

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

HOUSE BILL NO. 1074
(As Passed the House)

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; TO INCREASE FROM FIFTEEN
5 DOLLARS TO FIFTY DOLLARS THE AMOUNT OF THE FEE CHARGED FOR THE
6 DISMISSAL OF ANY AFFIDAVIT, COMPLAINT OR CHARGE IN MUNICIPAL
7 COURT; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

62 (4) When a person shall be charged with an offense in
63 municipal court punishable by confinement, the municipal judge,
64 being satisfied that such person is an indigent person and is
65 unable to employ counsel, may, in the discretion of the court,

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

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

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

99 other provision of said Title 63.

100 (7) Notwithstanding the provisions of subsection (6) of this
101 section, a person who was convicted in municipal court of a
102 misdemeanor before reaching his twenty-third birthday, excluding
103 conviction for a traffic violation, and who is a first offender,
104 may utilize the provisions of Section 99-19-71, to expunge such
105 misdemeanor conviction.

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

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

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

124 (11) The municipal court shall have the power to impose
125 punishment of a fine of not more than One Thousand Dollars
126 (\$1,000.00) or six (6) months' imprisonment, or both, for contempt
127 of court. The municipal court shall have the power to impose
128 reasonable costs of court, not in excess of the following:

- 129 Dismissal of any affidavit, complaint or charge
- 130 in municipal court..... \$50.00
- 131 Suspension of a minor's driver's license in lieu of

132 conviction..... 50.00
 133 Service of scire facias or return "not found"..... 20.00
 134 Causing search warrant to issue or causing prosecution
 135 without reasonable cause or refusing to cooperate
 136 after initiating action..... 100.00
 137 Certified copy of the court record..... 5.00
 138 Service of arrest warrant for failure to answer
 139 citation or traffic summons..... 25.00
 140 Jail cost per day..... 10.00
 141 Any other item of court cost..... 50.00
 142 No filing fee or such cost shall be imposed for the bringing
 143 of an action in municipal court.

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

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

160 (14) A municipal court judge may dismiss any warrant issued
 161 for contempt of court after ten (10) years of unsuccessful service
 162 and if the warrant involves less than Five Hundred Dollars
 163 (\$500.00).

164 SECTION 2. This act shall take effect and be in force from

165 and after July 1, 1999.