

By: Representative Denny

To: Fees and Salaries of  
Public Officers

HOUSE BILL NO. 313

1 AN ACT TO AMEND SECTIONS 63-15-4 AND 21-23-7, MISSISSIPPI  
2 CODE OF 1972, TO ALLOW MUNICIPAL COURT CLERKS TO COLLECT A \$100.00  
3 ADMINISTRATION FEE AS COSTS OF COURT UPON THOSE CONVICTED OF  
4 VIOLATION OF THE MANDATORY AUTOMOBILE LIABILITY INSURANCE LAW; AND  
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 63-15-4, Mississippi Code of 1972, is  
8 amended as follows:

9 63-15-4. (1) The following vehicles are exempted from the  
10 requirements of this section:

11 (a) Vehicles exempted by Section 63-15-5;

12 (b) Vehicles for which a bond or a certificate of  
13 deposit of money or securities in at least the minimum amounts  
14 required for proof of financial responsibility is on file with the  
15 department;

16 (c) Vehicles that are self-insured under Section  
17 63-15-53; and

18 (d) Implements of husbandry.

19 (2) (a) Every motor vehicle operated in this state shall  
20 have an insurance card maintained in the vehicle as proof of  
21 liability insurance that is in compliance with the liability  
22 limits required by Section 63-15-3(j). The insured parties shall  
23 be responsible for maintaining the insurance card in each vehicle.

24 (b) An insurance company issuing a policy of motor  
25 vehicle liability insurance as required by this section shall  
26 furnish to the insured an insurance card for each vehicle at the  
27 time the insurance policy becomes effective.

28           (3) Upon stopping a motor vehicle for any other statutory  
29 violation, a law enforcement officer, who is authorized to issue  
30 traffic citations, shall verify that the insurance card required  
31 by this section is in the motor vehicle. However, no driver shall  
32 be stopped or detained solely for the purpose of verifying that an  
33 insurance card is in the motor vehicle.

34           (4) Failure of the owner or the operator of a motor vehicle  
35 to have the insurance card in the motor vehicle is a misdemeanor  
36 and, upon conviction, is punishable by a fine of One Thousand  
37 Dollars (\$1,000.00), court costs as provided in Section 21-23-7  
38 and suspension of driving privilege for a period of one (1) year  
39 or until the owner of the motor vehicle shows proof of liability  
40 insurance that is in compliance with the liability limits required  
41 by Section 63-15-3(j). Fraudulent use of an insurance card shall  
42 be punishable in accordance with Section 97-7-10. The funds from  
43 such fines shall be deposited in the State General Fund in the  
44 State Treasury.

45           (5) If, at the hearing date or the date of payment of the  
46 fine, the motor vehicle owner shows proof of motor vehicle  
47 liability insurance in the amounts required by Section 63-15-3(j),  
48 the fine shall be reduced to One Hundred Dollars (\$100.00). If  
49 the owner shows proof that such insurance was in effect at the  
50 time of citation, the fine of One Hundred Dollars (\$100.00) and  
51 court costs shall be waived.

52           **SECTION 2.** Section 21-23-7, Mississippi Code of 1972, is  
53 amended as follows:

54           21-23-7. (1) The municipal judge shall hold court in a  
55 public building designated by the governing authorities of the  
56 municipality and may hold court every day except Sundays and legal  
57 holidays if the business of the municipality so requires;  
58 provided, however, the municipal judge may hold court outside the  
59 boundaries of the municipality but not more than within a  
60 sixty-mile radius of the municipality to handle preliminary

61 matters and criminal matters such as initial appearances and  
62 felony preliminary hearings. The municipal judge shall have the  
63 jurisdiction to hear and determine, without a jury and without a  
64 record of the testimony, all cases charging violations of the  
65 municipal ordinances and state misdemeanor laws made offenses  
66 against the municipality and to punish offenders therefor as may  
67 be prescribed by law. All criminal proceedings shall be brought  
68 by sworn complaint filed in the municipal court. Such complaint  
69 shall state the essential elements of the offense charged and the  
70 statute or ordinance relied upon. Such complaint shall not be  
71 required to conclude with a general averment that the offense is  
72 against the peace and dignity of the state or in violation of the  
73 ordinances of the municipality. He may sit as a committing court  
74 in all felonies committed within the municipality, and he shall  
75 have the power to bind over the accused to the grand jury or to  
76 appear before the proper court having jurisdiction to try the  
77 same, and to set the amount of bail or refuse bail and commit the  
78 accused to jail in cases not bailable. The municipal judge is a  
79 conservator of the peace within his municipality. He may conduct  
80 preliminary hearings in all violations of the criminal laws of  
81 this state occurring within the municipality, and any person  
82 arrested for a violation of law within the municipality may be  
83 brought before him for initial appearance.

84 (2) In the discretion of the court, where the objects of  
85 justice would be more likely met, as an alternative to imposition  
86 or payment of fine and/or incarceration, the municipal judge shall  
87 have the power to sentence convicted offenders to work on a public  
88 service project where the court has established such a program of  
89 public service by written guidelines filed with the clerk for  
90 public record. Such programs shall provide for reasonable  
91 supervision of the offender and the work shall be commensurate  
92 with the fine and/or incarceration that would have ordinarily been  
93 imposed. Such program of public service may be utilized in the

94 implementation of the provisions of Section 99-19-20, and public  
95 service work thereunder may be supervised by persons other than  
96 the sheriff.

