.....three (3) legal assistants.

(w) Twenty-third Circuit Court District .....four (4) legal assistants.

(2) In addition to any legal assistants authorized pursuant to subsection (1) of this section, the following number of full-time legal assistants are authorized (i) in the following circuit court districts if funds are appropriated by the Legislature to adequately fund the salaries, expenses and fringe

benefits of such legal assistants, or (ii) in any of the following circuit court districts in which the board of supervisors of one or more of the counties in a circuit court district adopts a resolution to pay all of the salaries, supplemental pay, expenses and fringe benefits of legal assistants authorized in such district pursuant to this subsection:

(a) First Circuit Court District.....two (2) legal assistants.

(b) Second Circuit Court District.....two (2) legal assistants.

(c) Third Circuit Court District.....two (2) legal assistants.

(d) Fourth Circuit Court District.....two (2) legal assistants.

(e) Fifth Circuit Court District.....two (2) legal assistants.

(f) Sixth Circuit Court District.....two (2) legal assistants.

(g) Seventh Circuit Court District.....two (2) legal assistants.

(h) Eighth Circuit Court District.....two (2) legal assistants.

(i) Ninth Circuit Court District.....two (2) legal assistants.

(j) Tenth Circuit Court District.....two (2) legal assistants.

(k) Eleventh Circuit Court District.....two (2) legal assistants.

(l) Twelfth Circuit Court District.....two (2) legal assistants.

(m) Thirteenth Circuit Court District.....two (2) legal assistants.

(n) Fourteenth Circuit Court District.....two (2) legal assistants.

(o) Fifteenth Circuit Court District.....two (2) legal assistants.

(p) Sixteenth Circuit Court District.....two (2) legal assistants.

(q) Seventeenth Circuit Court District.....two (2) legal assistants.

(r) Eighteenth Circuit Court District.....two (2) legal assistants.

(s) Nineteenth Circuit Court District.....two (2) legal assistants.

(t) Twentieth Circuit Court District.....two (2) legal assistants.

(u) Twenty-first Circuit Court District.....two (2) legal assistants.

(v) Twenty-second Circuit Court District.....two (2) legal assistants.

(w) Twenty-third Circuit Court District.....two (2) legal assistants.

(3) The board of supervisors of any county may pay all or a part of the salary, supplemental pay, expenses and fringe benefits of any district attorney or legal assistant authorized in the circuit court district to which such county belongs pursuant to this section.

(4) The district attorney of any circuit court district may employ additional legal assistants or criminal investigators, or both, without regard to any limitation on the number of legal assistants authorized in this section or criminal investigators authorized by other provisions of law to the extent that the district attorney's office receives funds from any source. Any source shall include, but is not limited to, office generated funds, funds from a county, a combination of counties, a municipality, a combination of municipalities, federal funds, private grants or foundations, or by means of an Interlocal Cooperative Agreement authorized by Section 17-13-1 which may be expended for those positions in an amount sufficient to pay all of the salary, supplemental pay, expenses and fringe benefits of the positions. Such funds may either be paid out of district attorney accounts, transferred by the district attorney to the Department of Finance and Administration or to one or more of the separate

counties comprising the circuit court district, and the funds shall be disbursed to such employees in the same manner as state-funded criminal investigators and full-time legal assistants. The district attorney shall report to the board of supervisors of each county comprising the circuit court district the amount and source of the supplemental salary, expenses and fringe benefits, and the board in each county shall spread the same on its minutes. The district attorney shall also report such information to the Department of Finance and Administration which shall make such information available to the Legislative Budget Office.

(5) The district attorney shall be authorized to assign the duties of a legal assistant regardless of the source of funding for such legal assistants.

**SECTION 6.** Section 25-31-10, Mississippi Code of 1972, is amended as follows:

**[Until January 1, 2023, this section shall read as follows:]**

25-31-10. (1) Any district attorney may appoint a full-time criminal investigator.

(2) The district attorneys of the First, Third, Fifth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth *** * ***, Twentieth and Twenty-third Circuit Court Districts may appoint one (1) additional full-time criminal investigator for a total of two (2) full-time criminal investigators.

(3) The district attorneys of the * * * Second, Fourth, Seventh and Nineteenth Circuit Court Districts may appoint two (2) additional full-time criminal investigators for a total of three (3) full-time criminal investigators.

(4) No district attorney or assistant district attorney shall accept any private employment, civil or criminal, in any matter investigated by such criminal investigators.

(5) The full and complete compensation for all public duties rendered by * * * the criminal investigators shall be not more than Fifty-nine Thousand Five Hundred Dollars ($59,500.00) per annum, to be determined at the discretion of the district attorney based upon the qualifications, education and experience of the criminal investigator, plus necessary travel and other expenses, to be paid in accordance with Section 25-31-8. However, the maximum salary under this subsection for a criminal investigator who has a law degree may be supplemented by the district attorney from other available funds, but not to exceed the maximum salary for a legal assistant to a district attorney.

(6) Any criminal investigator may be designated by the district attorney to attend the Law Enforcement Officers Training Program set forth in Section 45-6-1 et seq. * * * The total expenses associated with attendance by criminal investigators at the Law Enforcement Officers Training Program shall be paid out of the funds of the appropriate district attorney.

(7) The district attorney shall be authorized to assign the duties of criminal investigators regardless of the source of funding for such criminal investigators.

**[From and after January 1, 2023, this section shall read as follows:]**

25-31-10. (1) Any district attorney may appoint a full-time criminal investigator.

(2) The district attorneys of the First, Third, Fifth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Twentieth and Twenty-third Circuit Court Districts may appoint one (1) additional full-time criminal investigator for a total of two (2) full-time criminal investigators.

(3) The district attorneys of the *** * *** Second, Fourth, Seventh and Nineteenth Circuit Court Districts may appoint two (2) additional full-time criminal investigators for a total of three (3) full-time criminal investigators.

(4) No district attorney or assistant district attorney shall accept any private employment, civil or criminal, in any matter investigated by such criminal investigators.

(5) The full and complete compensation for all public duties rendered by the criminal investigators shall be not more than Fifty-nine Thousand Five Hundred Dollars ($59,500.00) per annum, to be determined at the discretion of the district attorney based upon the qualifications, education and experience of the criminal

investigator, plus necessary travel and other expenses, to be paid in accordance with Section 25-31-8. However, the maximum salary under this subsection for a criminal investigator who has a law degree may be supplemented by the district attorney from other available funds, but not to exceed the maximum salary for a legal assistant to a district attorney.

(6) Any criminal investigator may be designated by the district attorney to attend the Law Enforcement Officers Training Program set forth in Section 45-6-1 et seq. The total expenses associated with attendance by criminal investigators at the Law Enforcement Officers Training Program shall be paid out of the funds of the appropriate district attorney.

(7) The district attorney shall be authorized to assign the duties of criminal investigators regardless of the source of funding for such criminal investigators.

**SECTION 7.** This act shall take effect and be in force from and after July 1, 2021.