

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative DeLay

A Bill

HOUSE BILL 1209

For An Act To Be Entitled

"AN ACT TO PROVIDE FOR THE APPOINTING OF A SPECIAL PROSECUTING ATTORNEY UPON SHOWING OF PROBABLE CAUSE THAT A CRIMINAL ACT HAS BEEN COMMITTED AND THE PROSECUTING ATTORNEY HAS FAILED TO PROSECUTE THE OFFENDER; AND FOR OTHER PURPOSES."

Subtitle

"TO PROVIDE FOR THE APPOINTING OF A SPECIAL PROSECUTING ATTORNEY UPON SHOWING OF PROBABLE CAUSE THAT A CRIMINAL ACT HAS BEEN COMMITTED AND THE PROSECUTING ATTORNEY HAS FAILED TO PROSECUTE THE OFFENDER"

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. (a) When any person presents sufficient evidence in court before a circuit judge establishing probable cause that a criminal offense has been committed in that district and that the prosecuting attorney of that district has neglected or failed for any reason to prosecute the offender as required by law, then it shall be the duty of the court to appoint a proper person, being an attorney at law, to prosecute the offender for the state, and the appointed person, upon taking the oath of office as a special prosecuting attorney, shall have all the powers and shall perform the duties of the elected prosecuting attorney with regard to the offense established and related offenses established upon further investigation.

(b)(1) The person so appointed shall be entitled to receive compensation at the same rate on a hourly basis as the regular prosecuting

1 attorney, and shall be paid by the Treasurer of State out of money
2 appropriated for that purpose.

3 (2) It shall be the duty of the Auditor of State, on receiving
4 the certificate of the judge of the circuit court making the appointment of
5 the special prosecuting attorney and certifying the amount of time worked by
6 the special prosecuting attorney, to audit and allow the account and draw his
7 warrant on the Treasurer of State for the payment thereof.

8 (3) The amounts allowed in this subsection for the special
9 prosecuting attorney shall be deducted from the regular prosecuting
10 attorney's salary whenever a failure occurs on his part which is not
11 occasioned by sickness of himself or family.

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13 SECTION 2. All provisions of this act of a general and permanent
14 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
15 Code Revision Commission shall incorporate the same in the Code.

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17 SECTION 3. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

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23 SECTION 4. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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26 SECTION 5. EMERGENCY. It is hereby found and determined by the
27 General Assembly of the State of Arkansas that for the proper administration
28 of justice there needs to be a mechanism in place whereby a special
29 prosecutor can be appointed to prosecute criminal conduct which the elected
30 prosecuting attorney has neglected or failed to prosecute, and a mechanism in
31 place whereby a special prosecutor may be paid. Therefore, an emergency is
32 hereby declared to exist and this act being necessary for the immediate
33 preservation of the public peace, health, and safety, shall be in full force
34 and effect from and after its passage and approval.

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