

By: Representative Banks

To: Judiciary A

HOUSE BILL NO. 612

1 AN ACT TO PROHIBIT ANY MUNICIPAL COURT FROM REQUIRING PHOTO  
2 IDENTIFICATION FROM ANY INDIVIDUAL BEFORE THE INDIVIDUAL MAY ENTER  
3 SUCH COURT; TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, IN  
4 CONFORMITY TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** A municipal court shall not prohibit any  
7 individual who goes to such court as a witness, victim, observer  
8 or for any other reason from entering the court if the individual  
9 does not possess photographic identification.

10 **SECTION 2.** Section 21-23-7, Mississippi Code of 1972, is  
11 amended as follows:

12 21-23-7. (1) The municipal judge shall hold court in a  
13 public building designated by the governing authorities of the  
14 municipality and may hold court every day except Sundays and legal  
15 holidays if the business of the municipality so requires;  
16 provided, however, the municipal judge may hold court outside the  
17 boundaries of the municipality but not more than within a  
18 sixty-mile radius of the municipality to handle preliminary  
19 matters and criminal matters such as initial appearances and



20 felony preliminary hearings. The municipal judge may hold court  
21 outside the boundaries of the municipality but not more than  
22 within a one-mile radius of the municipality for any purpose. The  
23 municipal judge shall have the jurisdiction to hear and determine,  
24 without a jury and without a record of the testimony, all cases  
25 charging violations of the municipal ordinances and state  
26 misdemeanor laws made offenses against the municipality and to  
27 punish offenders therefor as may be prescribed by law. Except as  
28 otherwise provided by law, criminal proceedings shall be brought  
29 by sworn complaint filed in the municipal court. Such complaint  
30 shall state the essential elements of the offense charged and the  
31 statute or ordinance relied upon. Such complaint shall not be  
32 required to conclude with a general averment that the offense is  
33 against the peace and dignity of the state or in violation of the  
34 ordinances of the municipality. He may sit as a committing court  
35 in all felonies committed within the municipality, and he shall  
36 have the power to bind over the accused to the grand jury or to  
37 appear before the proper court having jurisdiction to try the  
38 same, and to set the amount of bail or refuse bail and commit the  
39 accused to jail in cases not bailable. The municipal judge is a  
40 conservator of the peace within his municipality. He may conduct  
41 preliminary hearings in all violations of the criminal laws of  
42 this state occurring within the municipality, and any person  
43 arrested for a violation of law within the municipality may be  
44 brought before him for initial appearance. The municipal court



45 shall have jurisdiction of any case remanded to it by a circuit  
46 court grand jury. The municipal court shall have civil  
47 jurisdiction over actions filed pursuant to and as provided in  
48 Title 93, Chapter 21, Mississippi Code of 1972, the Protection  
49 from Domestic Abuse Act.

50 (2) In the discretion of the court, where the objects of  
51 justice would be more likely met, as an alternative to imposition  
52 or payment of fine and/or incarceration, the municipal judge shall  
53 have the power to sentence convicted offenders to work on a public  
54 service project where the court has established such a program of  
55 public service by written guidelines filed with the clerk for  
56 public record. Such programs shall provide for reasonable  
57 supervision of the offender and the work shall be commensurate  
58 with the fine and/or incarceration that would have ordinarily been  
59 imposed. Such program of public service may be utilized in the  
60 implementation of the provisions of Section 99-19-20, and public  
61 service work thereunder may be supervised by persons other than  
62 the sheriff.

63 (3) The municipal judge may solemnize marriages, take oaths,  
64 affidavits and acknowledgments, and issue orders, subpoenas,  
65 summonses, citations, warrants for search and arrest upon a  
66 finding of probable cause, and other such process under seal of  
67 the court to any county or municipality, in a criminal case, to be  
68 executed by the lawful authority of the county or the municipality



69 of the respondent, and enforce obedience thereto. The absence of  
70 a seal shall not invalidate the process.

71 (4) When a person shall be charged with an offense in  
72 municipal court punishable by confinement, the municipal judge,  
73 being satisfied that such person is an indigent person and is  
74 unable to employ counsel, may, in the discretion of the court,  
75 appoint counsel from the membership of The Mississippi Bar  
76 residing in his county who shall represent him. Compensation for  
77 appointed counsel in criminal cases shall be approved and allowed  
78 by the municipal judge and shall be paid by the municipality. The  
79 maximum compensation shall not exceed Two Hundred Dollars  
80 (\$200.00) for any one (1) case. The governing authorities of a  
81 municipality may, in their discretion, appoint a public  
82 defender(s) who must be a licensed attorney and who shall receive  
83 a salary to be fixed by the governing authorities.

