

By: Representatives Currie, Hopkins

To: Apportionment and Elections

HOUSE BILL NO. 416

1 AN ACT TO AMEND SECTION 21-33-307, MISSISSIPPI CODE OF 1972,  
 2 TO REVISE THE PROCEDURE FOR FILING A WRITTEN PROTEST AGAINST THE  
 3 ISSUANCE OF BONDS BY THE GOVERNING AUTHORITY OF A MUNICIPALITY; TO  
 4 PROVIDE THE FORM OF THE WRITTEN PROTEST PETITION; TO REQUIRE THE  
 5 MUNICIPAL CLERK TO VERIFY THE NAME OF EACH QUALIFIED ELECTOR  
 6 SIGNING THE PETITION; TO CREATE A NEW SECTION OF LAW THAT  
 7 PROHIBITS A PERSON WHO CIRCULATES A WRITTEN PROTEST PETITION FROM  
 8 SOLICITING SIGNATURES IN EXCHANGE FOR CONSIDERATION, WITHIN A  
 9 CERTAIN DISTANCE FROM A POLLING PLACE, OR BY INTENTIONALLY  
 10 MISLEADING A QUALIFIED ELECTOR ABOUT THE SUBSTANCE OF THE  
 11 PETITION; TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO  
 12 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 21-33-307, Mississippi Code of 1972, is  
 15 amended as follows:

16 21-33-307. (1) Before issuing any bonds for any of the  
 17 purposes enumerated in Section 21-33-301, the governing authority  
 18 of the issuing municipality shall adopt a resolution declaring its  
 19 intention so to do, stating the amount of bonds proposed to be  
 20 issued and the purpose for which the bonds are to be issued, and  
 21 the date upon which the \* \* \* governing authority proposes to  
 22 direct the issuance of such bonds. Such resolution shall be  
 23 published once a week for at least three (3) consecutive weeks in



24 at least one (1) newspaper published in such municipality. The  
25 first publication of \* \* \* the resolution shall be made not less  
26 than twenty-one (21) days \* \* \* before the date fixed in \* \* \* the  
27 resolution for the issuance of the bonds, and the last publication  
28 shall be made not more than seven (7) days \* \* \* before such date.  
29 If no newspaper \* \* \* is published in such municipality,  
30 then \* \* \* notice shall be given by publishing the resolution for  
31 the required time in some newspaper having a general circulation  
32 in such municipality and, in addition, by posting a copy of \* \* \*  
33 the resolution for at least twenty-one (21) days next preceding  
34 the date fixed therein at three (3) public places in such  
35 municipality. The publication of the resolution may be made as  
36 provided in Section 21-17-19.

37 (2) (a) If a person or persons is against the issuance of  
38 the bonds, he or she shall propose a written protest petition  
39 against the issuance of the bonds. If ten percent (10%) of the  
40 qualified electors of the municipality, or fifteen hundred (1500),  
41 whichever is the lesser, sign the written protest petition, then  
42 the person or person who proposed the petition shall file \* \* \*  
43 the written protest against the issuance of such bonds with the  
44 municipal clerk on or before the date specified in \* \* \* the  
45 resolution \* \* \*. If the municipal clerk certifies the written  
46 protest petition, then an election on the question of the bonds  
47 shall be called and held as is provided in Section 21-33-309.



48           (b) The person or persons proposing a written protest  
49 against the issuance of such bonds shall print blank petitions  
50 upon single sheets of paper of good writing quality not less than  
51 eight and one-half (8 1/2) inches in width and not less than  
52 fourteen (14) inches in length. Each sheet shall have a full,  
53 true and correct copy of the reasons for the protest printed on  
54 the reverse side of the petition or attached to the petition.  
55 Each sheet shall also provide adequate space for the following  
56 information: petitioner's signature; print name for positive  
57 identification; residence address, street and number, if any; city  
58 or town; county; and precinct.

59           (c) Only a person who is a qualified elector of this  
60 state and the municipality in which the petition is to be  
61 circulated may circulate a petition, obtain signatures on a  
62 petition, or sign a petition.

63           (d) The form of each petition shall contain the  
64 following warning:

65                                   **"WARNING**

66           EVERY PERSON WHO SIGNS THIS PETITION WITH ANY OTHER THAN HIS  
67 OR HER TRUE NAME, KNOWINGLY SIGNS MORE THAN ONE OF THESE PETITIONS  
68 RELATING TO THE SAME WRITTEN PROTEST, SIGNS THIS PETITION WHEN HE  
69 OR SHE IS NOT A QUALIFIED ELECTOR OF THE MUNICIPALITY IN WHICH THE  
70 PETITION IS BEING CIRCULATED OR MAKES ANY FALSE STATEMENT ON THIS  
71 PETITION MAY BE PUNISHED BY FINE, IMPRISONMENT, OR BOTH."



