

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.