

By: Senator(s) Burton

To: Judiciary, Division A

SENATE BILL NO. 2701

1 AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO
2 ALLOW MUNICIPAL COURT CLERKS TO COLLECT A \$100.00 ADMINISTRATION
3 FEE AS COSTS OF COURT UPON THOSE CONVICTED OF VIOLATION OF THE
4 MANDATORY AUTOMOBILE LIABILITY INSURANCE LAW AND TO CERTIFY THAT
5 MUNICIPAL JUDGES MAY IMPOSE AN ADDITIONAL FEE FOR ANY OTHER COURT
6 COST; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

128 Dismissal of any affidavit, complaint or charge

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

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

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

162 and the case was dismissed or the charges were dropped or there
163 was no disposition of such case.

164 **SECTION 2.** This act shall take effect and be in force from
165 and after July 1, 2004.