

By: Representative Wooten

To: Judiciary B

HOUSE BILL NO. 1292

1 AN ACT TO DEFINE THE RIGHTS OF INDIGENT DEFENDANTS IN THE
2 COLLECTION OF COURT FINES, COSTS AND RESTITUTION; TO AMEND SECTION
3 21-23-7, MISSISSIPPI CODE OF 1972, TO REVISE THE POWERS AND DUTIES
4 OF MUNICIPAL JUDGES; TO AMEND SECTION 25-32-9, MISSISSIPPI CODE OF
5 1972, TO REQUIRE THAT WAIVER MUST BE KNOWING, AND VOLUNTARY; TO
6 AMEND SECTION 47-1-1, MISSISSIPPI CODE OF 1972, TO REVISE THE
7 ENFORCEMENT OF SENTENCES; TO AMEND SECTION 99-15-15, MISSISSIPPI
8 CODE OF 1972, TO CONFORM; TO AMEND SECTION 99-19-20, MISSISSIPPI
9 CODE OF 1972, TO REVISE THE RESPONSIBILITY TO PAY OR SECURE
10 RESOURCES TO PAY; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF
11 1972, TO REVISE THE COURT'S SUSPENSION OF STATE ASSESSMENTS; TO
12 AMEND SECTION 99-37-5, MISSISSIPPI CODE OF 1972, TO REVISE
13 ENFORCEMENT AND REVOCATION OF PROBATION; TO AMEND SECTION 99-37-7,
14 MISSISSIPPI CODE OF 1972, TO REVISE IMPOSITION OF AN ORDER OF
15 CONTEMPT; TO AMEND SECTION 99-37-9, MISSISSIPPI CODE OF 1972, TO
16 REVISE IMPRISONMENT FOR CONTEMPT; TO AMEND SECTION 99-37-11,
17 MISSISSIPPI CODE OF 1972, TO REVISE RELIEF FROM PAYMENT; AND FOR
18 RELATED PURPOSES.

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

20 **SECTION 1.** Section 21-23-7, Mississippi Code of 1972, is
21 amended as follows:

22 21-23-7. (1) The municipal judge shall hold court in a
23 public building designated by the governing authorities of the
24 municipality and may hold court every day except Sundays and legal
25 holidays if the business of the municipality so requires; * * *
26 however, the municipal judge may hold court outside the boundaries



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



52 violations of the criminal laws of this state occurring within the
53 municipality, and any person arrested for a violation of law
54 within the municipality may be brought before * * * the court for
55 initial appearance. The municipal court shall have jurisdiction
56 of any case remanded to it by a circuit court grand jury. The
57 municipal court shall have civil jurisdiction over actions filed
58 pursuant to and as provided in Title 93, Chapter 21, Mississippi
59 Code of 1972, the Protection from Domestic Abuse Act.

60 (2) In the discretion of the court, where the objects of
61 justice would be more likely met, as an alternative to imposition
62 or payment of fine and * * * incarceration, the municipal
63 judge * * * has the power to sentence convicted offenders to work
64 on a public service project where the court has established such a
65 program of public service by written guidelines filed with the
66 clerk for public record. Such programs shall provide for
67 reasonable supervision of the offender and the work shall be
68 commensurate with the fine * * * or incarceration that would have
69 ordinarily been imposed. * * * The program of public service may
70 be utilized in the implementation of the provisions of Section
71 99-19-20, and public service work thereunder may be supervised by
72 persons other than the sheriff.

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



77 the court to any county or municipality, in a criminal case, to be
78 executed by the lawful authority of the county or the municipality
79 of the respondent, and enforce obedience thereto. The absence of
80 a seal shall not invalidate the process.

81 (4) When a person * * * is charged with an offense in
82 municipal court punishable by confinement, the municipal judge,
83 being satisfied that * * * the person is an indigent person and is
84 unable to employ counsel, may, in the discretion of the court,
85 appoint counsel from the membership of The Mississippi Bar
86 residing in his county who shall represent him. When a person is
87 charged with failure to pay fines, fees, court costs, state
88 assessments or restitution and may be punished by confinement, or
89 when a person is charged with failure to appear in court and may
90 be punished by confinement, the municipal judge, being satisfied
91 that the person is an indigent person and is unable to employ
92 counsel, shall appoint counsel from the membership of The
93 Mississippi Bar residing in the county of the person's residence
94 who shall represent the person. Compensation for appointed
95 counsel in cases concerning criminal matters or the collection of
96 fines, fees, court costs, state assessments or restitution.
97 Compensation for appointed counsel in * * * cases concerning
98 criminal matters or the collection of fines, fees, court costs,
99 state assessments or restitution shall be approved and allowed by
100 the municipal judge and shall be paid by the municipality. The
101 maximum compensation shall not exceed Two Hundred Dollars



102 (\$200.00) for any one (1) case. The governing authorities of a
103 municipality may, in their discretion, appoint a public
104 defender(s) who must be a licensed attorney and who shall receive
105 a salary to be fixed by the governing authorities.