72           (e) The municipal clerk shall verify the name of each  
73 qualified elector signing the petition. A municipal clerk may not  
74 receive any fee, salary or compensation from any private person or  
75 private legal entity for the clerk's duties in certifying a  
76 written protest petition. When the person or persons proposing  
77 the written protest petition have secured upon the petition a  
78 number of signatures of qualified electors equal to or exceeding  
79 the minimum number required in paragraph (a) of this subsection,  
80 and the signatures have been verified by the municipal clerk, the  
81 municipal clerk shall state the total number of qualified electors  
82 signing the petition in the municipality and shall certify the  
83 signatures of qualified electors of the municipality to the  
84 governing authority of that municipality.

85           (3) The municipal clerk shall refuse to certify the written  
86 protest petition to the governing authority of the municipality  
87 upon any of the following grounds:

88           (a) The petition is not in the form required by  
89 subsection (2) of this section;

90           (b) The petition clearly bears insufficient signatures;  
91 or

92           (c) One or more signatures appearing on the petition  
93 were obtained in violation of paragraph (c) of subsection (2).

94           In the case of such refusal, the municipal clerk shall  
95 endorse on the petition the word "submitted" and the date, and  
96 retain the petition pending appeal.



97 If none of the grounds for refusal exists, the municipal  
98 clerk shall certify the petition.

99 (4) If the municipal clerk refuses to certify the petition,  
100 the person or persons who proposed the written protest petition  
101 and who submitted it to the municipal clerk for certification,  
102 within ten (10) days after the clerk's refusal, may apply to the  
103 municipal court within that municipality for an order requiring  
104 the municipal clerk to bring the petition before the court and for  
105 a writ of mandamus to compel him or her to file it. The  
106 application shall be considered an emergency matter of public  
107 concern and shall be heard and determined with all convenient  
108 speed. If the municipal court decides that the petition is legal  
109 in form and contains the requisite number of signatures of  
110 qualified electors, it shall issue its mandate directing the  
111 municipal clerk to file the petition in his or her office as of  
112 the date of submission.

113 (5) Notice of \* \* \* the election on the question of the  
114 bonds shall be signed by the municipal clerk \* \* \* and shall be  
115 published once a week for at least three (3) consecutive weeks in  
116 at least one (1) newspaper published in such municipality. The  
117 first publication of \* \* \* the notice shall be made not less than  
118 twenty-one (21) days \* \* \* before the date fixed for such  
119 election, and the last publication shall be made not more than  
120 seven (7) days \* \* \* before such date. If no newspaper is  
121 published in \* \* \* the municipality, then such notice shall be



122 given by publishing the same for the required time in some  
123 newspaper having a general circulation in \* \* \* the municipality  
124 and published in the same or an adjoining county and, in addition,  
125 by posting a copy of such notice for at least twenty-one (21) days  
126 next preceding such election at three (3) public places in \* \* \*  
127 the municipality.

128       (6) If no protest be filed, then such bonds may be issued  
129 without an election on the question of the issuance thereof, at  
130 any time within a period of two (2) years after the date specified  
131 in the above-mentioned resolution. However, the governing  
132 authority of any municipality in its discretion may nevertheless  
133 call an election on such question, in which event it shall not be  
134 necessary to publish the resolution declaring its intention to  
135 issue such bonds as herein provided.

136       (7) Under no circumstances shall any municipality exceed the  
137 bond limit as set by statute for municipalities.

138       **SECTION 2.** (1) It shall be unlawful for any person who  
139 circulates a written protest petition as provided in Section  
140 21-33-307 to:

141               (a) Give or offer any consideration to an elector to  
142 induce the elector to sign or not to sign the petition;

143               (b) Solicit signatures on any petition within one  
144 hundred fifty (150) feet of any polling place on any election day;  
145 and



146 (c) Obtain or attempt to obtain a person's signature  
147 (i) by intentionally misleading such person as to the substance or  
148 effect of the petition, or (ii) by intentionally causing such  
149 person to be misled as to the substance or effect of the petition.

150 (2) Any person who alleges that his or her signature on a  
151 written protest petition circulated under the provisions of  
152 Section 21-33-307 was obtained as the result of fraud or coercion,  
153 or that the person was intentionally misled as to the substance or  
154 effect of the petition, may have his or her signature removed from  
155 the petition upon filing an affidavit to such effect with the  
156 municipal clerk anytime before the clerk has certified the  
157 petition as provided in Section 21-33-307.

158 (3) Any violation of subsection (1) or (2) of this section  
159 is punishable by imprisonment in the county jail for not more than  
160 one (1) year, or by a fine not to exceed One Thousand Dollars  
161 (\$1,000.00), or by both such fine and imprisonment.

