



March 18, 2025

Adam B. Emerson, Esq.
Attorney, DeSoto County Board of Supervisors
5293 Getwell Road.
Southaven, Mississippi 38632

Re: New County Justice Center

Dear Mr. Emerson:

The Office of the Attorney General has received your request for an official opinion.

Background

The DeSoto County Board of Supervisors ("Board") is discussing building a new stand-alone facility near, or connected to, the county jail, to essentially serve as an additional courthouse ("Justice Center"). The Justice Center would be located more than one mile from the current, designated courthouse for DeSoto County. The Justice Center is anticipated to be used primarily for circuit court plea days and trials, additional chancery court space when needed, and as the primary office for the district attorney, his staff, and county public defenders. The Board believes locating the Justice Center next to the current jail will make transporting inmates much easier and safer. The Board also anticipates that the circuit clerk will need an office in the new building to facilitate court proceedings, and the chancery clerk may also need a presence at the Justice Center.

Questions Presented

1. Are there any county services or offices that must remain at the county courthouse?
2. Are there any issues with the Justice Center being located more than one mile from the courthouse?
3. May the circuit clerk have an office at the courthouse and an office at the Justice Center serving two separate functions?

4. May the chancery clerk have an office at the courthouse and an office at the Justice Center?
5. Are there any prohibitions on seating a jury for a circuit court trial outside of the courthouse?
6. May the Board determine and order that the current courthouse serve only chancery court/clerk functions and the new Justice Center serve only circuit court/clerk functions?
7. Can these changes to office location and functions be permitted by order of the Board?
8. Would the sitting circuit judges and chancellors need to sign a standing order relocating court proceedings to the Justice Center?

Brief Response

1. Mississippi Code Annotated Section 25-1-99 provides that the clerks of the circuit and chancery courts, among other county officials, shall keep their offices at the courthouse of their respective counties if offices shall be there provided for them. Section 19-3-11 requires the Board to hold meetings at the courthouse absent specific circumstances.
2. Section 25-1-99 provides that if offices are not provided for the chancery and circuit clerks at the courthouse, then their offices must be located within one-half (1/2) mile of the courthouses of their respective counties.
3. The Board may assign additional workspace for the circuit clerk at the Justice Center, but the clerk must maintain his or her primary office at the county courthouse so long as the Board provides such space at the courthouse.
4. See the response to your third question.
5. The jury selection process is managed by the county jury commission, under the supervision and control of the court. Miss Code Ann. § 13-5-6. Subject to Section 31 of the Mississippi Constitution of 1890, state law, and the Mississippi Rules of Civil and Criminal Procedure, the circuit court has jurisdiction over the jury trials in its own court. The Board is not the proper entity to impanel or otherwise “seat” a jury.
6. Subject to the geographic limitations of Section 25-1-99, the Board has the authority to assign courthouse space to the various county officials and may lawfully designate one building for chancery functions and one building for circuit functions.
7. See the response to your sixth question.
8. This office cannot opine to the requestor about the powers and duties of another individual or entity, which in this instance would be the circuit judges and chancellors. However, we refer you to the Mississippi Rules of Civil Procedure, the Mississippi Rules of Criminal Procedure, and any local court rules that the chancery or circuit district may have adopted.

Applicable Law and Discussion

As an initial matter, the scope of this opinion is limited to the prospective authority of the Board under state law. Pursuant to Sections 9-7-63 and 9-5-11, respectively, DeSoto County constitutes the entirety of the 23rd Circuit Court District and the entirety of Subdistrict 3-1 of the Third Chancery Court District. Therefore, nothing in our response should be construed as opining on the powers and duties of other boards of supervisors, judges, or chancery and/or circuit clerks.

As to your first and second questions, Section 25-1-99 provides in relevant part as follows:

The clerks of the circuit and chancery courts, the county superintendents of education, the county tax assessors, and the sheriffs *shall keep their offices at the courthouses of their respective counties if offices shall be there provided for them. If offices shall not be there provided for them, they shall keep their offices within one-half (1/2) mile of the courthouses of their respective counties*; except that the office of the county superintendent of education may be placed in the county in any other place determined by the county board of education to be most feasible, regardless of the distance from the courthouse.

(emphasis added).

It is clear from a reading of the foregoing statute that if the Board decides not to provide office space for the circuit or chancery clerks at the county courthouse, then the clerks must keep their offices within one-half mile of the courthouse.

Further, Section 19-3-11 provides that in counties with one court district, which includes DeSoto County, “the board of supervisors shall hold regular meetings at the courthouse or in the chancery clerk's office in those counties where the chancery clerk's office is in a building separate from the courthouse.” Miss. Code Ann. § 19-3-11. Such regular meeting may also be held in any other county-owned building, so long as the building is within one mile of the courthouse, and the Board provides 30 days’ notice to the public. *Id.*¹

Your third and fourth questions ask about office space for the circuit and chancery clerks at the Justice Center. The Board has “the power to allocate space in the courthouse and in the county office building.” *Tally v. Board of Sup’rs of Smith County*, 307 So. 2d 553, 556 (Miss. 1975). Consistent with that authority, the Board may assign such additional workspace to the circuit or chancery clerks at the new Justice Center as the Board sees fit. However, if the Board offers office space to either the chancery or circuit clerks in the county courthouse, then the clerk must keep his or her primary office in the courthouse. Miss. Code Ann. § 25-1-99. If the Board does not provide office space for either the circuit or chancery clerks at the courthouse, then the clerk must keep his or her office within one-half (1/2) mile of the courthouse. *Id.*

¹ An order of the board of supervisors, made in another place than in the courthouse, without legal excuse, is void. *State v. Harris*, 18 So. 123, 124 (Miss. 1895).

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As to your fifth question, the jury selection process is managed by the county jury commission, under the supervision and control of the court. *See* Miss Code Ann. § 13-5-6. Subject to Section 31 of the Mississippi Constitution of 1890, state law, and the Mississippi Rules of Civil and Criminal Procedure, the circuit court has jurisdiction over the jury trials in its own court. The Board of Supervisors is not the proper entity to impanel or otherwise “seat” a jury. As to whether there are any prohibitions against circuit judges seating a jury outside the courthouse, this office “cannot provide opinions to one entity regarding duties of another. . . .” MS AG Op., *Criswell* at *1 (Aug. 26, 2016).

Regarding your sixth and seventh questions, pursuant to its duty to erect and maintain a courthouse under Section 19-3-41 and its space-allocation authority under *Tally*, the Board may, by order spread upon its minutes, designate space for either exclusively chancery or exclusively circuit functions at the county courthouse, while assigning the other function to the new Justice Center. *See Tally*, 307 So. 2d at 506. However, such division of functions remains subject to the one-half (½) mile limitation for the offices of the circuit and chancery clerks articulated in Section 25-1-99. Further, if the Board divides and designates such functions, “such should be widely published and notice to that effect should be posted and maintained at the old [c]ourthouse for a reasonable time to ensure that the general public is aware of this change in practice.” MS AG Op., *Amos* at *1 (Dec. 22, 2000).

In response to your eighth question, we cannot opine to the Board about the powers and duties of the circuit judges and chancellors. *Criswell* at *1 (Aug. 26, 2016). For your general guidance, however, we refer you to court rules including the Mississippi Rules of Civil Procedure, the Mississippi Rules of Criminal Procedure, and any local court rules that the chancery or circuit district may have adopted.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Caleb A. Pracht

Caleb A. Pracht
Special Assistant Attorney General