

By: Representatives Wilson, Sykes, Karriem

To: Municipalities

HOUSE BILL NO. 51
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 21-19-15, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE MUNICIPALITIES TO ENFORCE ORDINANCES REGULATING OR
3 RESTRICTING PARKING IF CERTAIN SIGNAGE IS POSTED WHERE PARKING IS
4 REGULATED OR RESTRICTED; TO AMEND SECTION 21-15-41, MISSISSIPPI
5 CODE OF 1972, TO CLARIFY THE SERVICE LIMITATION PERIOD FOR
6 MUNICIPAL APPOINTEES SERVING IN AN INTERIM OR HOLD-OVER CAPACITY;
7 TO PROVIDE THAT THE SERVICE LIMITATION SHALL APPLY RETROACTIVELY
8 TO SUCH APPOINTEES SERVING ON THE EFFECTIVE DATE OF THIS ACT; TO
9 AMEND SECTION 21-8-23, MISSISSIPPI CODE OF 1972, IN CONFORMITY
10 THERE TO; TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO
11 AUTHORIZE MUNICIPAL JUDGES TO HOLD COURT FOR ANY PURPOSE OUTSIDE
12 THE BOUNDARIES OF THE MUNICIPALITY IN A PUBLIC BUILDING DESIGNATED
13 BY THE MUNICIPAL GOVERNING AUTHORITIES; TO PROVIDE THAT THE PUBLIC
14 BUILDING MUST BE WITHIN A ONE-MILE RADIUS OF THE MUNICIPALITY; AND
15 FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 21-19-15, Mississippi Code of 1972, is
18 amended as follows:

19 21-19-15. (1) The governing authorities of municipalities
20 shall have power to make all needful police regulations necessary
21 for the preservation of good order and peace of the municipality
22 and to prevent injury to, destruction of, or interference with
23 public or private property.



24 (2) The governing authority of a municipality shall have the
25 power to regulate or prohibit any mill, laundry or manufacturing
26 plant from operating whereby the soot, cinders or smoke therefrom,
27 or the unnecessary noises thereof, may do damage to or interfere
28 with the use or occupation of public or private property.

29 (3) The governing authority of a municipality shall have the
30 power to prohibit or regulate the sale or use of firecrackers,
31 roman candles, torpedoes, sky rockets, and any and all explosives
32 commonly known and referred to as fireworks; the term "fireworks"
33 shall not include toy pistols, toy canes, toy guns, other devices
34 in which paper caps manufactured in accordance with United States
35 Interstate Commerce Commission regulations for packing and
36 shipping of toy paper caps are used, or toy pistol paper caps
37 manufactured as provided herein, the sale and use of which shall
38 be permitted at all times.

39 (4) The governing authority of a municipality may enact an
40 ordinance specifying the manner and means by which a motor vehicle
41 may be immobilized due to failure of the record title owner of the
42 motor vehicle to pay traffic or parking fines totaling over Two
43 Hundred Dollars (\$200.00).

44 (5) The governing authority of a municipality may * * *
45 enforce an ordinance regulating or restricting parking on any
46 public street or roadway * * *. However, signage that adequately
47 describes the parking regulation or restriction * * * must be
48 posted * * *.



49 SECTION 2. Section 21-15-41, Mississippi Code of 1972, is
50 amended as follows:

51 21-15-41. (1) No person shall serve in an interim or
52 hold-over capacity for longer than one hundred eighty (180)
53 days * * * in a position that is required by law to be filled by
54 appointment of the governing body of a municipality, or by mayoral
55 appointment with the advice and consent of the council or
56 aldermen * * *. * * * If such position is not filled within one
57 hundred eighty (180) days after the expiration of the position's
58 term, or within one hundred eighty (180) days after the date of
59 appointment if an interim appointment, the hold-over service or
60 interim appointment shall terminate and no municipal funds may
61 thereafter be expended to compensate * * * the person serving in
62 the position. Further, any action or vote taken by such person
63 after the one hundred eighty-day period shall be invalid and
64 without effect. If a council or board of aldermen rejects, or
65 otherwise fails to confirm, an individual submitted by the mayor
66 for appointment, the mayor may not resubmit or reappoint the same
67 individual for that position during the remainder of the mayor's
68 current term in office.

69 (2) It is the intent of the Legislature that the provisions
70 of this section shall apply retroactively to all appointees
71 serving in a hold-over or interim capacity on the effective date
72 of this act and for such appointees, the one hundred eighty-day



73 limitation period shall commence to run on the effective date of
74 this act.

75 **SECTION 3.** Section 21-8-23, Mississippi Code of 1972, is
76 amended as follows:

77 21-8-23. (1) The municipality may have a department of
78 administration and such other departments as the council may
79 establish by ordinance. All of the administrative functions,
80 powers and duties of the municipality shall be allocated and
81 assigned among and within such departments.

82 (2) Each department shall be headed by a director, who shall
83 be appointed by the mayor and confirmed by an affirmative vote of
84 a majority of the council present and voting at any such meeting.
85 Each director shall serve during the term of office of the mayor
86 appointing him * * *.