106 (5) The municipal judge of any municipality is hereby
107 authorized to suspend the sentence and to suspend the execution of
108 the sentence, or any part thereof, on such terms as may be imposed
109 by the municipal judge * * *, but the suspension of imposition or
110 execution of a sentence hereunder may not be revoked after a
111 period of two (2) years. The municipal judge shall have the power
112 to establish and operate a probation program, dispute resolution
113 program and other practices or procedures appropriate to the
114 judiciary and designed to aid in the administration of justice.
115 Any such program shall be established by the court with written
116 policies and procedures filed with the clerk of the court for
117 public record. Subsequent to original sentencing, the municipal
118 judge, in misdemeanor cases, is hereby authorized to suspend
119 sentence and to suspend the execution of a sentence, or any part
120 thereof, on such terms as may be imposed by the municipal judge,
121 if (a) the judge or his or her predecessor was authorized to order
122 such suspension when the sentence was originally imposed; and (b)
123 such conviction (i) has not been appealed; or (ii) has been
124 appealed and the appeal has been voluntarily dismissed.

125 (6) Upon prior notice to the municipal prosecuting attorney
126 and upon a showing in open court of rehabilitation, good conduct



127 for a period of two (2) years since the last conviction in any
128 court and that the best interest of society would be served, the
129 court may, in its discretion, order the record of conviction of a
130 person of any or all misdemeanors in that court expunged, and upon
131 so doing the said person thereafter legally stands as though he
132 had never been convicted of the said misdemeanor(s) and may
133 lawfully so respond to any query of prior convictions. This order
134 of expunction does not apply to the confidential records of law
135 enforcement agencies and has no effect on the driving record of a
136 person maintained under Title 63, Mississippi Code of 1972, or any
137 other provision of said Title 63.

138 (7) Notwithstanding the provisions of subsection (6) of this
139 section, a person who was convicted in municipal court of a
140 misdemeanor before reaching his twenty-third birthday, excluding
141 conviction for a traffic violation, and who is a first offender,
142 may utilize the provisions of Section 99-19-71, to expunge * * *
143 the misdemeanor conviction.

144 (8) In the discretion of the court, a plea of nolo
145 contendere may be entered to any charge in municipal court. Upon
146 the entry of a plea of nolo contendere the court shall convict the
147 defendant of the offense charged and shall proceed to sentence the
148 defendant according to law. The judgment of the court shall
149 reflect that the conviction was on a plea of nolo contendere. An
150 appeal may be made from a conviction on a plea of nolo contendere
151 as in other cases.



152 (9) Upon execution of a sworn complaint charging a
153 misdemeanor, the municipal court may, in its discretion and in
154 lieu of an arrest warrant, issue a citation requiring the
155 appearance of the defendant to answer the charge made against him.
156 On default of appearance, an arrest warrant may be issued for the
157 defendant. The clerk of the court or deputy clerk may issue * * *
158 the citations.

159 (10) The municipal court shall have the power to make rules
160 for the administration of the court's business, which rules, if
161 any, shall be in writing filed with the clerk of the court and
162 shall include the enactment of rules related to the court's
163 authority to issue domestic abuse protection orders pursuant to
164 Section 93-21-1 et seq.

165 (11) The municipal court shall have the power to impose
166 punishment of a fine of not more than One Thousand Dollars
167 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
168 of court. The municipal court may have the power to impose
169 reasonable costs of court, not in excess of the following:

170 Dismissal of any affidavit, complaint or charge	
171 in municipal court.....	\$ 50.00
172 Suspension of a minor's driver's license in lieu of	
173 conviction.....	\$ 50.00
174 Service of scire facias or return "not found".....	\$ 20.00
175 Causing search warrant to issue or causing	
176 prosecution without reasonable cause or refusing to	



177 cooperate after initiating action.....\$ 100.00
 178 Certified copy of the court record.....\$ 5.00
 179 Service of arrest warrant for failure to answer
 180 citation or traffic summons.....\$ 25.00
 181 Jail cost per day - actual jail cost paid by the municipality but
 182 not to exceed..... \$ 35.00
 183 Service of court documents related to the filing
 184 of a petition or issuance of a protection from domestic
 185 abuse order under Title 93, Chapter 21, Mississippi
 186 Code of 1972\$ 25.00
 187 Any other item of court cost.....\$ 50.00