162 **SECTION 3.** Section 21-23-7, Mississippi Code of 1972, is  
163 amended as follows:

164 21-23-7. (1) The municipal judge shall hold court in a  
165 public building designated by the governing authorities of the  
166 municipality and may hold court every day except Sundays and legal  
167 holidays if the business of the municipality so requires;  
168 provided, however, the municipal judge may hold court outside the  
169 boundaries of the municipality but not more than within a  
170 sixty-mile radius of the municipality to handle preliminary



171 matters and criminal matters such as initial appearances and  
172 felony preliminary hearings. The municipal judge may hold court  
173 outside the boundaries of the municipality but not more than  
174 within a one-mile radius of the municipality for any purpose. The  
175 municipal judge shall have the jurisdiction to hear and determine,  
176 without a jury and without a record of the testimony, all cases  
177 arising under Section 21-33-307(4). The municipal judge shall  
178 have the jurisdiction to hear and determine, without a jury and  
179 without a record of the testimony, all cases charging violations  
180 of the municipal ordinances and state misdemeanor laws made  
181 offenses against the municipality and to punish offenders therefor  
182 as may be prescribed by law. Except as otherwise provided by law,  
183 criminal proceedings shall be brought by sworn complaint filed in  
184 the municipal court. Such complaint shall state the essential  
185 elements of the offense charged and the statute or ordinance  
186 relied upon. Such complaint shall not be required to conclude  
187 with a general averment that the offense is against the peace and  
188 dignity of the state or in violation of the ordinances of the  
189 municipality. He or she may sit as a committing court in all  
190 felonies committed within the municipality, and he or she shall  
191 have the power to bind over the accused to the grand jury or to  
192 appear before the proper court having jurisdiction to try the  
193 same, and to set the amount of bail or refuse bail and commit the  
194 accused to jail in cases not bailable. The municipal judge is a  
195 conservator of the peace within his or her municipality. He or





196 she may conduct preliminary hearings in all violations of the  
197 criminal laws of this state occurring within the municipality, and  
198 any person arrested for a violation of law within the municipality  
199 may be brought before him or her for initial appearance. The  
200 municipal court shall have jurisdiction of any case remanded to it  
201 by a circuit court grand jury. The municipal court shall have  
202 civil jurisdiction over actions filed pursuant to and as provided  
203 in Title 93, Chapter 21, Mississippi Code of 1972, the Protection  
204 from Domestic Abuse Act.

205 (2) In the discretion of the court, where the objects of  
206 justice would be more likely met, as an alternative to imposition  
207 or payment of fine and/or incarceration, the municipal judge shall  
208 have the power to sentence convicted offenders to work on a public  
209 service project where the court has established such a program of  
210 public service by written guidelines filed with the clerk for  
211 public record. Such programs shall provide for reasonable  
212 supervision of the offender and the work shall be commensurate  
213 with the fine and/or incarceration that would have ordinarily been  
214 imposed. Such program of public service may be \* \* \* used in the  
215 implementation of the provisions of Section 99-19-20, and public  
216 service work thereunder may be supervised by persons other than  
217 the sheriff.

218 (3) The municipal judge may solemnize marriages, take oaths,  
219 affidavits and acknowledgments, and issue orders, subpoenas,  
220 summonses, citations, warrants for search and arrest upon a



221 finding of probable cause, and other such process under seal of  
222 the court to any county or municipality, in a criminal case, to be  
223 executed by the lawful authority of the county or the municipality  
224 of the respondent, and enforce obedience thereto. The absence of  
225 a seal shall not invalidate the process.

226 (4) When a person shall be charged with an offense in  
227 municipal court punishable by confinement, the municipal judge,  
228 being satisfied that such person is an indigent person and is  
229 unable to employ counsel, may, in the discretion of the court,  
230 appoint counsel from the membership of The Mississippi Bar  
231 residing in his or her county who shall represent him or her.  
232 Compensation for appointed counsel in criminal cases shall be  
233 approved and allowed by the municipal judge and shall be paid by  
234 the municipality. The maximum compensation shall not exceed Two  
235 Hundred Dollars (\$200.00) for any one (1) case. The governing  
236 authorities of a municipality may, in their discretion, appoint a  
237 public defender(s) who must be a licensed attorney and who shall  
238 receive a salary to be fixed by the governing authorities.

239 (5) The municipal judge of any municipality is hereby  
240 authorized to suspend the sentence and to suspend the execution of  
241 the sentence, or any part thereof, on such terms as may be imposed  
242 by the municipal judge. However, the suspension of imposition or  
243 execution of a sentence hereunder may not be revoked after a  
244 period of two (2) years. The municipal judge shall have the power  
245 to establish and operate a probation program, dispute resolution



246 program and other practices or procedures appropriate to the  
247 judiciary and designed to aid in the administration of justice.  
248 Any such program shall be established by the court with written  
249 policies and procedures filed with the clerk of the court for  
250 public record. Subsequent to original sentencing, the municipal  
251 judge, in misdemeanor cases, is hereby authorized to suspend  
252 sentence and to suspend the execution of a sentence, or any part  
253 thereof, on such terms as may be imposed by the municipal judge,  
254 if (a) the judge or his or her predecessor was authorized to order  
255 such suspension when the sentence was originally imposed; and (b)  
256 such conviction (i) has not been appealed; or (ii) has been  
257 appealed and the appeal has been voluntarily dismissed.

