

Supreme Court seeks legislation if special session is called

Sept. 16, 2005

Mississippi Supreme Court Chief Justice James W. Smith Jr. on Friday, Sept. 16, asked Gov. Haley Barbour to add judicial issues to a special session agenda if the Governor calls a special session of the legislature.

Chief Justice Smith and Presiding Justice William L. Waller Jr. met with members of the Governor's staff on Friday to discuss possible legislation. Issues proposed for legislative consideration include:

- Adoption of a comprehensive case management and electronic filing system for court records;
- Tolling statutes of limitations and notice requirements for filing litigation;
- Authorization to conduct court proceedings in other venues;
- Consideration of a way to meet the need for jurors in areas where jury service would be a hardship to people displaced by the hurricane or unable to fulfill the civic obligation;
- Authorization for trial court judges to order clerks of courts to reduce or waive copying fees for court records needed by attorneys whose case files were destroyed;
- Authorization for additional funding for special judges if they are needed to assist courts hard hit by the hurricane.

The courts face numerous challenges in meeting the needs of the people whose lives and property were damaged by Hurricane Katrina.

Chief Justice Smith said, "I am most concerned with the victims and the immediate court needs such as guardianships, child support, estate matters and property rights."

Chancery Court records in Hancock and Jackson County were damaged by flooding from Hurricane Katrina. Chief Justice Smith said that the devastation caused by Hurricane Katrina demonstrates graphically the urgent need for a modern, fully developed capability for electronic data management and record storage. The plan proposed by the Supreme Court would include backup files in another location, such as the Administrative Office of Courts in Jackson.

"If all of these files had been stored with the AOC in Jackson, they could be instantaneously available to lawyers, judges and the public," Chief Justice Smith said. "Due to losses caused by Hurricane Katrina, the Court believes the importance of this project has been elevated and legislation should be submitted for the special session to fund this project."

The Mississippi Supreme Court in June adopted standards which will serve as the framework for developing a uniform statewide system of case management and electronic filing in state courts. A needs analysis is underway.

Several trial courts closed for days after the hurricane. Several trial court clerks are operating now at temporary locations. Chief Justice Smith asked for assistance from FEMA to acquire two double-wide trailers for temporary housing on behalf of the Chancery Clerk in Jackson County. Numerous lawyers suffered damage or destruction of their offices. Gulf Coast residents have been devastated by the storm.

Damage to courthouses and other issues related to the hurricane present issuers of where courts may convene to conduct business. Laws adopted in 1960 during the “Cold War” authorize municipal and county governments to conduct business at locations other than the seat of government “due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack.” The Supreme Court has suggested that those statutes, Mississippi Code 17-7-1 and 17-7-3, could be revised to include natural disasters and their effects on the judicial system.

The hurricane has affected the ability of lawyers and litigants to comply with notice requirements and with statutes of limitations for filing litigation. The Court is without authority to grant extensions to statute of limitations.

Chief Justice Smith said, “Venue and statute of limitations problems created by Hurricane Katrina must be examined by the Legislature for the possibility of extensions for lawyers and litigants affected by the hurricane.”

Trial judges in those storm-ravaged areas have said they can handle their case loads at this time.

Chief Justice Smith, “If that status were to change, obviously we are prepared to do whatever is necessary, including appointing special judges.” He noted that numerous active and retired judges from other parts of the state have offered their services to handle the cases, and some have said they will work for free. However, the fund to pay special judges may need an additional legislative appropriation.

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