84 (5) The municipal judge of any municipality is hereby  
85 authorized to suspend the sentence and to suspend the execution of  
86 the sentence, or any part thereof, on such terms as may be imposed  
87 by the municipal judge. However, the suspension of imposition or  
88 execution of a sentence hereunder may not be revoked after a  
89 period of two (2) years. The municipal judge shall have the power  
90 to establish and operate a probation program, dispute resolution  
91 program and other practices or procedures appropriate to the  
92 judiciary and designed to aid in the administration of justice.  
93 Any such program shall be established by the court with written



94 policies and procedures filed with the clerk of the court for  
95 public record. Subsequent to original sentencing, the municipal  
96 judge, in misdemeanor cases, is hereby authorized to suspend  
97 sentence and to suspend the execution of a sentence, or any part  
98 thereof, on such terms as may be imposed by the municipal judge,  
99 if (a) the judge or his or her predecessor was authorized to order  
100 such suspension when the sentence was originally imposed; and (b)  
101 such conviction (i) has not been appealed; or (ii) has been  
102 appealed and the appeal has been voluntarily dismissed.

103 (6) Upon prior notice to the municipal prosecuting attorney  
104 and upon a showing in open court of rehabilitation, good conduct  
105 for a period of two (2) years since the last conviction in any  
106 court and that the best interest of society would be served, the  
107 court may, in its discretion, order the record of conviction of a  
108 person of any or all misdemeanors in that court expunged, and upon  
109 so doing the said person thereafter legally stands as though he  
110 had never been convicted of the said misdemeanor(s) and may  
111 lawfully so respond to any query of prior convictions. This order  
112 of expunction does not apply to the confidential records of law  
113 enforcement agencies and has no effect on the driving record of a  
114 person maintained under Title 63, Mississippi Code of 1972, or any  
115 other provision of said Title 63.

116 (7) Notwithstanding the provisions of subsection (6) of this  
117 section, a person who was convicted in municipal court of a  
118 misdemeanor before reaching his twenty-third birthday, excluding



119 conviction for a traffic violation, and who is a first offender,  
120 may utilize the provisions of Section 99-19-71, to expunge such  
121 misdemeanor conviction.

122 (8) In the discretion of the court, a plea of nolo  
123 contendere may be entered to any charge in municipal court. Upon  
124 the entry of a plea of nolo contendere the court shall convict the  
125 defendant of the offense charged and shall proceed to sentence the  
126 defendant according to law. The judgment of the court shall  
127 reflect that the conviction was on a plea of nolo contendere. An  
128 appeal may be made from a conviction on a plea of nolo contendere  
129 as in other cases.

130 (9) Upon execution of a sworn complaint charging a  
131 misdemeanor, the municipal court may, in its discretion and in  
132 lieu of an arrest warrant, issue a citation requiring the  
133 appearance of the defendant to answer the charge made against him.  
134 On default of appearance, an arrest warrant may be issued for the  
135 defendant. The clerk of the court or deputy clerk may issue such  
136 citations.

137 (10) Except as provided under Section 1 of this act, the  
138 municipal court shall have the power to make rules for the  
139 administration of the court's business, which rules, if any, shall  
140 be in writing filed with the clerk of the court and shall include  
141 the enactment of rules related to the court's authority to issue  
142 domestic abuse protection orders pursuant to Section 93-21-1 et  
143 seq.



144 (11) The municipal court shall have the power to impose  
145 punishment of a fine of not more than One Thousand Dollars  
146 (\$1,000.00) or six (6) months imprisonment, or both, for contempt  
147 of court. The municipal court may have the power to impose  
148 reasonable costs of court, not in excess of the following:

149	Dismissal of any affidavit, complaint or charge	
150	in municipal court.....	\$ 50.00
151	Suspension of a minor's driver's license in lieu of	
152	conviction.....	\$ 50.00
153	Service of scire facias or return "not found".....	\$ 20.00
154	Causing search warrant to issue or causing	
155	prosecution without reasonable cause or refusing to	
156	cooperate after initiating action.....	\$ 100.00
157	Certified copy of the court record.....	\$ 5.00
158	Service of arrest warrant for failure to answer	
159	citation or traffic summons.....	\$ 25.00
160	Jail cost per day - actual jail cost paid by the municipality but	
161	not to exceed.....	\$ 35.00
162	Service of court documents related to the filing	
163	of a petition or issuance of a protection from domestic	
164	abuse order under Title 93, Chapter 21, Mississippi	
165	Code of 1972 .....	\$ 25.00
166	Any other item of court cost.....	\$ 50.00

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



169           (12) A municipal court judge shall not dismiss a criminal  
170 case but may transfer the case to the justice court of the county  
171 if the municipal court judge is prohibited from presiding over the  
172 case by the Canons of Judicial Conduct and provided that venue and  
173 jurisdiction are proper in the justice court. Upon transfer of  
174 any such case, the municipal court judge shall give the municipal  
175 court clerk a written order to transmit the affidavit or complaint  
176 and all other records and evidence in the court's possession to  
177 the justice court by certified mail or to instruct the arresting  
178 officer to deliver such documents and records to the justice  
179 court. There shall be no court costs charged for the transfer of  
180 the case to the justice court.

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

185           **SECTION 3.** This act shall take effect and be in force from  
186 and after July 1, 2018.

