

## **FOREWORD**

The Task Force enthusiastically accepted the legislative charge in Senate Bill 2567. The Task Force held numerous meetings and conducted nine public hearings throughout the State. As Chairman, I encouraged the members of the Task Force to separately address the mandated issues honestly, fairly and with the best interest of this State's citizens in mind. The members were admonished to avoid self-serving, personal or partisan considerations. I am pleased to report that the final recommendations reflect that the Task Force admirably set aside regional, political, personal and sometimes competing interests in reaching unanimous consent regarding all recommendations, without dissent.

In its charge to study and improve the justice court system, the Task Force realized it was imperative to consider input from the general public and to preserve the public's right to an efficient, honest and fair legal system. The Task Force sought and received opinions, both written and verbal, from various special interest groups which have direct involvement with the justice court system. More importantly, the Task Force conducted public hearings in multiple and diverse areas throughout the State. The public hearings were well attended by local citizens and elected officials, who expressed sincere and forthright opinions. Public hearings were held in: Adams, Attala, Forrest, Harrison, Hinds, Lauderdale, Lee, Leflore and Tate Counties.

Throughout these public hearings, there was a nearly unanimous sentiment expressed to maintain the justice court system as the "people's court." Nonetheless, a considerably smaller, but no less ardent, contingent of citizens expressed an opposing

viewpoint. These citizens opined that justice court judges should have advanced degrees, preferably a juris doctorate.

The ever persistent goal of the Task Force was to enhance the delivery of judicial services without introducing radical change. After thorough review and vigorous debate of issues from all sources, including, but not limited to, public opinion, special interest groups, concerns of individuals who work with and within the justice court system, statistical analysis, legal research, and finally, prayerful consideration, the Task Force offers its recommendations.

I commend each member of the Task Force for their patience, diligence and service.

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Justice Mike Randolph  
Mississippi Supreme Court  
Task Force Chairman

## QUALIFICATIONS

Article 6, Section 171 of the Mississippi Constitution establishes the minimum qualifications required for the election of a justice court judge. Currently, the Mississippi Constitution mandates that each county should have a competent number of justice court judges, with no less than two, and a candidate for justice court judge shall have resided for two years in the county preceding the election. Justice court judges shall hold office for a four year term.

The Mississippi Constitution requires justice court judges be a high school graduate or have a general equivalency diploma, unless elected to the office of justice of the peace prior to January 1, 1976.

### **Task Force Recommendation**

The Task Force recommends that individuals who seek qualification for justice court judge subsequent to the 2007 election<sup>1</sup> possess an Associate Degree from an accredited institution of learning as defined by the Legislature. The Task Force additionally recommends a work experience exception be made for individuals without an Associate Degree, but with substantial equivalent work experience in one of the following fields for a minimum of five years as a: (1) certified law enforcement officer; (2) certified paralegal; or (3) court clerk, deputy clerk, or court administrator.

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<sup>1</sup>Any justice court judge elected in 2007 or before will not be subject to any of the proposed qualifications.

The Task Force is further recommending that candidates for justice court judge be domiciled and reside within the judicial district of the county for which they seek office for a minimum of two years preceding the qualification date for that election.

These recommendations would require Constitutional amendments.

## **ELECTIONS**

Currently, most justice court judges are selected in party primaries seeking nomination of their political party for the post in the general state election. Justice court judges are presently the only elected judges in the state which participate in partisan elections.<sup>2</sup> They are elected for a four year term.

### **Task Force Recommendation**

The Task Force recommends justice court judges remain in the general election cycle, and run for office when state and county general elections are conducted. However, the Task Force recommends candidates for justice court judge be removed from the party primary system and should seek election as non-partisan candidates, consistent with the spirit of the Nonpartisan Judicial Election Act.<sup>3</sup>

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<sup>2</sup>See Miss. Code Ann. § 23-15-191, Et. seq.

<sup>3</sup>See Miss. Code Ann. § 23-15-974, Et. seq.

## **TRAINING, DUTIES AND SERVICES**

The training justice court judges currently receive is mandated by Miss. Code Ann. Sects. 9-11-3 and 9-11-4. This training is conducted by the Mississippi Judicial College, and requires justice court judges to complete thirty-two (32) hours of training within six months of being elected and eighteen (18) hours of continuing education per year.

