

By: Representatives Bozeman, Clarke, Flaggs, To: County Affairs  
Green (96th), Perkins, Straughter, Thornton,  
Wallace

HOUSE BILL NO. 1031  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 19-3-41 AND 25-7-27, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE ANY COUNTY THAT USES ITS OWN EMPLOYEES  
3 TO COLLECT ANY TYPE OF DELINQUENT PAYMENT OWED TO THE COUNTY TO  
4 COLLECT AN ADDITIONAL AMOUNT FOR THE COST OF COLLECTION; TO  
5 CLARIFY THE AUTHORITY OF COUNTIES TO EXERCISE CERTAIN DUTIES,  
6 PERFORM CERTAIN FUNCTIONS AND ADMINISTER CERTAIN PROGRAMS CREATED  
7 OR ESTABLISHED BY FEDERAL LAW; TO DELETE THE DATE OF REPEAL OF THE  
8 PROVISIONS OF LAW THAT AUTHORIZE A CONSTABLE TO RECEIVE PAYMENTS  
9 FOR COLLECTING DELINQUENT CRIMINAL FINES IN JUSTICE COURT; TO  
10 PROVIDE THAT A FEE SHALL BE ASSESSED TO COMPLAINING PARTIES WHO  
11 PROVIDE ERRONEOUS INFORMATION FOR SERVICE OF PROCESS IN CIVIL  
12 CASES; TO REVISE THE MILEAGE REIMBURSEMENT RATE PAID TO CONSTABLES  
13 FOR TRANSPORTING A PERSON CHARGED WITH A CRIME TO JAIL; AND FOR  
14 RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 SECTION 1. Section 19-3-41, Mississippi Code of 1972, as  
17 amended by House Bill No. 1411, 1999 Regular Session, is amended  
18 as follows:

19 19-3-41. (1) The boards of supervisors shall have within  
20 their respective counties full jurisdiction over roads, ferries  
21 and bridges, except as otherwise provided by Section 170 of the  
22 Constitution, and all other matters of county police. They shall  
23 have jurisdiction over the subject of paupers. They shall have  
24 power to levy such taxes as may be necessary to meet the demands  
25 of their respective counties, upon such persons and property as  
26 are subject to state taxes for the time being, not exceeding the  
27 limits that may be prescribed by law. They shall cause to be  
28 erected and kept in good repair, in their respective counties, a  
29 good and convenient courthouse and a jail. A courthouse shall be  
30 erected and kept in good repair in each judicial district and a  
31 jail may be erected in each judicial district. They may close a  
32 jail in either judicial district, at their discretion, where one  
33 (1) jail will suffice. They shall have the power, in their

34 discretion, to prohibit or regulate the sale and use of  
35 firecrackers, roman candles, torpedoes, skyrocketes, and any and  
36 all explosives commonly known and referred to as fireworks,  
37 outside the confines of municipalities. They shall have and  
38 exercise such further powers as are or shall be conferred upon  
39 them by law. They shall have authority to negotiate with and  
40 contract with licensed real estate brokers for the purpose of  
41 advertising and showing and procuring prospective purchasers for  
42 county-owned real property offered for sale in accordance with the  
43 provisions of Section 19-7-3.

44 (2) The board of supervisors of any county, in its  
45 discretion, may contract with a private attorney or private  
46 collection agent or agency to collect any type of delinquent  
47 payment owed to the county including, but not limited to, past due  
48 fees and fines, delinquent ad valorem taxes on personal property  
49 and delinquent ad valorem taxes on mobile homes that are entered  
50 as personal property on the mobile home rolls. Any such contract  
51 may provide for payment contingent upon successful collection  
52 efforts or payment based upon a percentage of the delinquent  
53 amount collected; however, the entire amount of all delinquent  
54 payments collected shall be remitted to the county and shall not  
55 be reduced by any collection costs or fees. There shall be due to  
56 the county from any person whose delinquent payment is collected  
57 pursuant to a contract executed under this subsection an amount,  
58 in addition to the delinquent payment, of not to exceed  
59 twenty-five percent (25%) of the delinquent payment for  
60 collections made within this state and not to exceed fifty percent  
61 (50%) of the delinquent payment for collections made outside of  
62 this state. However, in the case of delinquent fees owed to the  
63 county for garbage or rubbish collection or disposal, only the  
64 amount of the delinquent fees may be collected and no amount in  
65 addition to the delinquent fees may be collected if the board of  
66 supervisors of the county has notified the county tax collector  
67 under Section 19-5-22 for the purpose of prohibiting the issuance  
68 of a motor vehicle road and bridge privilege license tag to the  
69 person delinquent in the payment of such fees. Any private  
70 attorney or private collection agent or agency contracting with  
71 the county under the provisions of this subsection shall give bond

72 or other surety payable to the county in such amount as the board  
73 of supervisors deems sufficient. Any private attorney with whom  
74 the county contracts under the provisions of this subsection must  
75 be a member in good standing of The Mississippi Bar. Any private  
76 collection agent or agency with whom the county contracts under  
77 the provisions of this subsection must meet all licensing  
78 requirements for doing business in the State of Mississippi.  
79 Neither the county nor any officer or employee of the county shall  
80 be liable, civilly or criminally, for any wrongful or unlawful act  
81 or omission of any person or business with whom the county has  
82 contracted under the provisions of this subsection. The  
83 Mississippi Department of Audit shall establish rules and  
84 regulations for use by counties in contracting with persons or  
85 businesses under the provisions of this subsection.

