

By: Senator(s) Jordan

To: Judiciary

SENATE BILL NO. 2923

1 AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO  
2 ALLOW MUNICIPAL COURT CLERKS TO COLLECT A \$100 ADMINISTRATION FEE  
3 AS COSTS OF COURT UPON THOSE CONVICTED OF VIOLATION OF THE  
4 MANDATORY AUTOMOBILE LIABILITY INSURANCE LAW; AND FOR RELATED  
5 PURPOSES.

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

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

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



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

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

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

60 (4) When a person shall be charged with an offense in  
61 municipal court punishable by confinement, the municipal judge,



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

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

85 (6) Upon prior notice to the municipal prosecuting attorney  
86 and upon a showing in open court of rehabilitation, good conduct  
87 for a period of two (2) years since the last conviction in any  
88 court and that the best interest of society would be served, the  
89 court may, in its discretion, order the record of conviction of a  
90 person of any or all misdemeanors in that court expunged, and upon  
91 so doing the said person thereafter legally stands as though he  
92 had never been convicted of the said misdemeanor(s) and may  
93 lawfully so respond to any query of prior convictions. This order  
94 of expunction does not apply to the confidential records of law



95 enforcement agencies and has no effect on the driving record of a  
96 person maintained under Title 63, Mississippi Code of 1972, or any  
97 other provision of said Title 63.

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

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

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

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

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

127 Dismissal of any affidavit, complaint or charge



128           in municipal court..... \$ 50.00  
 129       Suspension of a minor's driver's license in lieu of  
 130           conviction..... \$ 50.00  
 131       Service of scire facias or return "not found"..... \$ 20.00  
 132       Causing search warrant to issue or causing  
 133           prosecution without reasonable cause or  
 134           refusing to cooperate after initiating  
 135           action..... \$ 100.00  
 136       Certified copy of the court record..... \$ 5.00  
 137       Service of arrest warrant for failure to answer  
 138           citation or traffic summons..... \$ 25.00  
 139       Jail cost per day..... \$ 10.00  
 140       Conviction under Section 63-15-4 for failure to  
 141           maintain proof of automobile liability  
 142           insurance for costs of administration..... \$ 100.00  
 143       Any other item of court cost..... \$ 50.00  
 144       No filing fee or such cost shall be imposed for the bringing  
 145 of an action in municipal court.

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

158       (13) A municipal court judge shall expunge the record of any  
 159 case in which an arrest was made, the person arrested was released



160 and the case was dismissed or the charges were dropped or there  
161 was no disposition of such case.

162           **SECTION 2.** This act shall take effect and be in force from  
163 and after July 1, 2002.