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

190 (12) A municipal court judge shall not dismiss a criminal
 191 case but may transfer the case to the justice court of the county
 192 if the municipal court judge is prohibited from presiding over the
 193 case by the Canons of Judicial Conduct and provided that venue and
 194 jurisdiction are proper in the justice court. Upon transfer of
 195 any such case, the municipal court judge shall give the municipal
 196 court clerk a written order to transmit the affidavit or complaint
 197 and all other records and evidence in the court's possession to
 198 the justice court by certified mail or to instruct the arresting
 199 officer to deliver * * * the documents and records to the justice
 200 court. There shall be no court costs charged for the transfer of
 201 the case to the justice court.



202 (13) A municipal court judge shall expunge the record of any
203 case in which an arrest was made, the person arrested was released
204 and the case was dismissed or the charges were dropped or there
205 was no disposition of * * * the case.

206 **SECTION 2.** Section 25-32-9, Mississippi Code of 1972, is
207 amended as follows:

208 25-32-9. (1) When any person shall be arrested and charged
209 with a felony, a misdemeanor or an act of delinquency, then the
210 arresting authority shall afford * * * the person an opportunity
211 to sign an affidavit stating that * * * the person is an indigent
212 and unable to employ counsel. Upon the signing of * * * the
213 affidavit by * * * the person, the public defender shall represent
214 said person unless the right to counsel * * * is waived by * * *
215 the person and the waiver is knowing and voluntary. * * * Also, a
216 statement * * * must be executed by the alleged indigent with the
217 assistance of counsel, under oath, listing all income and assets
218 available to the indigent for the payment of attorney's fees and
219 the person's financial obligations, including the ownership of any
220 property, real or personal, and setting out therein the alleged
221 indigent's employment status, number of dependents, income from
222 any source, the ability of his parents or spouse to provide an
223 attorney's fee, and any other information which might prove or
224 disprove a finding of indigency. The affidavit and statement
225 shall be a part of the record in the case and shall be subject to
226 review by the appropriate court. Based on review of the



227 affidavit, statement or other appropriate evidence, if the
228 appropriate court finds that the defendant is not indigent, said
229 court shall terminate the representation of the defendant by the
230 public defender.

231 When any person shall be arrested and charged with a
232 misdemeanor, the presiding judge or justice, upon determination
233 that the person is indigent as provided in this section, and that
234 representation of the indigent is required, shall appoint the
235 public defender whose duty it shall be to provide * * * the
236 representation. No person determined to be an indigent as
237 provided in this section shall be imprisoned as a result of a
238 misdemeanor conviction unless he was represented by the public
239 defender or knowingly, voluntarily and intelligently waived the
240 right to counsel.

241 (2) The accused shall have * * * representation available at
242 every critical stage of the proceedings against him where a
243 substantial right may be affected.

244 (3) Appointment of counsel is also required for indigent
245 persons who face the possibility of incarceration due to a charge
246 of failure to pay fines, fees, court costs, state assessments or
247 restitution, or for a charge of failure to appear for court
248 proceedings on a failure-to-pay charge.

249 (* * * 4) The public defender shall also represent persons
250 in need of mental treatment, as provided under Sections 41-21-61



251 et seq. The chancery court may tax costs as provided in Sections
252 41-21-79 and 41-21-85.

253 **SECTION 3.** Section 47-1-1, Mississippi Code of 1972, is
254 amended as follows:

255 47-1-1. Every * * * convicted person sentenced to
256 imprisonment in the county jail, or to * * * imprisonment and the
257 payment of a fine, or the payment of a fine, * * * shall remain in
258 close confinement for the full time specified for imprisonment in
259 the sentence of the court * * *.

260 **SECTION 4.** Section 99-15-15, Mississippi Code of 1972, is
261 amended as follows:

262 99-15-15. When any person * * * is charged with a felony,
263 misdemeanor punishable by confinement for ninety (90) days or
264 more, or commission of an act of delinquency, the court or the
265 judge in vacation, being satisfied that * * * the person is an
266 indigent person and is unable to employ counsel, may, in the
267 discretion of the court, appoint counsel to defend him.

268 * * * The appointed counsel shall have free access to the
269 accused who shall have process to compel the attendance of
270 witnesses in his favor.

271 The accused shall have * * * representation available at
272 every critical stage of the proceeding against him where a
273 substantial right may be affected.

