

By: Senator(s) Jordan, Jackson (11th)

To: Veterans and Military
Affairs; Judiciary, Division
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SENATE BILL NO. 2318

1 AN ACT TO AMEND SECTION 21-23-20, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR SUSPENSION OF SENTENCE AFTER IMPOSITION FOR CERTAIN
3 VETERANS UPON THE CONDITION OF PARTICIPATION IN SPECIALIZED
4 TREATMENT PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS MENTAL
5 HEALTH DEPARTMENT; TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF
6 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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

10 21-23-20. (1) Upon conviction of any person of a
11 misdemeanor in a municipal court of this state, the municipal
12 court judge shall be authorized, in his discretion, to sentence
13 such person to:

14 (a) A period of time in jail to be served either on
15 weekends only;

16 (b) Other periods of time during the week wherein such
17 offender may not be engaged in gainful employment; or

18 (c) A specified number of days in jail with a provision
19 for the release of such offender for the purpose of engaging in



20 gainful employment at such times as the offender is actually
21 gainfully employed, whether self-employed or otherwise.

22 In addition, the court may, in its discretion, sentence any
23 convicted person to split periods of incarceration; and the court
24 shall not be required to order such offender to serve a sentence
25 of imprisonment all in one period but may suspend the sentence
26 from time to time.

27 (2) In the discretion of the court, where the objects of
28 justice would be more likely met, if the defendant is a veteran
29 and eligible for services offered by the Department of Veterans
30 Affairs, the municipal judge has the power to sentence the
31 defendant and suspend the imposition of the sentence pending the
32 defendant's documented participation in treatment provided by the
33 Department of Veterans Affairs Mental Health Department.

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

36 21-23-7. (1) The municipal judge shall hold court in a
37 public building designated by the governing authorities of the
38 municipality, or may hold court in an adult detention center as
39 provided under this subsection, and may hold court every day
40 except Sundays and legal holidays if the business of the
41 municipality so requires; provided, however, the municipal judge
42 may hold court outside the boundaries of the municipality but not
43 more than within a sixty-mile radius of the municipality to handle
44 preliminary matters and criminal matters such as initial



45 appearances and felony preliminary hearings. The municipal judge
46 may hold court outside the boundaries of the municipality but not
47 more than within a one-mile radius of the municipality for any
48 purpose; however, a municipal judge may hold court outside the
49 boundaries of the municipality more than within a one-mile radius
50 of the municipality when accepting a plea of a defendant at an
51 adult detention center within the county. The municipal judge
52 shall have the jurisdiction to hear and determine, without a jury
53 and without a record of the testimony, all cases charging
54 violations of the municipal ordinances and state misdemeanor laws
55 made offenses against the municipality and to punish offenders
56 therefor as may be prescribed by law. Except as otherwise
57 provided by law, criminal proceedings shall be brought by sworn
58 complaint filed in the municipal court. Such complaint shall
59 state the essential elements of the offense charged and the
60 statute or ordinance relied upon. Such complaint shall not be
61 required to conclude with a general averment that the offense is
62 against the peace and dignity of the state or in violation of the
63 ordinances of the municipality. He may sit as a committing court
64 in all felonies committed within the municipality, and he shall
65 have the power to bind over the accused to the grand jury or to
66 appear before the proper court having jurisdiction to try the
67 same, and to set the amount of bail or refuse bail and commit the
68 accused to jail in cases not bailable. The municipal judge is a
69 conservator of the peace within his municipality. He may conduct



70 preliminary hearings in all violations of the criminal laws of
71 this state occurring within the municipality, and any person
72 arrested for a violation of law within the municipality may be
73 brought before him for initial appearance. The municipal court
74 shall have jurisdiction of any case remanded to it by a circuit
75 court grand jury. The municipal court shall have civil
76 jurisdiction over actions filed pursuant to and as provided in
77 Title 93, Chapter 21, Mississippi Code of 1972, the Protection
78 from Domestic Abuse Act.

