

By: Representatives Carlton, Turner

To: Judiciary B

HOUSE BILL NO. 1556

1 AN ACT TO AMEND SECTION 97-19-75, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE SERVICE OF NOTICE UNDER THE BAD CHECK LAW; AND FOR  
3 RELATED PURPOSES.

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

5 **SECTION 1.** Section 97-19-75, Mississippi Code of 1972, is  
6 amended as follows:

7 97-19-75. (1) The holder of any check, draft or order for  
8 the payment of money which has been made, drawn, issued, uttered  
9 or delivered in violation of Section 97-19-55, Mississippi Code of  
10 1972, may, after complying with the provisions of Section  
11 97-19-57, Mississippi Code of 1972, present a complaint to the  
12 district attorney. The complaint shall be accompanied by the  
13 original check, draft or order upon which the complaint is filed  
14 and the return receipt showing mailing of notice under Section  
15 97-19-57, Mississippi Code of 1972. Not more than one (1) check,  
16 draft or order shall be included within a single complaint. Upon  
17 receipt of such complaint, the district attorney shall evaluate  
18 the complaint to determine whether or not the complaint is  
19 appropriate to be processed by the district attorney.

20 (2) If, after filing a complaint with the district attorney,  
21 the complainant wishes to withdraw the complaint for good cause,  
22 the complainant shall pay a fee of Thirty Dollars (\$30.00) to the  
23 office of the district attorney for processing such complaint.  
24 Upon payment of the processing fee and withdrawal of the  
25 complaint, the district attorney shall return the original check,  
26 draft or order to the complainant.

27           (3) After approval of the complaint by the district  
28 attorney, a warrant may be issued by any judicial officer  
29 authorized by law to issue arrest warrants, and the warrant may be  
30 held by the district attorney. After issuance of a warrant or  
31 upon approval of a complaint by the district attorney, the  
32 district attorney shall issue a notice within five (5) working  
33 days to the individual charged in the complaint, informing him  
34 that a warrant has been issued for his arrest or that a complaint  
35 has been received by the district attorney and that he may be  
36 eligible for deferred prosecution for a violation of Section  
37 97-19-55, Mississippi Code of 1972, by voluntarily surrendering  
38 himself to the district attorney within five (5) days, Saturdays,  
39 Sundays and legal holidays excepted, from receipt of the notice.  
40 Such notice shall be sent by United States mail. Due diligence  
41 shall be exercised in the service of notice under this section.

42           (4) If the accused voluntarily surrenders himself within the  
43 time period as provided by subsection (3) of this section, the  
44 accused shall be presented with the complaint and/or warrant and  
45 prosecution of the accused may be deferred upon payment by the  
46 accused of a service charge in the amount of Forty Dollars  
47 (\$40.00) to the district attorney and by execution of a  
48 restitution agreement as hereinafter provided.

49           (5) For the purposes of Sections 97-19-73 through 97-19-81,  
50 the term "restitution" shall mean and be defined as the face  
51 amount of any check, draft or order for the payment of money made,  
52 drawn, issued, uttered or delivered in violation of Section  
53 97-19-55, Mississippi Code of 1972, plus a service charge payable  
54 to the complainant in the amount of Thirty Dollars (\$30.00).

55           (6) After an accused has voluntarily surrendered himself and  
56 paid the service charge as provided by subsection (4) of this  
57 section, the district attorney may enter into a restitution  
58 agreement with the accused prescribing the terms by which the  
59 accused shall satisfy restitution to the district attorney on

60 behalf of the complainant. The terms of such agreement shall be  
61 determined on a case-by-case basis by the district attorney, but  
62 the duration of any such agreement shall be no longer than a  
63 period of six (6) months. No interest shall be charged or  
64 collected on restitution monies. The restitution agreement shall  
65 be signed by the accused and approved by the district attorney  
66 before it is effective. If the accused does not honor each term  
67 of the restitution agreement signed by him, the accused may be  
68 proceeded against by prosecution under the provisions of Sections  
69 97-19-55 through 97-19-69, Mississippi Code of 1972, and as  
70 provided by Section 97-19-79. If the accused makes restitution  
71 and pays all charges set out by statute or if the accused enters  
72 into a restitution agreement as set out above and honors all terms  
73 of such agreement, then if requested, the original check may be  
74 returned to the accused and a photocopy retained in the check  
75 file.

76 (7) If the holder of any check, draft or order for the  
77 payment of money presents to the district attorney satisfactory  
78 evidence that the original check, draft or order is unavailable  
79 and satisfactory evidence of the check, draft or order is  
80 presented in the form of bank records or a photographic copy of  
81 the instrument, whether from microfilm or otherwise, then the  
82 procedures provided for in this section may be followed in the  
83 absence of the original check, draft or order.

84 **SECTION 2.** This act shall take effect and be in force from  
85 and after July 1, 2005.