

By: Holland

To: Judiciary B

HOUSE BILL NO. 25

1 AN ACT TO AMEND SECTIONS 21-23-7, 99-15-24, 99-15-25 AND  
2 99-33-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COURTS TO ACCEPT A  
3 GUILTY PLEA IN MISDEMEANOR CASES WITHOUT A COURT PROCEEDING; AND  
4 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 after initiating	
133	action.....	100.00
134	Certified copy of the court record.....	5.00
135	Service of arrest warrant for failure to answer citation or	
136	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 accept a plea of guilty to  
158 a misdemeanor offense and impose a fine without a court  
159 proceeding.

160 SECTION 2. Section 99-15-24, Mississippi Code of 1972, is  
161 amended as follows:

162 99-15-24. In criminal cases in circuit courts, unless  
163 otherwise provided by law, guilty pleas may be taken and motions  
164 may be heard in any county in the circuit court district that  
165 contains the county in which venue lies. Nothing in this section

166 shall be construed as affecting venue for the purpose of bringing  
167 indictments or the conducting of jury trials. A guilty plea for a  
168 misdemeanor offense may be accepted and a fine imposed without a  
169 court proceeding.

170 SECTION 3. Section 99-15-25, Mississippi Code of 1972, is  
171 amended as follows:

172 99-15-25. (1) Any person who is charged in any circuit or  
173 county court with the commission of a criminal offense by a proper  
174 affidavit, indictment or information in cases of misdemeanors or  
175 by indictment by the grand jury in cases of felonies, and who is  
176 represented by counsel, may, by his own election, appear before  
177 the judge of the court at such time as the said judge may fix in  
178 vacation of the court and be arraigned and enter a plea of guilty  
179 to the offense with which he is charged. Upon the entering of  
180 such plea of guilty, the judge shall have the power and authority  
181 to impose any lawful and proper sentence upon the defendant in  
182 vacation just as though the plea was entered and the sentence  
183 imposed during a regular term of the court. The judge may accept  
184 a plea of guilty to a misdemeanor offense and impose a fine  
185 without a court proceeding.

186 (2) All judgments and orders imposing sentences in vacation  
187 upon such pleas of guilty shall be entered upon the minutes of the  
188 proper court in vacation just as though same were had and entered  
189 during termtime.

190 SECTION 4. Section 99-33-3, Mississippi Code of 1972, is  
191 amended as follows:

192 99-33-3. On affidavit of the commission of any crime, of  
193 which the justice court has jurisdiction, lodged with the justice

194 court, the clerk shall, upon direction by a justice court judge of  
195 the county, issue a warrant for the arrest of the offender  
196 returnable forthwith or on a certain day to be named. The clerk,  
197 or the justice court judge to whom the case is assigned, shall  
198 issue subpoenas for witnesses as in civil cases, and the justice  
199 court judge shall try and dispose of the case according to law;  
200 and, on conviction, shall order such punishment to be inflicted as  
201 the law provides; provided, however, that no fine imposed shall be  
202 in an amount less than Fifteen Dollars (\$15.00). The justice  
203 court judge may accept a plea of guilty to a misdemeanor offense  
204 and impose a fine without a court proceeding.

205 SECTION 5. This act shall take effect and be in force from  
206 and after July 1, 2000.