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

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



95 finding of probable cause, and other such process under seal of
96 the court to any county or municipality, in a criminal case, to be
97 executed by the lawful authority of the county or the municipality
98 of the respondent, and enforce obedience thereto. The absence of
99 a seal shall not invalidate the process.

100 (4) When a person shall be charged with an offense in
101 municipal court punishable by confinement, the municipal judge,
102 being satisfied that such person is an indigent person and is
103 unable to employ counsel, may, in the discretion of the court,
104 appoint counsel from the membership of The Mississippi Bar
105 residing in his county who shall represent him. Compensation for
106 appointed counsel in criminal cases shall be approved and allowed
107 by the municipal judge and shall be paid by the municipality. The
108 maximum compensation shall not exceed Two Hundred Dollars
109 (\$200.00) for any one (1) case. The governing authorities of a
110 municipality may, in their discretion, appoint a public
111 defender(s) who must be a licensed attorney and who shall receive
112 a salary to be fixed by the governing authorities.

113 (5) The municipal judge of any municipality is hereby
114 authorized to suspend the sentence and to suspend the execution of
115 the sentence, or any part thereof, on such terms as may be imposed
116 by the municipal judge, including, but not limited to, the
117 conditions authorized under Section 21-23-20. However, the
118 suspension of imposition or execution of a sentence hereunder may
119 not be revoked after a period of two (2) years. The municipal



judge shall have the power to establish and operate a probation program, dispute resolution program and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice. Any such program shall be established by the court with written policies and procedures filed with the clerk of the court for public record. Subsequent to original sentencing, the municipal judge, in misdemeanor cases, is hereby authorized to suspend 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.

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

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

(10) The municipal court shall have the power to make rules for the administration of the court's business, which rules, if



170 any, shall be in writing filed with the clerk of the court and
171 shall include the enactment of rules related to the court's
172 authority to issue domestic abuse protection orders pursuant to
173 Section 93-21-1 et seq.

174 (11) The municipal court shall have the power to impose
175 punishment of a fine of not more than One Thousand Dollars
176 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
177 of court. The municipal court may have the power to impose
178 reasonable costs of court, not in excess of the following:

179 Dismissal of any affidavit, complaint or charge
180 in municipal court.....\$ 50.00

181 Suspension of a minor's driver's license in lieu of
182 conviction.....\$ 50.00

183 Service of scire facias or return "not found".....\$ 20.00

184 Causing search warrant to issue or causing
185 prosecution without reasonable cause or refusing to
186 cooperate after initiating action.....\$ 100.00

187 Certified copy of the court record.....\$ 5.00

188 Service of arrest warrant for failure to answer
189 citation or traffic summons.....\$ 25.00

190 Jail cost per day - actual jail cost paid by the municipality
191 but not to exceed..... \$ 35.00

192 Service of court documents related to the filing
193 of a petition or issuance of a protection from domestic
194 abuse order under Title 93, Chapter 21,



Mississippi Code of 1972\$ 25.00

Any other item of court cost.....\$ 50.00

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

(12) A municipal court judge shall not dismiss a criminal case but may transfer the case to the justice court of the county 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, there was no disposition of such case or the person was found not guilty at trial.

(14) For violations of municipal ordinances related to real property, the municipal judge shall have the power to order a defendant to remedy violations within a reasonable time period as set by the judge, and at the discretion of the judge, the judge



may simultaneously authorize the municipality, at its request, the option to remedy the violation itself, through the use of its own employees or its contractors, without further notice should the defendant fail to fully do so within the time period set by the judge. Subsequent to the municipality remedying the violation, the municipality may petition the court to assess documented cleanup costs to the defendant, and, if, following a hearing on such petition, the judge determines (a) the violations were not remedied by the defendant within the time required by the court, (b) that the municipality remedied the violation itself after such time period expired and (c) that the costs incurred by the municipality were reasonable, the court may assess the costs to the defendant as a judgement, which may be enrolled in the office of the circuit clerk.

SECTION 3. This act shall take effect and be in force from and after July 1, 2022.

