

By: Senator(s) Doty

To: Judiciary, Division A

SENATE BILL NO. 2032

1 AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY THE JURISDICTION OF MUNICIPAL COURTS OVER CIVIL  
3 VIOLATIONS; TO AMEND SECTIONS 21-13-19 AND SECTION 1-3-5,  
4 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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

8 21-23-7. (1) The municipal judge shall hold court in a  
9 public building designated by the governing authorities of the  
10 municipality and may hold court every day except Sundays and legal  
11 holidays if the business of the municipality so requires;  
12 provided, however, the municipal judge may hold court outside the  
13 boundaries of the municipality but not more than within a  
14 sixty-mile radius of the municipality to handle preliminary  
15 matters and criminal matters such as initial appearances and  
16 felony preliminary hearings. The municipal judge may hold court  
17 outside the boundaries of the municipality but not more than  
18 within a one-mile radius of the municipality for any purpose. The  
19 municipal judge shall have the jurisdiction to hear and determine,



20 without a jury and without a record of the testimony, all cases  
21 charging violations of the municipal ordinances and state  
22 misdemeanor laws made offenses against the municipality and to  
23 punish offenders therefor as may be prescribed by law. Except as  
24 otherwise provided by law, criminal proceedings shall be brought  
25 by sworn complaint filed in the municipal court. Such complaint  
26 shall state the essential elements of the offense charged and the  
27 statute or ordinance relied upon. Such complaint shall not be  
28 required to conclude with a general averment that the offense is  
29 against the peace and dignity of the state or in violation of the  
30 ordinances of the municipality. He may sit as a committing court  
31 in all felonies committed within the municipality, and he shall  
32 have the power to bind over the accused to the grand jury or to  
33 appear before the proper court having jurisdiction to try the  
34 same, and to set the amount of bail or refuse bail and commit the  
35 accused to jail in cases not bailable. The municipal judge is a  
36 conservator of the peace within his municipality. He may conduct  
37 preliminary hearings in all violations of the criminal laws of  
38 this state occurring within the municipality, and any person  
39 arrested for a violation of law within the municipality may be  
40 brought before him for initial appearance. The municipal court  
41 shall have jurisdiction of any case remanded to it by a circuit  
42 court grand jury. The municipal court shall have civil  
43 jurisdiction over actions filed pursuant to and as provided in  
44 Title 93, Chapter 21, Mississippi Code of 1972, the Protection



from Domestic Abuse Act. The municipal court shall have jurisdiction over offenses made civil violations of the law.

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

(3) The municipal judge may solemnize marriages, take oaths, affidavits and acknowledgments, and issue orders, subpoenas, summonses, citations, warrants for search and arrest upon a finding of probable cause, and other such process under seal of the court to any county or municipality, in a criminal case, to be executed by the lawful authority of the county or the municipality of the respondent, and enforce obedience thereto. The absence of a seal shall not invalidate the process.

(4) When a person shall be charged with an offense in municipal court punishable by confinement, the municipal judge,



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

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



thereof, on such terms as may be imposed by the municipal judge, if (a) the judge or his or her predecessor was authorized to order such suspension when the sentence was originally imposed; and (b) such conviction (i) has not been appealed; or (ii) has been appealed and the appeal has been voluntarily dismissed.

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

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



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

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

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

140           (11) The municipal court shall have the power to impose  
141 punishment of a fine of not more than One Thousand Dollars  
142 (\$1,000.00) or six (6) months imprisonment, or both, for contempt



143 of court. The municipal court may have the power to impose  
144 reasonable costs of court, not in excess of the following:

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

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

165 (12) A municipal court judge shall not dismiss a criminal  
166 case but may transfer the case to the justice court of the county  
167 if the municipal court judge is prohibited from presiding over the



case by the Canons of Judicial Conduct and provided that venue and jurisdiction are proper in the justice court. Upon transfer of any such case, the municipal court judge shall give the municipal court clerk a written order to transmit the affidavit or complaint and all other records and evidence in the court's possession to the justice court by certified mail or to instruct the arresting officer to deliver such documents and records to the justice court. There shall be no court costs charged for the transfer of the case to the justice court.

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

**SECTION 2.** Section 21-13-19, Mississippi Code of 1972, is amended as follows:

21-13-19. (1) All offenses under the penal laws of this state which are misdemeanors, together with the penalty provided for violation thereof, are hereby made, without further action of the municipal authorities, criminal offenses against the municipality in whose corporate limits the offenses may have been committed to the same effect as though such offenses were made offenses against the municipality by separate ordinance in each case. However, for such misdemeanor, any penalty of incarceration is hereby limited to no more than six (6) months in jail, and any fine is hereby limited to a maximum of One Thousand Dollars





193 (\$1,000.00) for each such violation in any case tried without a  
194 jury. Judgments for fines, costs, forfeitures and other penalties  
195 imposed by municipal courts may be enrolled by filing a certified  
196 copy of the record with the clerk of any circuit court and  
197 execution may be had thereon as provided by law for other  
198 judgments.

199 (2) All civil offenses under the laws of this state which  
200 are civil violations, together with the penalty provided for  
201 violation thereof, are hereby made, without further action of the  
202 municipal authorities, civil offenses against the municipality in  
203 whose corporate limits the offenses may have been committed to the  
204 same effect as though such offenses were made offenses against the  
205 municipality by separate ordinance in each case.

206 **SECTION 3.** Section 1-3-5, Mississippi Code of 1972, is  
207 amended as follows:

208 1-3-5. The term "crime," when used in any statute, shall  
209 mean any violation of law liable to punishment by criminal  
210 prosecution. It does not include a violation termed a "civil  
211 violation" or "civil offense."

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