87 (3) The mayor may, in his discretion, remove the director of
88 any department. Directors of departments shall be excluded from
89 the coverage of any ordinance or general law providing for a civil
90 service system in the municipality; provided, however, all
91 individuals serving as heads of departments at the time of the
92 municipality's adoption of the mayor-council form as described in
93 this chapter shall continue to be covered by the provisions of the
94 civil service system in effect at the time the mayor-council form
95 is adopted.

96 (4) Directors of departments shall appoint subordinate
97 officers and employees within their respective departments and



98 may, with approval of the mayor, remove such officers and
99 employees subject to the provisions of any ordinance establishing
100 a civil service system where that system is effective in the
101 municipality, or other general law; provided, however, that the
102 council may provide by ordinance for the appointment and removal
103 of specific boards or commissions by the mayor.

104 (5) Whenever the city council is authorized by any provision
105 of general law to appoint the members of any board, authority or
106 commission, such power of appointment shall be deemed to vest in
107 the mayor with the confirmation of an affirmative vote of a
108 majority of the council present and voting at any meeting.

109 (6) The council shall also require all officers and
110 employees handling or having the custody of any of the public
111 funds of such municipality to give bond, with sufficient surety,
112 to be payable, conditioned and approved as provided by law, in an
113 amount to be determined by the council (which shall not be less
114 than Fifty Thousand Dollars (\$50,000.00)), the premium on which
115 bonds shall be paid by the city.

116 **SECTION 4.** Section 21-23-7, Mississippi Code of 1972, is
117 amended as follows:

118 21-23-7. (1) The municipal judge shall hold court in a
119 public building designated by the governing authorities of the
120 municipality and may hold court every day except Sundays and legal
121 holidays if the business of the municipality so requires;
122 provided, however, the municipal judge may hold court outside the



123 boundaries of the municipality but not more than within a
124 sixty-mile radius of the municipality to handle preliminary
125 matters and criminal matters such as initial appearances and
126 felony preliminary hearings. The municipal judge may hold court
127 outside the boundaries of the municipality but not more than
128 within a one-mile radius of the municipality for any purpose. The
129 municipal judge shall have the jurisdiction to hear and determine,
130 without a jury and without a record of the testimony, all cases
131 charging violations of the municipal ordinances and state
132 misdemeanor laws made offenses against the municipality and to
133 punish offenders therefor as may be prescribed by law. Except as
134 otherwise provided by law, criminal proceedings shall be brought
135 by sworn complaint filed in the municipal court. Such complaint
136 shall state the essential elements of the offense charged and the
137 statute or ordinance relied upon. Such complaint shall not be
138 required to conclude with a general averment that the offense is
139 against the peace and dignity of the state or in violation of the
140 ordinances of the municipality. He may sit as a committing court
141 in all felonies committed within the municipality, and he shall
142 have the power to bind over the accused to the grand jury or to
143 appear before the proper court having jurisdiction to try the
144 same, and to set the amount of bail or refuse bail and commit the
145 accused to jail in cases not bailable. The municipal judge is a
146 conservator of the peace within his municipality. He may conduct
147 preliminary hearings in all violations of the criminal laws of



148 this state occurring within the municipality, and any person
149 arrested for a violation of law within the municipality may be
150 brought before him for initial appearance. The municipal court
151 shall have jurisdiction of any case remanded to it by a circuit
152 court grand jury. The municipal court shall have civil
153 jurisdiction over actions filed pursuant to and as provided in
154 Title 93, Chapter 21, Mississippi Code of 1972, the Protection
155 from Domestic Abuse Act.

156 (2) In the discretion of the court, where the objects of
157 justice would be more likely met, as an alternative to imposition
158 or payment of fine and/or incarceration, the municipal judge shall
159 have the power to sentence convicted offenders to work on a public
160 service project where the court has established such a program of
161 public service by written guidelines filed with the clerk for
162 public record. Such programs shall provide for reasonable
163 supervision of the offender and the work shall be commensurate
164 with the fine and/or incarceration that would have ordinarily been
165 imposed. Such program of public service may be utilized in the
166 implementation of the provisions of Section 99-19-20, and public
167 service work thereunder may be supervised by persons other than
168 the sheriff.

169 (3) The municipal judge may solemnize marriages, take oaths,
170 affidavits and acknowledgments, and issue orders, subpoenas,
171 summonses, citations, warrants for search and arrest upon a
172 finding of probable cause, and other such process under seal of



173 the court to any county or municipality, in a criminal case, to be
174 executed by the lawful authority of the county or the municipality
175 of the respondent, and enforce obedience thereto. The absence of
176 a seal shall not invalidate the process.

177 (4) When a person shall be charged with an offense in
178 municipal court punishable by confinement, the municipal judge,
179 being satisfied that such person is an indigent person and is
180 unable to employ counsel, may, in the discretion of the court,
181 appoint counsel from the membership of The Mississippi Bar
182 residing in his county who shall represent him. Compensation for
183 appointed counsel in criminal cases shall be approved and allowed
184 by the municipal judge and shall be paid by the municipality. The
185 maximum compensation shall not exceed Two Hundred Dollars
186 (\$200.00) for any one (1) case. The governing authorities of a
187 municipality may, in their discretion, appoint a public
188 defender(s) who must be a licensed attorney and who shall receive
189 a salary to be fixed by the governing authorities.

