

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2879

1 AN ACT TO AMEND SECTIONS 9-11-19, 21-23-11 AND 99-17-9,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE ENTRY ON THE COURT DOCKET OF
3 ALL TRAFFIC CITATIONS AND TRIAL IN ABSENTIA OF ANY PERSON ISSUED A
4 TRAFFIC CITATION WHO FAILS TO APPEAR; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 9-11-19, Mississippi Code of 1972, is
7 amended as follows:

8 9-11-19. (1) It shall be the duty of every clerk of the
9 justice court to enter on the court docket, immediately upon
10 receipt from the charging officer, a record of every traffic
11 citation, and to receive and account for all fees, costs, fines
12 and penalties charged and collected in the justice court, and,
13 monthly to report in writing under oath, to the clerk of the board
14 of supervisors who shall upon receipt submit such report to the
15 board of supervisors of all such fees, costs, fines and penalties
16 received, including cash bonds and other monies which have been
17 forfeited in criminal cases and at least semiannually any
18 delinquent fines and penalties, giving the date, amount, and names
19 of persons from whom such monies were received, and to pay so much
20 thereof as shall have been received to the clerk of the board of
21 supervisors for deposit into the general fund of the county. Any
22 clerk of the justice court who shall fail to make such report or
23 to pay the money so received shall, in addition to any other fine
24 or punishment provided by law for such conduct, not be entitled to
25 compensation for the period of time during which such report or
26 money is outstanding.

27 (2) The provisions of this section shall not, except as to
28 cash bonds and other monies which have been forfeited in criminal

29 cases, apply to monies required to be deposited in the justice
30 court clerk clearing account as provided in Section 9-11-18,
31 Mississippi Code of 1972.

32 **SECTION 2.** Section 21-23-11, Mississippi Code of 1972, is
33 amended as follows:

34 21-23-11. The clerk of the municipality shall be the clerk
35 of the municipal court, unless the governing authorities shall
36 otherwise elect. The clerk of the court shall attend the sittings
37 of the court in person or by duly appointed deputies, and he shall
38 be under the direction of the municipal judge. The governing
39 authorities may authorize the municipal judge to appoint other
40 municipal employees as deputy clerks of the court to assist the
41 clerk of the court in the conduct of the court's responsibilities
42 or the governing authorities may appoint deputy clerks of the
43 court. The authorization to appoint and/or appointment of deputy
44 clerks of the court shall be entered in the minutes of the
45 municipality. A police officer of the municipality may be the
46 clerk of the court or a deputy clerk of the court. The governing
47 authorities shall provide for the training of court personnel.

48 The clerk of the court shall keep permanent dockets, upon
49 which all cases shall be entered, including a record of every
50 traffic citation immediately upon receipt from the charging
51 officer; said docket shall contain the style of the case and the
52 nature of the charge against an accused, and the names of
53 witnesses for the prosecution and defendant. The clerk of the
54 court shall also keep a minute record in which all orders and
55 judgments shall be entered. One (1) record may serve as both the
56 docket record and minute record. The clerk of the court or deputy
57 clerk of the court shall issue all process from the court, except
58 arrest warrants or process for the seizure of persons and
59 property, and shall administer the collection of all fines,
60 penalties, fees and costs imposed by the court and deposit all
61 collections with the municipal treasurer or equivalent officer.

62 The clerk of the court shall purchase all dockets, minute record,
63 stationery and other supplies for the municipal court, and have
64 the account allowed by the municipal judge; the order allowing the
65 same shall be entered upon the minutes, and the municipal
66 authorities shall pay the same. The clerk of the court and deputy
67 clerks of the court shall have power to take acknowledgments,
68 administer any oaths required by law to be taken by any person,
69 and take affidavits charging any crime against the municipality or
70 state.

71 When the municipal judge is unavailable, persons charged with
72 the commission of misdemeanor violations within the municipality
73 may be brought before the clerk of the court for initial
74 appearances required by the Mississippi Uniform Criminal Rules of
75 Circuit Court Practice where the clerk of the court has
76 satisfactorily completed a course of training and education on
77 this subject conducted by the Mississippi Judicial College of the
78 University of Mississippi Law Center and the municipal judge has
79 established written guidelines and procedures for the clerk of the
80 court to discharge this function. Such guidelines shall be
81 entered in the minutes of the court and be deemed a public record
82 and made available to defendant or counsel.

83 **SECTION 3.** Section 99-17-9, Mississippi Code of 1972, is
84 amended as follows:

85 99-17-9. In criminal cases the presence of the prisoner may
86 be waived (a) if the defendant is in custody and consenting
87 thereto, or (b) is on recognizance or bail, has been arrested and
88 escaped, or has been notified in writing by the proper officer of
89 the pendency of the indictment against him, and resisted or fled,
90 or refused to be taken, or, having been issued a citation for a
91 violation of Title 63, fails to appear, or is in any way in
92 default for nonappearance, the trial may progress at the
93 discretion of the court, and judgment made final and sentence
94 awarded as though such defendant were personally present in court.

95 **SECTION 4.** This act shall take effect and be in force from
96 and after July 1, 2006.