

By: Representative Holland

To: Judiciary B

HOUSE BILL NO. 1122

1 AN ACT TO AMEND SECTION 97-19-67, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DOLLAR AMOUNT OF A BAD CHECK FOR DETERMINING WHETHER
3 THE OFFENSE IS A MISDEMEANOR OR FELONY; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 97-19-67, Mississippi Code of 1972, is
6 amended as follows:

7 97-19-67. (1) Except as may be otherwise provided by
8 subsection (2) of this section, any person violating Section
9 97-19-55, upon conviction, shall be punished as follows:

10 (a) For the first offense of violating said section,
11 where the check, draft or order involved be less than Two Hundred
12 Fifty Dollars (\$250.00), the person committing such offense shall
13 be guilty of a misdemeanor and, upon conviction, shall be punished
14 by a fine of not less than Twenty-five Dollars (\$25.00), nor more
15 than Five Hundred Dollars (\$500.00), or by imprisonment in the
16 county jail for a term of not less than five (5) days nor more
17 than six (6) months, or by both such fine and imprisonment, in the
18 discretion of the court;

19 (b) Upon commission of a second offense of violating
20 said section, where the check, draft or order involved is less
21 than Two Hundred Fifty Dollars (\$250.00), the person committing
22 such offense shall be guilty of a misdemeanor and, upon
23 conviction, shall be punished by a fine of not less than Fifty
24 Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00),
25 or by imprisonment in the county jail for a term of not less than
26 thirty (30) days nor more than one (1) year, or by both such fine
27 and imprisonment, in the discretion of the court;

28 (c) Upon commission of a third or any subsequent
29 offense of violating said section, regardless of the amount of the
30 check, draft or order involved, and regardless of the amount of
31 the checks, drafts or orders involved in the prior convictions,
32 the person committing such offense shall be guilty of a felony
33 and, upon conviction, shall be punished by imprisonment in the
34 State Penitentiary for a term of not less than one (1) nor more
35 than five (5) years;

36 (d) Where the check, draft or order involved shall be
37 Two Hundred Fifty Dollars (\$250.00) or more, the person committing
38 such offense, whether same be a first or second offense, shall be
39 guilty of a felony and, upon conviction, shall be punished by a
40 fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more
41 than One Thousand Dollars (\$1,000.00), or by imprisonment in the
42 State Penitentiary for a term of not more than three (3) years, or
43 by both such fine and imprisonment, in the discretion of the
44 court. Upon conviction of a third or any subsequent offense, the
45 person convicted shall be punished as is provided in the
46 immediately preceding paragraph hereof.

47 (2) Where the conviction was based on a worthless check,
48 draft or order given for the purpose of satisfying a pre-existing
49 debt or making a payment or payments on a past-due account or
50 accounts, no imprisonment shall be ordered as punishment, but the
51 court may order the convicted person to pay a fine of up to the
52 applicable amounts prescribed in paragraphs (1)(a)(b) and (d) of
53 this section.

54 (3) In addition to or in lieu of any penalty imposed under
55 the provisions of subsection (1) or subsection (2) of this
56 section, the court may, in its discretion, order any person
57 convicted of violating Section 97-19-55 to make restitution in
58 accordance with the provisions of Sections 99-37-1 through
59 99-37-23 to the holder of any check, draft or order for which
60 payment has been refused.

61 (4) Upon conviction of any person for a violation of Section
62 97-19-55, when the prosecution of such person was commenced by the
63 filing of a complaint with the court by the district attorney
64 under the provisions of Section 97-19-79, the court shall, in
65 addition to any other fine, fee, cost or penalty which may be
66 imposed under this section or as otherwise provided by law, and in
67 addition to any order as the court may enter under subsection (3)
68 of this section requiring the offender to pay restitution under
69 Sections 99-37-1 through 99-37-23, impose a fee in the amount up
70 to eighty-five percent (85%) of the face amount of the check,
71 draft or order for which the offender was convicted of drawing,
72 making, issuing, uttering or delivering in violation of Section
73 97-19-55.

74 (5) It shall be the duty of the clerk or judicial officer of
75 the court collecting the fees imposed under subsection (4) of this
76 section to monthly deposit all such fees so collected with the
77 State Treasurer, either directly or by other appropriate
78 procedures, for deposit in the special fund of the State Treasury
79 created under Section 99-19-32, known as the "Criminal Justice
80 Fund."

81 (6) After the accused has complied with all terms of the
82 statute and the complainant or victim has been paid, the district
83 attorney's check unit may dispose of the accused's file after one
84 (1) year has expired after the last audit.

85 SECTION 2. This act shall take effect and be in force from
86 and after July 1, 2001.