274 **SECTION 5.** Section 99-19-20, Mississippi Code of 1972, is
275 amended as follows:



276 99-19-20. (1) When any court sentences a defendant to pay a
277 fine, the court may order (a) that the fine be paid immediately,
278 or (b) that the fine be paid in installments to the clerk of said
279 court or to the judge, if there be no clerk, or * * * or (c) that
280 the defendant be required to work on public property for public
281 benefit under the direction of the sheriff for a specific number
282 of hours, or (* * *d) any combination of the above.

283 (2) * * * Neither the requirement that a defendant pay a
284 fine in installments to the clerk of court or to the judge, nor
285 the requirement that a defendant work on public property for
286 public benefit, shall result in the imposition of interest on
287 monetary penalties owed or any additional fees or costs upon a
288 defendant.

289 (3) A court shall not order the imprisonment or revoke the
290 probation of a person for nonpayment of a fine or restitution, or
291 failure to make timely payments toward such penalties under a
292 payment schedule approved by the court, without first holding a
293 hearing, on the record, inquiring into the reasons for the
294 nonpayment, the individual's ability to pay and efforts to secure
295 resources, and the adequacy of alternatives to incarceration. The
296 defendant shall not be imprisoned if the court determines that the
297 defendant is financially unable to pay a fine or restitution. A
298 court may only order the imprisonment of an individual for
299 nonpayment of a fine or restitution after making an express
300 written determination, based on evidence in the record, that the



301 failure to pay was willful and that the individual did not make
302 sufficient bona fide efforts to secure resources to pay. Upon a
303 determination that a person is unable to pay a fine or
304 restitution, or that there are any other extenuating circumstances
305 that prohibit payment or collection, the court shall consider the
306 use of alternatives to confinement, including the reduction or
307 waiver of the fine or restitution, community service, or any
308 alternative deemed appropriate by the court.

309 (4) A court shall not order the imprisonment or revoke the
310 probation of an individual for nonpayment of fees, state
311 assessments, or court costs, or failure to make timely payments
312 toward such penalties under a payment schedule approved by the
313 court. Upon a determination that a person is unable to pay a fee,
314 state assessment, or court cost, or that there are any other
315 extenuating circumstances that prohibit payment or collection, the
316 court may order the person to perform community service until the
317 fee, state assessment, or court costs are paid or until the court
318 is satisfied that the person is in compliance with the approved
319 payment schedule. If the court orders the person to perform
320 community service, credit toward unpaid fees, assessments, and
321 court costs shall be granted at the specified hourly credit rate
322 per hour of community service performed, and each hour of
323 community service performed shall reduce the judgment by that
324 amount.



325 (5) A person shall be presumed to be "unable to pay" a fine,
326 fee, state assessment, court cost or restitution if the person:
327 (a) Has an annual income at or below the federal
328 poverty level;
329 (b) Is homeless;
330 (c) Resides in a correctional or mental health
331 facility;
332 (d) Is currently enrolled in one or more types of
333 public assistance as defined in Section 63-11-31;
334 (e) Has a development disability or is totally and
335 permanently disabled; or
336 (f) By the payment of fines, state assessments, fees,
337 court costs, or restitution, would be deprived or the person's
338 dependents, including children and elderly parents, would be
339 deprived of financial support needed to meet basic needs such as
340 housing, food, child care, or transportation.

341 * * *

342 (6) (a) In no event shall * * * the period of imprisonment
343 imposed under subsection (3) of this section exceed one (1) day
344 for each Twenty-five Dollars (\$25.00) of the fine. If a defendant
345 is unable to work or if the county or the municipality is unable
346 to provide work for the defendant, the defendant shall receive a
347 credit of Twenty-five Dollars (\$25.00) for each day of
348 imprisonment.



349 (b) If a sentence of imprisonment, as well as a fine,
350 were imposed, the aggregate of * * * the term for nonpayment of a
351 fine and the original sentence of imprisonment shall not exceed
352 the maximum authorized term of imprisonment.

353 (c) It shall be in the discretion of the judge to
354 determine the rate of the credit to be earned for work performed
355 under subsection (1) * * * (c) and community service performed
356 under subsection (3) or (4), but the rate shall be no lower than
357 the rate of the highest current federal minimum wage.

358 (* * * 7) Periods of confinement imposed for nonpayment of
359 two (2) or more fines shall run consecutively unless specified by
360 the court to run concurrently.