258 (6) Upon prior notice to the municipal prosecuting attorney  
259 and upon a showing in open court of rehabilitation, good conduct  
260 for a period of two (2) years since the last conviction in any  
261 court and that the best interest of society would be served, the  
262 court may, in its discretion, order the record of conviction of a  
263 person of any \* \* \* misdemeanors in that court expunged, and upon  
264 so doing \* \* \* that person thereafter legally stands as though he  
265 or she had never been convicted of the \* \* \* misdemeanor(s) and  
266 may lawfully so respond to any query of prior convictions. This  
267 order of expunction does not apply to the confidential records of  
268 law enforcement agencies and has no effect on the driving record  
269 of a person maintained under Title 63, Mississippi Code of 1972,  
270 or any other provision of said Title 63.



271 (7) Notwithstanding the provisions of subsection (6) of this  
272 section, a person who was convicted in municipal court of a  
273 misdemeanor before reaching his twenty-third birthday, excluding  
274 conviction for a traffic violation, and who is a first offender,  
275 may \* \* \* use the provisions of Section 99-19-71, to expunge such  
276 misdemeanor conviction.

277 (8) In the discretion of the court, a plea of nolo  
278 contendere may be entered to any charge in municipal court. Upon  
279 the entry of a plea of nolo contendere the court shall convict the  
280 defendant of the offense charged and shall proceed to sentence the  
281 defendant according to law. The judgment of the court shall  
282 reflect that the conviction was on a plea of nolo contendere. An  
283 appeal may be made from a conviction on a plea of nolo contendere  
284 as in other cases.

285 (9) Upon execution of a sworn complaint charging a  
286 misdemeanor, the municipal court may, in its discretion and in  
287 lieu of an arrest warrant, issue a citation requiring the  
288 appearance of the defendant to answer the charge made against him  
289 or her. On default of appearance, an arrest warrant may be issued  
290 for the defendant. The clerk of the court or deputy clerk may  
291 issue such citations.

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



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

298 (11) The municipal court shall have the power to impose  
299 punishment of a fine of not more than One Thousand Dollars  
300 (\$1,000.00) or six (6) months imprisonment, or both, for contempt  
301 of court. The municipal court may have the power to impose  
302 reasonable costs of court, not in excess of the following:

|     |   |           |
|-----|---|-----------|
| 303 | Dismissal of any affidavit, complaint or charge                   |           |
| 304 | in municipal court.....   | \$ 50.00  |
| 305 | Suspension of a minor's driver's license in lieu of               |           |
| 306 | conviction.....   | \$ 50.00  |
| 307 | Service of scire facias or return "not found".....                | \$ 20.00  |
| 308 | Causing search warrant to issue or causing                        |           |
| 309 | prosecution without reasonable cause or refusing to               |           |
| 310 | cooperate after initiating action.....                            | \$ 100.00 |
| 311 | Certified copy of the court record.....                           | \$ 5.00   |
| 312 | Service of arrest warrant for failure to answer                   |           |
| 313 | citation or traffic summons.....                                  | \$ 25.00  |
| 314 | Jail cost per day - actual jail cost paid by the municipality but |           |
| 315 | not to exceed.....  | \$ 35.00  |
| 316 | Service of court documents related to the filing                  |           |
| 317 | of a petition or issuance of a protection from domestic           |           |
| 318 | abuse order under Title 93, Chapter 21, Mississippi               |           |
| 319 | Code of 1972 .....  | \$ 25.00  |
| 320 | Any other item of court cost.....                                 | \$ 50.00  |



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

323 (12) A municipal court judge shall not dismiss a criminal  
324 case but may transfer the case to the justice court of the county  
325 if the municipal court judge is prohibited from presiding over the  
326 case by the Canons of Judicial Conduct and provided that venue and  
327 jurisdiction are proper in the justice court. Upon transfer of  
328 any such case, the municipal court judge shall give the municipal  
329 court clerk a written order to transmit the affidavit or complaint  
330 and all other records and evidence in the court's possession to  
331 the justice court by certified mail or to instruct the arresting  
332 officer to deliver such documents and records to the justice  
333 court. There shall be no court costs charged for the transfer of  
334 the case to the justice court.

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

339 **SECTION 4.** This act shall take effect and be in force from  
340 and after July 1, 2018.

