

By: Representatives Robinson (63rd), Banks, To: Municipalities  
Bozeman, Clarke, Coleman (65th), Wallace

## HOUSE BILL NO. 1074

1 AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE MUNICIPAL JUDGES TO DISMISS WARRANTS ISSUED FOR CONTEMPT  
3 OF COURT AFTER TEN YEARS OF UNSUCCESSFUL SERVICE AND WHICH  
4 INVOLVES LESS THAN FIVE HUNDRED DOLLARS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 21-23-7, Mississippi Code of 1972, is  
7 amended as follows:

8 21-23-7. (1) The municipal judge shall hold court in a  
9 public building designated by the governing authorities of the  
10 municipality and may hold court every day except Sundays and legal  
11 holidays if the business of the municipality so requires;  
12 provided, however, the municipal judge may hold court outside the  
13 boundaries of the municipality but not more than within a  
14 sixty-mile radius of the municipality to handle preliminary  
15 matters and criminal matters such as initial appearances and  
16 felony preliminary hearings. The municipal judge shall have the  
17 jurisdiction to hear and determine, without a jury and without a  
18 record of the testimony, all cases charging violations of the  
19 municipal ordinances and state misdemeanor laws made offenses  
20 against the municipality and to punish offenders therefor as may  
21 be prescribed by law. All criminal proceedings shall be brought  
22 by sworn complaint filed in the municipal court. Such complaint  
23 shall state the essential elements of the offense charged and the  
24 statute or ordinance relied upon. Such complaint shall not be  
25 required to conclude with a general averment that the offense is  
26 against the peace and dignity of the state or in violation of the  
27 ordinances of the municipality. He may sit as a committing court

28 in all felonies committed within the municipality, and he shall  
29 have the power to bind over the accused to the grand jury or to  
30 appear before the proper court having jurisdiction to try the  
31 same, and to set the amount of bail or refuse bail and commit the  
32 accused to jail in cases not bailable. The municipal judge is a  
33 conservator of the peace within his municipality. He may conduct  
34 preliminary hearings in all violations of the criminal laws of  
35 this state occurring within the municipality, and any person  
36 arrested for a violation of law within the municipality may be  
37 brought before him for initial appearance.

38 (2) In the discretion of the court, where the objects of  
39 justice would be more likely met, as an alternative to imposition  
40 or payment of fine and/or incarceration, the municipal judge shall  
41 have the power to sentence convicted offenders to work on a public  
42 service project where the court has established such a program of  
43 public service by written guidelines filed with the clerk for  
44 public record. Such programs shall provide for reasonable  
45 supervision of the offender and the work shall be commensurate  
46 with the fine and/or incarceration that would have ordinarily been  
47 imposed. Such program of public service may be utilized in the  
48 implementation of the provisions of Section 99-19-20, and public  
49 service work thereunder may be supervised by persons other than  
50 the sheriff.

51 (3) The municipal judge may solemnize marriages, take oaths,  
52 affidavits and acknowledgments, and issue orders, subpoenas,  
53 summonses, citations, warrants for search and arrest upon a  
54 finding of probable cause, and other such process under seal of  
55 the court to any county or municipality, in a criminal case, to be  
56 executed by the lawful authority of the county or the municipality  
57 of the respondent, and enforce obedience thereto. The absence of  
58 a seal shall not invalidate the process.

59 (4) When a person shall be charged with an offense in  
60 municipal court punishable by confinement, the municipal judge,  
61 being satisfied that such person is an indigent person and is  
62 unable to employ counsel, may, in the discretion of the court,  
63 appoint counsel from the membership of the Mississippi Bar  
64 residing in his county who shall represent him. Compensation for

65 appointed counsel in criminal cases shall be approved and allowed  
66 by the municipal judge and shall be paid by the municipality. The  
67 maximum compensation shall not exceed Two Hundred Dollars  
68 (\$200.00) for any one (1) case. The governing authorities of a  
69 municipality may, in their discretion, appoint a public  
70 defender(s) who must be a licensed attorney and who shall receive  
71 a salary to be fixed by the governing authorities.

72 (5) The municipal judge of any municipality is hereby  
73 authorized to suspend the sentence and to suspend the execution of  
74 the sentence, or any part thereof, on such terms as may be imposed  
75 by the municipal judge. However, the suspension of imposition or  
76 execution of a sentence hereunder may not be revoked after a  
77 period of two (2) years. The municipal judge shall have the power  
78 to establish and operate a probation program, dispute resolution  
79 program and other practices or procedures appropriate to the  
80 judiciary and designed to aid in the administration of justice.  
81 Any such program shall be established by the court with written  
82 policies and procedures filed with the clerk of the court for  
83 public record.