86 (3) In addition to the authority granted under subsection  
87 (2) of this section, the board of supervisors of any county, in  
88 its discretion, may contract with one or more of the constables of  
89 the county to collect delinquent criminal fines imposed in the  
90 justice court of the county. Any such contract shall provide for  
91 payment contingent upon successful collection efforts, and the  
92 amount paid to a constable may not exceed twenty-five percent  
93 (25%) of the amount which the constable collects. The entire  
94 amount of all delinquent criminal fines collected under such a  
95 contract shall be remitted by the constable to the clerk of the  
96 justice court for deposit into the county general fund as provided  
97 under Section 9-11-19. Any payments made to a constable pursuant  
98 to a contract executed under the provisions of this section may be  
99 paid only after presentation to and approval by the board of  
100 supervisors of the county. \* \* \*

101 (4) If a county uses its own employees to collect any type  
102 of delinquent payment owed to the county, then from and after July  
103 1, 1999, the county may charge an additional fee for collection of  
104 the delinquent payment provided the payment has been delinquent  
105 for ninety (90) days. The collection fee may not exceed fifteen

106 percent (15%) of the delinquent payment if the collection is made  
107 within this state and may not exceed twenty-five percent (25%) of  
108 the delinquent payment if the collection is made outside this  
109 state.

110 (5) In addition to such authority as is otherwise granted  
111 under this section, the board of supervisors of any county may  
112 expend funds necessary to maintain and repair, and to purchase  
113 liability insurance, tags and decals for, any personal property  
114 acquired under the Federal Excess Personal Property Program that  
115 is used by the local volunteer fire department.

116 (6) The board of supervisors of any county may expend funds  
117 to purchase, maintain and repair equipment for the electronic  
118 filing and storage of filings, files, instruments, documents and  
119 records using microfilm, microfiche, data processing, magnetic  
120 tape, optical discs, computers or other electronic process which  
121 correctly and legibly stores and reproduces or which forms a  
122 medium for storage, copying or reproducing documents, files and  
123 records for use by one (1), all or any combination of county  
124 offices, employees and officials, whether appointed or elected.

125 (7) In addition to the authority granted in this section,  
126 the board of supervisors of any county may expend funds as  
127 provided in Section 29-3-23(2).

128 (8) The board of supervisors of any county may perform and  
129 exercise any duty, responsibility or function, may enter into  
130 agreements and contracts, may provide and deliver any services or  
131 assistance, and may receive, expend and administer any grants,  
132 gifts, matching funds, loans or other monies, in accordance with  
133 and as may be authorized by any federal law, rule or regulation  
134 creating, establishing or providing for any program, activity or  
135 service. The provisions of this paragraph shall not be construed  
136 as authorizing any county, the board of supervisors of any county  
137 or any member of a board of supervisors to perform any function or  
138 activity that is specifically prohibited under the laws of this  
139 state or as granting any authority in addition to or in conflict

140 with the provisions of any federal law, rule or regulation.

141 SECTION 2. Section 25-7-27, Mississippi Code of 1972, is  
142 amended as follows:

143 25-7-27. (1) Marshals and constables shall charge the  
144 following fees:

145 (a) A uniform total fee in all cases, civil and  
146 criminal, whether contested or uncontested, which shall include  
147 all services in connection therewith, except as hereinafter  
148 stated, each..... \$25.00

149 Provided, however, that in all cases where there is more than  
150 one (1) defendant, for service on each additional defendant.....  
151 ..... \$ 5.00

152 Provided further, that when a complaining party has provided  
153 erroneous information to the clerk of the court relating to the  
154 service of process on the defendant or defendants and process  
155 cannot be served after diligent search and inquiry, the uniform  
156 fee shall be assessed upon subsequent successful service and an  
157 additional fee shall be due in the following amount..... \$15.00

158 (b) Provided, however, that after final judgment has  
159 been enrolled, further proceedings involving levy of execution on  
160 judgments, and attachment and garnishment proceedings shall be a  
161 new suit for which the marshal or constable shall be entitled to  
162 the following fee..... \$25.00

163 (c) For conveying a person charged with a crime to  
164 jail, mileage reimbursement in an amount not to exceed the rate  
165 established under Section 25-3-41(2).

166 To be paid out of the county treasury on the allowance of the  
167 board of supervisors, when the state fails in the prosecution, or  
168 the person is convicted but is not able to pay the costs.

169 (d) For other service, the same fees allowed sheriffs  
170 for similar services.

171 (e) For service as a bailiff in any court in a civil  
172 case, to be paid by the county on allowance of the court on  
173 issuance of a warrant therefor, an amount equal to the per diem

174 compensation provided under Section 25-3-69 for each day, or part  
175 thereof, for which he serves as bailiff when the court is in  
176 session.

177           (f) For serving all warrants and other process,  
178 attending all trials in state cases in which the state fails in  
179 the prosecution, to be paid out of the county treasury on the  
180 allowance of the board of supervisors without itemization,  
181 subject, however, to the condition that the marshal or constable  
182 must not have overcharged in the collection of fees for costs,  
183 contrary to the provisions of this section, annually not to exceed  
184           \$1,000.00

185           (2) Marshals and constables shall be paid all uncollected  
186 fees levied under subsection (1) of this section in full from the  
187 first proceeds received by the court from the guilty party or from  
188 any other source of payment in connection with the case.

189           (3) In addition to the fees authorized to be paid to a  
190 constable under subsection (1) of this section, a constable may  
191 receive payments for collecting delinquent criminal fines in  
192 justice court pursuant to the provisions of Section  
193 19-3-41(3). \* \* \*

194           SECTION 3. Section 1 of this act shall take effect and be in  
195 force from and after its passage. Section 2 of this act shall  
196 take effect and be in force from and after July 1, 1999.