97 (3) The municipal judge may solemnize marriages, take oaths,  
98 affidavits and acknowledgments, and issue orders, subpoenas,  
99 summonses, citations, warrants for search and arrest upon a  
100 finding of probable cause, and other such process under seal of  
101 the court to any county or municipality, in a criminal case, to be  
102 executed by the lawful authority of the county or the municipality  
103 of the respondent, and enforce obedience thereto. The absence of  
104 a seal shall not invalidate the process.

105 (4) When a person shall be charged with an offense in  
106 municipal court punishable by confinement, the municipal judge,  
107 being satisfied that such person is an indigent person and is  
108 unable to employ counsel, may, in the discretion of the court,  
109 appoint counsel from the membership of The Mississippi Bar  
110 residing in his county who shall represent him. Compensation for  
111 appointed counsel in criminal cases shall be approved and allowed  
112 by the municipal judge and shall be paid by the municipality. The  
113 maximum compensation shall not exceed Two Hundred Dollars  
114 (\$200.00) for any one (1) case. The governing authorities of a  
115 municipality may, in their discretion, appoint a public  
116 defender(s) who must be a licensed attorney and who shall receive  
117 a salary to be fixed by the governing authorities.

118 (5) The municipal judge of any municipality is hereby  
119 authorized to suspend the sentence and to suspend the execution of  
120 the sentence, or any part thereof, on such terms as may be imposed  
121 by the municipal judge. However, the suspension of imposition or  
122 execution of a sentence hereunder may not be revoked after a  
123 period of two (2) years. The municipal judge shall have the power  
124 to establish and operate a probation program, dispute resolution  
125 program and other practices or procedures appropriate to the  
126 judiciary and designed to aid in the administration of justice.

127 Any such program shall be established by the court with written  
128 policies and procedures filed with the clerk of the court for  
129 public record.

130 (6) Upon prior notice to the municipal prosecuting attorney  
131 and upon a showing in open court of rehabilitation, good conduct  
132 for a period of two (2) years since the last conviction in any  
133 court and that the best interest of society would be served, the  
134 court may, in its discretion, order the record of conviction of a  
135 person of any or all misdemeanors in that court expunged, and upon  
136 so doing the said person thereafter legally stands as though he  
137 had never been convicted of the said misdemeanor(s) and may  
138 lawfully so respond to any query of prior convictions. This order  
139 of expunction does not apply to the confidential records of law  
140 enforcement agencies and has no effect on the driving record of a  
141 person maintained under Title 63, Mississippi Code of 1972, or any  
142 other provision of said Title 63.

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

149 (8) In the discretion of the court, a plea of nolo  
150 contendere may be entered to any charge in municipal court. Upon  
151 the entry of a plea of nolo contendere the court shall convict the  
152 defendant of the offense charged and shall proceed to sentence the  
153 defendant according to law. The judgment of the court shall  
154 reflect that the conviction was on a plea of nolo contendere. An  
155 appeal may be made from a conviction on a plea of nolo contendere  
156 as in other cases.

157 (9) Upon execution of a sworn complaint charging a  
158 misdemeanor, the municipal court may, in its discretion and in  
159 lieu of an arrest warrant, issue a citation requiring the

160 appearance of the defendant to answer the charge made against him.  
161 On default of appearance, an arrest warrant may be issued for the  
162 defendant. The clerk of the court or deputy clerk may issue such  
163 citations.

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

167 (11) The municipal court shall have the power to impose  
168 punishment of a fine of not more than One Thousand Dollars  
169 (\$1,000.00) or six (6) months' imprisonment, or both, for contempt  
170 of court. The municipal court may have the power to impose  
171 reasonable costs of court, not in excess of the following:

172	Dismissal of any affidavit, complaint or charge	
173	in municipal court.....	\$ 50.00
174	Suspension of a minor's driver's license in lieu of	
175	conviction.....	\$ 50.00
176	Service of scire facias or return "not found".....	\$ 20.00
177	Causing search warrant to issue or causing prosecution	
178	without reasonable cause or refusing to cooperate	
179	after initiating action.....	\$ 100.00
180	Certified copy of the court record.....	\$ 5.00
181	Service of arrest warrant for failure to answer	
182	citation or traffic summons.....	\$ 25.00
183	Jail cost per day.....	\$ 10.00
184	<u>Conviction under Section 63-15-4 for failure to</u>	
185	<u>maintain proof of automobile liability insurance</u>	
186	<u>for costs of administration.....</u>	\$ <u>100.00</u>
187	Any other item of court cost.....	\$ 50.00

188 No filing fee or such cost shall be imposed for the bringing  
189 of an action in municipal court.

190 (12) A municipal court judge shall not dismiss a criminal  
191 case but may transfer the case to the justice court of the county  
192 if the municipal court judge is prohibited from presiding over the

193 case by the Canons of Judicial Conduct and provided that venue and  
194 jurisdiction are proper in the justice court. Upon transfer of  
195 any such case, the municipal court judge shall give the municipal  
196 court clerk a written order to transmit the affidavit or complaint  
197 and all other records and evidence in the court's possession to  
198 the justice court by certified mail or to instruct the arresting  
199 officer to deliver such documents and records to the justice  
200 court. There shall be no court costs charged for the transfer of  
201 the case to the justice court.

202 (13) A municipal court judge shall expunge the record of any  
203 case in which an arrest was made, the person arrested was released  
204 and the case was dismissed or the charges were dropped or there  
205 was no disposition of such case.

206 **SECTION 3.** This act shall take effect and be in force from  
207 and after July 1, 2004.