361 **SECTION 6.** Section 99-19-73, Mississippi Code of 1972, is
362 amended as follows:

363 99-19-73. (1) **Traffic violations.** In addition to any
364 monetary penalties and any other penalties imposed by law, there
365 shall be imposed and collected the following state assessment from
366 each person upon whom a court imposes a fine or other penalty for
367 any violation in Title 63, Mississippi Code of 1972, except
368 offenses relating to the Mississippi Implied Consent Law (Section
369 63-11-1 et seq.) and offenses relating to vehicular parking or
370 registration:

371	FUND	AMOUNT
372	State Court Education Fund.....	[Deleted]
373	State Prosecutor Education Fund.....	[Deleted]



374 Vulnerable Persons Training,
375 Investigation and Prosecution Trust Fund.....[Deleted]
376 Child Support Prosecution Trust Fund.....[Deleted]
377 Driver Training Penalty Assessment Fund.....[Deleted]
378 Law Enforcement Officers Training Fund.....[Deleted]
379 Spinal Cord and Head Injury Trust Fund
380 (for all moving violations).....[Deleted]
381 Emergency Medical Services Operating Fund.....[Deleted]
382 Mississippi Leadership Council on Aging Fund.....[Deleted]
383 Law Enforcement Officers and Fire Fighters
384 Death Benefits Trust Fund.....[Deleted]
385 Law Enforcement Officers and Fire Fighters
386 Disability Benefits Trust Fund.....[Deleted]
387 State Prosecutor Compensation Fund for the purpose
388 of providing additional compensation for
389 district attorneys and their legal assistants.....[Deleted]
390 Crisis Intervention Mental Health Fund.....[Deleted]
391 Drug Court Fund.....[Deleted]
392 Judicial Performance Fund.....[Deleted]
393 Capital Defense Counsel Fund.....[Deleted]
394 Indigent Appeals Fund.....[Deleted]
395 Capital Post-Conviction Counsel Fund.....[Deleted]
396 Victims of Domestic Violence Fund.....[Deleted]
397 Public Defenders Education Fund.....[Deleted]
398 Domestic Violence Training Fund.....[Deleted]



399 Attorney General's Cyber Crime Unit.....[Deleted]
 400 Children's Safe Center Fund.....[Deleted]
 401 DuBard School for Language Disorders Fund.....[Deleted]
 402 Children's Advocacy Centers Fund.....[Deleted]
 403 Judicial System Operation Fund.....[Deleted]
 404 GENERAL FUND.....\$ 90.50

405 (2) **Implied Consent Law violations.** In addition to any
 406 monetary penalties and any other penalties imposed by law, there
 407 shall be imposed and collected the following state assessment from
 408 each person upon whom a court imposes a fine or any other penalty
 409 for any violation of the Mississippi Implied Consent Law (Section
 410 63-11-1 et seq.):

411 FUND	AMOUNT
412 Crime Victims' Compensation Fund.....	[Deleted]
413 State Court Education Fund.....	[Deleted]
414 State Prosecutor Education Fund.....	[Deleted]
415 Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	[Deleted]
417 Child Support Prosecution Trust Fund.....	[Deleted]
418 Driver Training Penalty Assessment Fund.....	[Deleted]
419 Law Enforcement Officers Training Fund.....	[Deleted]
420 Emergency Medical Services Operating Fund.....	[Deleted]
421 Mississippi Alcohol Safety Education Program Fund.....	[Deleted]
422 Federal-State Alcohol Program Fund.....	[Deleted]
423 Mississippi Forensics Laboratory	



424 Implied Consent Law Fund.....[Deleted]

425 Spinal Cord and Head Injury Trust Fund.....[Deleted]

426 Capital Defense Counsel Fund.....[Deleted]

427 Indigent Appeals Fund.....[Deleted]

428 Capital Post-Conviction Counsel Fund.....[Deleted]

429 Victims of Domestic Violence Fund.....[Deleted]

430 Law Enforcement Officers and Fire Fighters

431 Death Benefits Trust Fund.....[Deleted]

432 Law Enforcement Officers and Fire Fighters

433 Disability Benefits Trust Fund.....[Deleted]

434 State Prosecutor Compensation Fund for the purpose

435 of providing additional compensation for

436 district attorneys and their legal assistants.....[Deleted]

437 Crisis Intervention Mental Health Fund.....[Deleted]

438 Drug Court Fund.....[Deleted]

439 Statewide Victims' Information and

440 Notification System Fund.....[Deleted]

441 Public Defenders Education Fund.....[Deleted]

442 Domestic Violence Training Fund.....[Deleted]

443 Attorney General's Cyber Crime Unit.....[Deleted]

444 GENERAL FUND.....\$ 243.50

445 (3) **Game and Fish Law violations.** In addition to any

446 monetary penalties and any other penalties imposed by law, there

447 shall be imposed and collected the following state assessment from

448 each person upon whom a court imposes a fine or other penalty for



449 any violation of the game and fish statutes or regulations of this
450 state:

451	FUND	AMOUNT
452	State Court Education Fund.....	[Deleted]
453	State Prosecutor Education Fund.....	[Deleted]
454	Vulnerable Persons Training,	
455	Investigation and Prosecution Trust Fund.....	[Deleted]
456	Law Enforcement Officers Training Fund.....	[Deleted]
457	Hunter Education and Training Program Fund.....	[Deleted]
458	Law Enforcement Officers and Fire Fighters	
459	Death Benefits Trust Fund.....	[Deleted]
460	Law Enforcement Officers and Fire Fighters	
461	Disability Benefits Trust Fund.....	[Deleted]
462	State Prosecutor Compensation Fund for the purpose	
463	of providing additional compensation for district	
464	attorneys and their legal assistants.....	[Deleted]
465	Crisis Intervention Mental Health Fund.....	[Deleted]
466	Drug Court Fund.....	[Deleted]
467	Capital Defense Counsel Fund.....	[Deleted]
468	Indigent Appeals Fund.....	[Deleted]
469	Capital Post-Conviction Counsel Fund.....	[Deleted]
470	Victims of Domestic Violence Fund.....	[Deleted]
471	Public Defenders Education Fund.....	[Deleted]
472	Domestic Violence Training Fund.....	[Deleted]
473	Attorney General's Cyber Crime Unit.....	[Deleted]



474 GENERAL FUND.....\$ 89.00

475 (4) [Deleted]

476 (5) **Speeding, reckless and careless driving violations.** In
477 addition to any assessment imposed under subsection (1) or (2) of
478 this section, there shall be imposed and collected the following
479 state assessment from each person upon whom a court imposes a fine
480 or other penalty for driving a vehicle on a road or highway:

481 (a) At a speed that exceeds the posted speed limit by
482 at least ten (10) miles per hour but not more than twenty (20)
483 miles per hour.....\$10.00

484 (b) At a speed that exceeds the posted speed limit by
485 at least twenty (20) miles per hour but not more than thirty (30)
486 miles per hour.....\$20.00

487 (c) At a speed that exceeds the posted speed limit by
488 thirty (30) miles per hour or more.....\$30.00

489 (d) In violation of Section 63-3-1201, which is the
490 offense of reckless driving.....\$10.00

491 (e) In violation of Section 63-3-1213, which is the
492 offense of careless driving.....\$10.00

493 All assessments collected under this subsection shall be
494 deposited into the State General Fund.

495 (6) **Other misdemeanors.** In addition to any monetary
496 penalties and any other penalties imposed by law, there shall be
497 imposed and collected the following state assessment from each
498 person upon whom a court imposes a fine or other penalty for any



499 misdemeanor violation not specified in subsection (1), (2) or (3)
500 of this section, except offenses relating to vehicular parking or
501 registration:

502	FUND	AMOUNT
503	Crime Victims' Compensation Fund.....	[\$Deleted]
504	State Court Education Fund.....	[Deleted]
505	State Prosecutor Education Fund.....	[Deleted]
506	Vulnerable Persons Training, Investigation	
507	and Prosecution Trust Fund.....	[Deleted]
508	Child Support Prosecution Trust Fund.....	[Deleted]
509	Law Enforcement Officers Training Fund.....	[Deleted]
510	Capital Defense Counsel Fund.....	[Deleted]
511	Indigent Appeals Fund.....	[Deleted]
512	Capital Post-Conviction Counsel Fund.....	[Deleted]
513	Victims of Domestic Violence Fund.....	[Deleted]
514	State Crime Stoppers Fund.....	[Deleted]
515	Law Enforcement Officers and Fire Fighters	
516	Death Benefits Trust Fund.....	[Deleted]
517	Law Enforcement Officers and Fire Fighters	
518	Disability Benefits Trust Fund.....	[Deleted]
519	State Prosecutor Compensation Fund for the purpose	
520	of providing additional compensation for	
521	district attorneys and their legal assistants.....	[Deleted]
522	Crisis Intervention Mental Health Fund.....	[Deleted]
523	Drug Court Fund.....	[Deleted]



524 Judicial Performance Fund.....[Deleted]
525 Statewide Victims' Information and
526 Notification System Fund.....[Deleted]
527 Public Defenders Education Fund.....[Deleted]
528 Domestic Violence Training Fund.....[Deleted]
529 Attorney General's Cyber Crime Unit.....[Deleted]
530 Information Exchange Network Fund.....[Deleted]
531 Motorcycle Officer Training Fund.....[Deleted]
532 Civil Legal Assistance Fund.....[Deleted]
533 Justice Court Collections Fund.....[Deleted]
534 Municipal Court Collections Fund.....[Deleted]
535 GENERAL FUND.....\$121.75

