

By: Senator(s) Harden

To: Municipalities;
Judiciary, Division B

SENATE BILL NO. 2828

1 AN ACT TO AMEND SECTION 21-13-19, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE CRIMINAL PENALTIES FOR FAILURE TO CLEAN PRIVATE
3 PROPERTY WHEN DULY ORDERED BY A MUNICIPALITY; TO AMEND SECTION
4 21-19-11, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 21-13-19, Mississippi Code of 1972, is
8 amended as follows:

9 21-13-19. All offenses under the penal laws of this state
10 which are misdemeanors, together with the penalty provided for
11 violation thereof, and all offenses under Section 21-19-11, are
12 hereby made, without further action of the municipal authorities,
13 criminal offenses against the municipality in whose corporate
14 limits the offenses may have been committed to the same effect as
15 though such offenses were made offenses against the municipality
16 by separate ordinance in each case. However, for such
17 misdemeanor, any penalty of incarceration is hereby limited to no
18 more than six (6) months in jail, and any fine is hereby limited
19 to a maximum of One Thousand Dollars (\$1,000.00) for each such
20 violation in any case tried without a jury. Judgments for fines,
21 costs, forfeitures and other penalties imposed by municipal courts
22 may be enrolled by filing a certified copy of the record with the
23 clerk of any circuit court and execution may be had thereon as
24 provided by law for other judgments.

25 **SECTION 2.** Section 21-19-11, Mississippi Code of 1972, is
26 amended as follows:

27 21-19-11. (1) The governing authority of any municipality
28 is hereby authorized and empowered, on its own motion, or upon the

29 receipt of a petition requesting the municipal authority to so act
30 signed by a majority of the residents residing upon any street or
31 alley within three hundred (300) feet of any parcel of land
32 alleged to be in need of cleaning, to give notice to the property
33 owner by United States registered mail or certified mail two (2)
34 weeks before the date of a hearing, or by service of notice as
35 provided in this section by a police officer at least two (2)
36 weeks before the date of a hearing, or if the property owner be
37 unknown or his address unknown, then by two (2) weeks' notice in a
38 newspaper having a general circulation in the municipality, of a
39 hearing to determine whether or not any parcel of land is in such
40 a state of uncleanliness as to be a menace to the public health
41 and safety of the community. If, at such hearing, the governing
42 authority shall, in its resolution, adjudicate such a parcel of
43 land in its then condition to be a menace to the public health and
44 safety of the community, the governing authority shall, if the
45 owner does not do so himself, proceed to clean the land, by the
46 use of municipal employees or by contract, by cutting weeds;
47 filling cisterns; removing rubbish, dilapidated fences, outside
48 toilets, dilapidated buildings and other debris; and draining
49 cesspools and standing water therefrom. Thereafter, the governing
50 authority may, at its next regular meeting, by resolution
51 adjudicate the actual cost of cleaning the property and may also
52 impose a penalty of Two Hundred Fifty Dollars (\$250.00) or
53 twenty-five percent (25%) of such actual cost, whichever is more.
54 The cost and any penalty may become a civil debt against the
55 property owner, or, at the option of the governing authority, an
56 assessment against the property. The cost assessed against the
57 property means the cost to the municipality of using its own
58 employees to do the work or the cost to the municipality of any
59 contract executed by the municipality to have the work done. The
60 action herein authorized shall not be undertaken against any one
61 (1) parcel of land more than five (5) times in any one (1)

62 calendar year, and the expense of cleaning of said property shall
63 not exceed an aggregate amount of Ten Thousand Dollars
64 (\$10,000.00) per year, or the fair market value of the property
65 subsequent to cleaning, whichever is less. If it is determined by
66 the governing authorities of a municipality that it is necessary
67 to clean a parcel of land more than once within a calendar year,
68 then the municipality may clean such property provided notice to
69 the property owner is given by United States regular mail to the
70 last known address at least ten (10) days before cleaning the
71 property. The governing authorities of a municipality may assess
72 the same penalty for each time they clean as otherwise provided in
73 this section. The penalty provided herein shall not be assessed
74 against the State of Mississippi upon request for reimbursement
75 under Section 29-1-145, nor shall a municipality clean a parcel
76 owned by the State of Mississippi without first giving notice.

77 (2) In the event the governing authority declares, by
78 resolution, that the cost and any penalty shall be collected as a
79 civil debt, the governing authority may authorize the institution
80 of a suit on open account against the owner of the property in a
81 court of competent jurisdiction in the manner provided by law for
82 the cost and any penalty, plus court costs, reasonable attorney's
83 fees and interest from the date that the property was cleaned.

84 (3) In the event that the governing authority does not
85 declare that the cost and any penalty shall be collected as a
86 civil debt, then the assessment above provided for shall be a lien
87 against the property and may be enrolled in the office of the
88 circuit clerk of the county as other judgments are enrolled, and
89 the tax collector of the municipality shall, upon order of the
90 board of governing authorities, proceed to sell the land to
91 satisfy the lien as now provided by law for the sale of lands for
92 delinquent municipal taxes.

93 (4) All decisions rendered under the provisions of this
94 section may be appealed in the same manner as other appeals from
95 municipal boards or courts are taken.

96 (5) The police officer's return on the notice may be in one
97 (1) of the following forms:

98 (a) Form of personal notice:

99 "I have this day delivered the within notice
100 personally, by delivering to the within named property
101 owner, _____ (here state name of party
102 summoned), a true copy of this notice.

103 This, the ____ day of _____ 20 ____.

104 _____ (Police Officer)"

105 (b) Form of notice where copy left at residence:

106 "I have this day delivered the within notice to
107 _____, within named property owner, by
108 leaving a true copy of the same at his (or her) usual
109 place of abode in my municipality, with
110 _____, his (or her) (here insert wife,
111 husband, son, daughter or some other person, as the case
112 may be), _____ a member of his (or her)
113 family above the age of sixteen (16) years, and willing
114 to receive such copy. The said property owner is not
115 found in my municipality.

116 This, the ____ day of _____ 20 ____.

117 _____ (Police Officer)"

118 (c) Form of return when property owner not found within
119 municipality and is a nonresident thereof:

120 "I have this day attempted to deliver the within
121 notice to _____, the within named property
122 owner, and after diligent search and inquiry, I failed
123 to find the same property owner within my municipality,
124 nor could I ascertain the location of any residence of
125 the property owner within my municipality.

126 This, the _____ day of _____ 20 ____.
127 _____ (Police Officer)"

128 The first mode of notice should be made, if it can be; if
129 not, then the second mode should be made, if it can be; and the
130 return of the second mode of service must negate the officer's
131 ability to make the first. If neither the first nor second mode
132 of service can be made, then the third mode should be made, and
133 the return thereof must negate the officer's ability to make both
134 the first and second. In the event the third mode of service is
135 made, then service shall also be made by publication as provided
136 in subsection (1) of this section.

137 (6) The officer shall mark on all notices the day of the
138 receipt thereof by him, and he shall return the same on or before
139 the day of the hearing, with a written statement of his
140 proceedings thereon. For failing to note the time of the receipt
141 of notice or for failing to return the same, the officer shall
142 forfeit to the party aggrieved the sum of Twenty-five Dollars
143 (\$25.00).

144 (7) Nothing contained in this section shall prevent a
145 municipality from enacting criminal penalties for failure to
146 maintain property so as not to constitute a menace to public
147 health, safety and welfare.

148 **SECTION 3.** This act shall take effect and be in force from
149 and after July 1, 2005.