



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 14, 2026

The Honorable Johnny DuPree
Senator, District 45
400 High Street
Jackson, Mississippi 39180

Re: Mississippi State Senator Serving as Justice Court Judge

Dear Senator DuPree:

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

Questions Presented

1. May a state senator run for a justice court judgeship and continue to serve in the Mississippi State Senate?
2. If elected as a justice court judge, may the senator continue to serve in the Mississippi State Senate?
3. If so, may the individual take a leave of absence from his or her judgeship while working during the legislative session?

Brief Response

1. A Mississippi state senator may *run* for a justice court judgeship and continue to serve in the Mississippi State Senate.
2. Upon *taking the oath* to serve as a justice court judge, however, the individual may not continue to serve in the Mississippi State Senate.
3. The response to question two renders this question moot.

Applicable Law and Discussion

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The scope of this opinion is limited to whether simultaneous service as a state senator and a Mississippi justice court judge violates the separation of powers doctrine. Should you wish to seek additional guidance, we would refer you to the Mississippi Ethics Commission and the Commission on Judicial Performance.

Article I, Sections 1 and 2 of the Mississippi Constitution of 1890 provide:

The powers of the government of the state of Mississippi shall be divided into three distinct departments, and each of them confided to a separate magistracy, to-wit: those which are legislative to one, those which are judicial to another, and those which are executive to another.

No person or collection of persons, being one or belonging to one of these departments, shall exercise any power properly belonging to either of the others. The acceptance of an office in either of said departments shall, of itself, and at once, vacate any and all offices held by the person so accepting in either of the other two departments.

We read Article I, Sections 1 and 2 of the Mississippi Constitution as prohibiting “a person [from] serving simultaneously in two separate branches of government. In essence, no officer of one branch of government may perform a function ‘at the core’ of the power properly belonging to either of the other two branches of government.” MS AG Op., *Abron* at *1 (June 21, 2004); *see also Dye v. State*, 507 So. 2d 332, 343 (Miss. 1987); MS AG Op., *Walker* at *1 (Nov. 2, 2001).

It is undeniable that members of the legislature exercise core powers in the legislative branch, and a justice court judge exercises a core judicial function. As such, an individual may not simultaneously hold both positions. MS AG Op., *Wolfe* at *1 (Jan. 19, 2007).

That said, an individual does not assume the core powers of an office until he or she has sworn the oath of office. MS AG Op., *Baker* at *1 (Nov. 21, 2008). Therefore, a Mississippi state senator may *run* for the office of justice court judge, but upon swearing the oath of office to serve as a judge, he or she automatically vacates the position of Mississippi state senator.

As to your third question, our response to question two renders this question moot.

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/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General