536 (7) **Other felonies.** In addition to any monetary penalties
537 and any other penalties imposed by law, there shall be imposed and
538 collected the following state assessment from each person upon
539 whom a court imposes a fine or other penalty for any felony
540 violation not specified in subsection (1), (2) or (3) of this
541 section:

542 FUND	AMOUNT
543 Crime Victims' Compensation Fund.....	\$[Deleted]
544 State Court Education Fund.....	[Deleted]
545 State Prosecutor Education Fund.....	[Deleted]
546 Vulnerable Persons Training, Investigation 547 and Prosecution Trust Fund.....	[Deleted]
548 Child Support Prosecution Trust Fund.....	[Deleted]



549 Law Enforcement Officers Training Fund.....[Deleted]
550 Capital Defense Counsel Fund.....[Deleted]
551 Indigent Appeals Fund.....[Deleted]
552 Capital Post-Conviction Counsel Fund.....[Deleted]
553 Victims of Domestic Violence Fund.....[Deleted]
554 Criminal Justice Fund.....[Deleted]
555 Law Enforcement Officers and Fire Fighters
556 Death Benefits Trust Fund.....[Deleted]
557 Law Enforcement Officers and Fire Fighters
558 Disability Benefits Trust Fund.....[Deleted]
559 State Prosecutor Compensation Fund for the purpose
560 of providing additional compensation for
561 district attorneys and their legal assistants.....[Deleted]
562 Crisis Intervention Mental Health Fund.....[Deleted]
563 Drug Court Fund.....[Deleted]
564 Statewide Victims' Information and
565 Notification System Fund.....[Deleted]
566 Public Defenders Education Fund.....[Deleted]
567 Domestic Violence Training Fund.....[Deleted]
568 Attorney General's Cyber Crime Unit.....[Deleted]
569 Forensics Laboratory DNA Identification System Fund.....[Deleted]
570 GENERAL FUND.....\$280.50

571 (8) **Additional assessments on certain violations:**
572 (a) **Railroad crossing violations.** In addition to any
573 monetary penalties and any other penalties imposed by law, there



574 shall be imposed and collected the following state assessment in
575 addition to all other state assessments due under this section
576 from each person upon whom a court imposes a fine or other penalty
577 for any violation involving railroad crossings under Section
578 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013 or 77-9-249:

579 Operation Lifesaver Fund.....\$25.00

580 (b) **Drug violations.** In addition to any monetary
581 penalties and any other penalties imposed by law, there shall be
582 imposed and collected the following state assessment in addition
583 to all other state assessments due under this section from each
584 person upon whom a court imposes a fine or other penalty for any
585 violation of Section 41-29-139:

586 Drug Evidence Disposition Fund.....\$25.00

587 * * *

588 (* * *9) (a) After a determination by the court of the
589 amount due, it shall be the duty of the clerk of the court to
590 promptly collect all state assessments imposed under the
591 provisions of this section. The state assessments imposed under
592 the provisions of this section may not be paid by personal check.

593 (b) It shall be the duty of the chancery clerk of each
594 county to deposit all state assessments collected in the circuit,
595 county and justice courts in the county on a monthly basis with
596 the State Treasurer pursuant to appropriate procedures established
597 by the State Auditor. The chancery clerk shall make a monthly
598 lump-sum deposit of the total state assessments collected in the



599 circuit, county and justice courts in the county under this
600 section, and shall report to the Department of Finance and
601 Administration the total number of violations under each
602 subsection for which state assessments were collected in the
603 circuit, county and justice courts in the county during that
604 month.

605 (c) It shall be the duty of the municipal clerk of each
606 municipality to deposit all the state assessments collected in the
607 municipal court in the municipality on a monthly basis with the
608 State Treasurer pursuant to appropriate procedures established by
609 the State Auditor. The municipal clerk shall make a monthly
610 lump-sum deposit of the total state assessments collected in the
611 municipal court in the municipality under this section, and shall
612 report to the Department of Finance and Administration the total
613 number of violations under each subsection for which state
614 assessments were collected in the municipal court in the
615 municipality during that month.

616 (* * * 10) It shall be the duty of the Department of Finance
617 and Administration to deposit on a monthly basis all state
618 assessments into the State General Fund or proper special fund in
619 the State Treasury. The Department of Finance and Administration
620 shall issue regulations providing for the proper allocation of
621 these funds.