84 (6) Upon prior notice to the municipal prosecuting attorney  
85 and upon a showing in open court of rehabilitation, good conduct  
86 for a period of two (2) years since the last conviction in any  
87 court and that the best interest of society would be served, the  
88 court may, in its discretion, order the record of conviction of a  
89 person of any or all misdemeanors in that court expunged, and upon  
90 so doing the said person thereafter legally stands as though he  
91 had never been convicted of the said misdemeanor(s) and may  
92 lawfully so respond to any query of prior convictions. This order  
93 of expunction does not apply to the confidential records of law  
94 enforcement agencies and has no effect on the driving record of a  
95 person maintained under Title 63, Mississippi Code of 1972, or any  
96 other provision of said Title 63.

97 (7) Notwithstanding the provisions of subsection (6) of this

98 section, a person who was convicted in municipal court of a  
99 misdemeanor before reaching his twenty-third birthday, excluding  
100 conviction for a traffic violation, and who is a first offender,  
101 may utilize the provisions of Section 99-19-71, to expunge such  
102 misdemeanor conviction.

103 (8) In the discretion of the court, a plea of nolo  
104 contendere may be entered to any charge in municipal court. Upon  
105 the entry of a plea of nolo contendere the court shall convict the  
106 defendant of the offense charged and shall proceed to sentence the  
107 defendant according to law. The judgment of the court shall  
108 reflect that the conviction was on a plea of nolo contendere. An  
109 appeal may be made from a conviction on a plea of nolo contendere  
110 as in other cases.

111 (9) Upon execution of a sworn complaint charging a  
112 misdemeanor, the municipal court may, in its discretion and in  
113 lieu of an arrest warrant, issue a citation requiring the  
114 appearance of the defendant to answer the charge made against him.  
115 On default of appearance, an arrest warrant may be issued for the  
116 defendant. The clerk of the court or deputy clerk may issue such  
117 citations.

118 (10) The municipal court shall have the power to make rules  
119 for the administration of the court's business, which rules, if  
120 any, shall be in writing filed with the clerk of the court.

121 (11) The municipal court shall have the power to impose  
122 punishment of a fine of not more than One Thousand Dollars  
123 (\$1,000.00) or six (6) months' imprisonment, or both, for contempt  
124 of court. The municipal court shall have the power to impose  
125 reasonable costs of court, not in excess of the following:

126	Dismissal of any affidavit, complaint or charge	
127	in municipal court.....	\$15.00
128	Suspension of a minor's driver's license in lieu of	
129	conviction.....	50.00
130	Service of scire facias or return "not found".....	20.00

131 Causing search warrant to issue or causing prosecution  
 132 without reasonable cause or refusing to cooperate  
 133 after initiating action..... 100.00  
 134 Certified copy of the court record..... 5.00  
 135 Service of arrest warrant for failure to answer  
 136 citation or traffic summons..... 25.00  
 137 Jail cost per day..... 10.00  
 138 Any other item of court cost..... 50.00  
 139 No filing fee or such cost shall be imposed for the bringing  
 140 of an action in municipal court.

141 (12) A municipal court judge shall not dismiss a criminal  
 142 case but may transfer the case to the justice court of the county  
 143 if the municipal court judge is prohibited from presiding over the  
 144 case by the Canons of Judicial Conduct and provided that venue and  
 145 jurisdiction are proper in the justice court. Upon transfer of  
 146 any such case, the municipal court judge shall give the municipal  
 147 court clerk a written order to transmit the affidavit or complaint  
 148 and all other records and evidence in the court's possession to  
 149 the justice court by certified mail or to instruct the arresting  
 150 officer to deliver such documents and records to the justice  
 151 court. There shall be no court costs charged for the transfer of  
 152 the case to the justice court.

153 (13) A municipal court judge may expunge the record of any  
 154 case in which an arrest was made, the person arrested was released  
 155 and the case was dismissed or the charges were dropped or there  
 156 was no disposition of such case.

157 (14) A municipal court judge may dismiss any warrant issued  
 158 for contempt of court after ten (10) years of unsuccessful service  
 159 and if the warrant involves less than Five Hundred Dollars  
 160 (\$500.00).

161 SECTION 2. This act shall take effect and be in force from  
 162 and after July 1, 1999.