### **Task Force Recommendation**

The Task Force recommends legal and judicial training under the auspices of the Mississippi Judicial College should be increased to eighty (80) hours prior to assuming judicial office and twenty-four (24) hours of continuing education per year.

The Task Force also recommends justice court judges successfully complete a minimum competency exam prepared under the auspices of the Mississippi Judicial College and approved by the Mississippi Supreme Court, upon completion of the eighty hours of initial training. If an elected justice court judge fails to complete the exam or fails the exam, there should be a remedial twenty-four hour course, to be followed by successful completion of the minimum competency test before that judge could begin service. The judge will not receive compensation until a certificate of completion issued by the Mississippi Judicial College is filed with the office of chancery clerk of the county in which the justice court judge presides.

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Pursuant to Miss. Code Ann. Sect. 97-37-7(2), judges of the Mississippi Supreme Court and Court of Appeals, as well as circuit, chancery, county and municipal judges are permitted to carry a firearm or other suitable or appropriate weapon if they are in compliance with Miss. Code Ann. Sect. 45-6-11. Currently, neither the Mississippi Constitution, nor the laws of this State, provides a definitive statement for courtroom security for justice court judges, staff or litigants.

### **Task Force Recommendation**

It is recommended that justice court judges who comply with the training required by Miss. Code Ann. Sect. 45-6-11 be afforded the same privilege as other judges to carry a firearm or other suitable or appropriate weapons.

Furthermore, it is recommended that constables be required to provide courtroom security when court is in session, unless the county otherwise provides security under the direction of the sheriff of that county.

## **COMPENSATION**

Pursuant to Miss. Code Ann. Sect. 25-3-36, there are currently eleven different pay scales for justice court judges, ostensibly based upon the population of the county in which they serve, and in some cases, other factors. There was spirited discussion and thought provoking commentary on how salaries for justice court judges should be determined.

### **Task Force Recommendation**

The Task Force recommends the salary for justice court judges be commensurate to that of a supervisor in the same county in which the justice court judge presides. In order to prevent an increased burden on the state's less populated or financially disadvantaged counties, the Task Force recommends the Legislature supplement the justice court judges' salaries in those counties with monies received from fines, assessments and forfeitures which is presently diverted from court and law enforcement related needs.

## **JURISDICTIONAL AMOUNT**

Presently, Miss. Code Ann. Sect. 9-11-9 mandates that justice court judges shall have jurisdiction over civil actions which do not exceed \$2,500. Based on comments from the public, this number is no longer feasible due to inflation.

### **Task Force Recommendation**

The Task Force recommends the civil jurisdictional limit be increased to \$3,500.

The Task Force further recommends a claimant should have the election of whether they want to proceed in justice or county/circuit court. It is suggested there be concurrent jurisdiction with county or circuit court if an individual has a claim up to \$3,500. Additionally, a claimant should be given the right to voluntarily and irrevocably reduce the claim to \$3,500 in order to file in justice court.

## **JURY TRIALS**

Presently, jury trials are available upon demand in justice court.<sup>4</sup> A Constitutional right to a trial by jury does not currently exist for a “petty offense,” *i.e.*, a misdemeanor crime which carries a six months or less jail sentence, according to the United States Supreme Court.

### **Task Force Recommendation**

The Task Force recommends granting justice court judges the same discretion presently accorded to other trial courts to grant jury trials as is warranted by present statutory and constitutional law, as well as United States and Mississippi Supreme Court opinions related to demands for a jury trial.

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<sup>4</sup>*See* Miss. Code Ann. § 99-33-9; *See also* Miss. Const. Art. 3, § 31.

## **RULES OF PROCEDURE**

Uniform Rules of Procedure for Justice Court were adopted effective May 1, 1995, and have since been amended through June 1, 2007. The Rules will require no change by the Legislature. The Justice Court Judges Association will work closely with the Mississippi Supreme Court and the Supreme Court's Rules Advisory Committee to make the improvement to the rules of procedure for justice court.

Changes to the Uniform Rules of Procedure for Justice Court should also provide for the use of uniform forms throughout the State. This change was strongly favored by the Task Force, as well as citizens and officials who appeared at the public hearings.

### **Task Force Recommendation**

The Task Force does not recommend any change by the Legislature.