622 (* * * 11) The State Auditor shall establish by regulation
623 procedures for refunds of state assessments, including refunds



624 associated with assessments imposed before July 1, 1990, and
625 refunds after appeals in which the defendant's conviction is
626 reversed. The Auditor shall provide in the regulations for
627 certification of eligibility for refunds and may require the
628 defendant seeking a refund to submit a verified copy of a court
629 order or abstract by which the defendant is entitled to a refund.
630 All refunds of state assessments shall be made in accordance with
631 the procedures established by the Auditor.

632 **SECTION 7.** Section 99-37-5, Mississippi Code of 1972, is
633 amended as follows:

634 99-37-5. (1) When a defendant is sentenced to pay a fine,
635 fees, state assessments, or court costs or ordered to make
636 restitution, the court may order payment to be made forthwith or
637 within a specified period of time or in specified installments.
638 If a defendant is sentenced to a term of imprisonment, an order of
639 payment of a fine, fees, state assessments, court costs or
640 restitution shall not be enforceable during the period of
641 imprisonment unless the court * * * has made an express written
642 finding based on evidence in the record that the defendant has
643 assets to pay all or part of the amounts ordered at the time of
644 sentencing.

645 (2) When a defendant sentenced to pay a fine or costs or
646 ordered to make restitution is also placed on probation or
647 imposition or execution of sentence is suspended, the court may
648 make payment of the fine or costs or the making of restitution a



649 condition of probation or suspension of sentence. * * * The
650 offenders shall make restitution payments directly to the victim.
651 As an alternative to a contempt proceeding under Sections 99-37-7
652 through 99-37-13, the intentional refusal to obey the restitution
653 order or a failure by a defendant to make a good faith effort to
654 make * * * the restitution may be considered a violation of the
655 defendant's probation and may be cause for revocation of his
656 probation or suspension of sentence. A court shall not revoke
657 probation for nonpayment of fines, fees, state assessments, court
658 costs or restitution without following the procedures and making
659 the express written findings required by Section 99-19-20.

660 **SECTION 8.** Section 99-37-7, Mississippi Code of 1972, is
661 amended as follows:

662 99-37-7. (1) When a defendant sentenced to pay a fine or to
663 make restitution defaults in the payment thereof or of any
664 installment, the court, on motion of the district attorney, or
665 upon its own motion, may require * * * the defendant to show cause
666 why * * * the defendant's default should not be treated as
667 contempt of court, and may issue a show cause citation or a
668 warrant of arrest for * * * the defendant's appearance.

669 (2) * * * The court may find that * * * a defendant's
670 default constitutes contempt and may order * * * the defendant
671 committed until the fine or the restitution, or a specified part
672 thereof, is paid, but only after informing the defendant of the
673 right to request court-appointed counsel for representation



674 against failure-to-pay charges that carry a possible penalty of
675 imprisonment, and after following the procedures and making the
676 express written findings required by Section 99-10-20.

677 (3) A judicial officer shall not be held criminally or
678 civilly liable for failure of any defendant to pay any fine or to
679 make restitution if the officer exercises * * * the judicial
680 authority in accordance with subsections (1) and (2) of this
681 section to require the payment of * * * the fine or restitution.

682 (4) When a fine or an order of restitution is imposed on a
683 corporation or unincorporated association, it is the duty of the
684 person authorized to make disbursement from the assets of the
685 corporation or association to pay the fine or make the restitution
686 from those assets, and * * * that person's failure to do so may be
687 held to be contempt unless * * * that person makes the showing
688 required in subsection (2) of this section.

689 **SECTION 9.** Section 99-37-9, Mississippi Code of 1972, is
690 amended as follows:

691 99-37-9. (1) A court may only impose imprisonment for
692 contempt for failure to make restitution after following the
693 procedures and making the express written findings required by
694 Section 99-19-20.

695 (2) The term of imprisonment for contempt for failure to
696 make restitution shall be set forth in the commitment order, and
697 shall not exceed one (1) day for each Twenty-five Dollars (\$25.00)
698 of the restitution, or thirty (30) days if the order of the



699 restitution was imposed upon conviction of a violation or
700 misdemeanor, or one (1) year in any other case, whichever is the
701 shorter period. A person committed for failure to make
702 restitution shall be given credit toward payment for each day of
703 imprisonment at the rate specified in the commitment order.

704 **SECTION 10.** Section 99-37-11, Mississippi Code of 1972, is
705 amended as follows:

706 99-37-11. If it appears to the satisfaction of the court
707 that the default in the payment of a fine or restitution is not
708 contempt because it is not willful or some other reason, the court
709 may enter an order allowing the defendant additional time for
710 payment, reducing the amount thereof or of each installment or
711 revoking the fine or order of restitution or the unpaid portion
712 thereof, in whole or in part.

713 **SECTION 11.** This act shall take effect and be in force from
714 and after July 1, 2018.