190 (5) The municipal judge of any municipality is hereby
191 authorized to suspend the sentence and to suspend the execution of
192 the sentence, or any part thereof, on such terms as may be imposed
193 by the municipal judge. However, the suspension of imposition or
194 execution of a sentence hereunder may not be revoked after a
195 period of two (2) years. The municipal judge shall have the power
196 to establish and operate a probation program, dispute resolution
197 program and other practices or procedures appropriate to the



198 judiciary and designed to aid in the administration of justice.
199 Any such program shall be established by the court with written
200 policies and procedures filed with the clerk of the court for
201 public record. Subsequent to original sentencing, the municipal
202 judge, in misdemeanor cases, is hereby authorized to suspend
203 sentence and to suspend the execution of a sentence, or any part
204 thereof, on such terms as may be imposed by the municipal judge,
205 if (a) the judge or his or her predecessor was authorized to order
206 such suspension when the sentence was originally imposed; and (b)
207 such conviction (i) has not been appealed; or (ii) has been
208 appealed and the appeal has been voluntarily dismissed.

209 (6) Upon prior notice to the municipal prosecuting attorney
210 and upon a showing in open court of rehabilitation, good conduct
211 for a period of two (2) years since the last conviction in any
212 court and that the best interest of society would be served, the
213 court may, in its discretion, order the record of conviction of a
214 person of any or all misdemeanors in that court expunged, and upon
215 so doing the said person thereafter legally stands as though he
216 had never been convicted of the said misdemeanor(s) and may
217 lawfully so respond to any query of prior convictions. This order
218 of expunction does not apply to the confidential records of law
219 enforcement agencies and has no effect on the driving record of a
220 person maintained under Title 63, Mississippi Code of 1972, or any
221 other provision of said Title 63.



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

228 (8) In the discretion of the court, a plea of nolo
229 contendere may be entered to any charge in municipal court. Upon
230 the entry of a plea of nolo contendere the court shall convict the
231 defendant of the offense charged and shall proceed to sentence the
232 defendant according to law. The judgment of the court shall
233 reflect that the conviction was on a plea of nolo contendere. An
234 appeal may be made from a conviction on a plea of nolo contendere
235 as in other cases.

236 (9) Upon execution of a sworn complaint charging a
237 misdemeanor, the municipal court may, in its discretion and in
238 lieu of an arrest warrant, issue a citation requiring the
239 appearance of the defendant to answer the charge made against him.
240 On default of appearance, an arrest warrant may be issued for the
241 defendant. The clerk of the court or deputy clerk may issue such
242 citations.

243 (10) The municipal court shall have the power to make rules
244 for the administration of the court's business, which rules, if
245 any, shall be in writing filed with the clerk of the court and
246 shall include the enactment of rules related to the court's



247 authority to issue domestic abuse protection orders pursuant to
248 Section 93-21-1 et seq.

249 (11) The municipal court shall have the power to impose
250 punishment of a fine of not more than One Thousand Dollars
251 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
252 of court. The municipal court may have the power to impose
253 reasonable costs of court, not in excess of the following:

254	Dismissal of any affidavit, complaint or charge	
255	in municipal court.....	\$ 50.00
256	Suspension of a minor's driver's license in lieu of	
257	conviction.....	\$ 50.00
258	Service of scire facias or return "not found".....	\$ 20.00
259	Causing search warrant to issue or causing	
260	prosecution without reasonable cause or refusing to	
261	cooperate after initiating action.....	\$ 100.00
262	Certified copy of the court record.....	\$ 5.00
263	Service of arrest warrant for failure to answer	
264	citation or traffic summons.....	\$ 25.00
265	Jail cost per day - actual jail cost paid by the municipality	
266	but not to exceed.....	\$ 35.00
267	Service of court documents related to the filing	
268	of a petition or issuance of a protection from domestic	
269	abuse order under Title 93, Chapter 21, Mississippi	
270	Code of 1972	\$ 25.00
271	Any other item of court cost.....	\$ 50.00



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

274 (12) A municipal court judge shall not dismiss a criminal
275 case but may transfer the case to the justice court of the county
276 if the municipal court judge is prohibited from presiding over the
277 case by the Canons of Judicial Conduct and provided that venue and
278 jurisdiction are proper in the justice court. Upon transfer of
279 any such case, the municipal court judge shall give the municipal
280 court clerk a written order to transmit the affidavit or complaint
281 and all other records and evidence in the court's possession to
282 the justice court by certified mail or to instruct the arresting
283 officer to deliver such documents and records to the justice
284 court. There shall be no court costs charged for the transfer of
285 the case to the justice court.

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

290 **SECTION 5.** This act shall take effect and be in force from
291 and after July 1, 2017.

