

By: Representative Reynolds

To: Municipalities

HOUSE BILL NO. 687

1 AN ACT TO PROVIDE AN ALTERNATIVE PROCEDURE THAT MAY BE USED
2 IN CERTAIN MUNICIPALITIES TO DETERMINE WHETHER PROPERTY LOCATED
3 WITHIN THE MUNICIPALITY IS A DANGER, MENACE OR NUISANCE TO OTHER
4 PROPERTY OWNERS OR THE PUBLIC AND TO ASSESS AGAINST THE PROPERTY
5 OWNER THE COST OF CORRECTING THAT CONDITION AND BRINGING THE
6 PROPERTY INTO A STATE OF REPAIR; TO AUTHORIZE THE GOVERNING
7 AUTHORITIES OF THE MUNICIPALITY OR A PERSON OWNING PROPERTY WITHIN
8 1,000 FEET OF THE SUBJECT PROPERTY TO FILE A COMPLAINT AGAINST THE
9 PROPERTY OWNER IN THE MUNICIPAL COURT; TO PROVIDE THAT THE
10 MUNICIPAL COURT SHALL HAVE INITIAL JURISDICTION IN AN ACTION BASED
11 ON THE COMPLAINT TO MAKE A DETERMINATION OF WHETHER THE SUBJECT
12 PROPERTY IS A DANGER, MENACE OR NUISANCE TO OTHER PROPERTY OWNERS
13 OR THE PUBLIC; TO PROVIDE THAT IF THE COURT SO DETERMINES, IT
14 SHALL ORDER THE PROPERTY OWNER TO CORRECT THAT CONDITION AND BRING
15 THE PROPERTY INTO A STATE OF REPAIR, SO THAT IT IS NO LONGER A
16 DANGER, MENACE OR NUISANCE TO OTHER PROPERTY OWNERS OR THE PUBLIC;
17 TO PROVIDE THAT IF THE PROPERTY OWNER FAILS TO DO SO, THE PROPERTY
18 OWNER MAY BE ASSESSED THE COST OF CORRECTING THAT CONDITION AND
19 BRINGING THE PROPERTY INTO A STATE OF REPAIR AS REQUIRED BY THE
20 COURT ORDER; TO AUTHORIZE THE PROPERTY OWNER TO APPEAL THE ORDER
21 OF THE MUNICIPAL COURT TO THE CIRCUIT COURT; TO BRING FORWARD
22 SECTION 21-19-11, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES
23 MUNICIPALITIES TO CLEAN PROPERTY DETERMINED TO BE A MENACE TO THE
24 PUBLIC HEALTH, SAFETY AND WELFARE OF THE COMMUNITY, FOR THE
25 PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTION 21-23-7,
26 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MUNICIPAL COURT
27 SHALL HAVE CIVIL JURISDICTION OVER ACTIONS FILED PURSUANT TO AND
28 AS PROVIDED IN THIS ACT; AND FOR RELATED PURPOSES.

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

30 **SECTION 1.** (1) This section is an alternative procedure to
31 those procedures set forth in Section 21-19-11 that may be used in



32 municipalities having a population of less than ten thousand
33 (10,000) in the most recent federal decennial census to determine
34 whether property located within the municipality is a danger,
35 menace or nuisance to other property owners or the public and to
36 assess against the property owner the cost of correcting that
37 condition and bringing the property into a state of repair.

38 (2) To determine whether property located within a
39 municipality is a danger, menace or nuisance to other property
40 owners or the public, the governing authorities of the
41 municipality or a person owning property within one thousand feet
42 (1,000) feet of the subject property may file a complaint against
43 the property owner in the municipal court. The municipal court
44 shall have initial jurisdiction in an action based on the
45 complaint to make such a determination, and if the court so
46 determines, it shall order the property owner to correct that
47 condition and bring the property into a state of repair, so that
48 it is no longer a danger, menace or nuisance to other property
49 owners or the public.

50 (3) Upon filing of the complaint, the court shall issue a
51 summons to the owner of the property appearing on the tax roll,
52 and the court may rely on the tax roll as presumptive evidence of
53 ownership of the property. The summons shall direct the property
54 owner to appear in court for a hearing to be held on the date set
55 in the summons, to determine whether the property is a danger,
56 menace or nuisance to other property owners or the public. The



57 property owner shall have twenty (20) days to file a response to
58 the complaint. The court shall make and preserve a record of its
59 proceedings during the hearing that is sufficient for a court to
60 review on appeal.

61 (4) If the court, after the hearing, determines that the
62 property is a danger, menace or nuisance to other property owners
63 or the public, the court shall order the property owner to correct
64 that condition and bring the property into a state of repair,
65 within a reasonable time period as specified by the court. The
66 order may provide that if the property owner fails to do so, the
67 property owner may be assessed the cost of correcting that
68 condition and bringing the property into a state of repair as
69 required by the court order. The cost assessed against the
70 property owner may be filed against the property owner on the
71 judgment roll in the county in which the property is located or
72 such county in which the property owner may be found.

73 (5) If the property owner disagrees with the order of the
74 municipal court, the property owner may file an appeal with the
75 circuit court in the county where the property is located, within
76 thirty (30) days after the date of the court order. If no appeal
77 is filed, the order of the municipal court shall be final.

78 **SECTION 2.** Section 21-19-11, Mississippi Code of 1972, is
79 brought forward as follows:

80 21-19-11. (1) To determine whether property or parcel of
81 land located within a municipality is in such a state of



82 uncleanliness as to be a menace to the public health, safety and
83 welfare of the community, a governing authority of any
84 municipality shall conduct a hearing, on its own motion, or upon
85 the receipt of a petition signed by a majority of the residents
86 residing within four hundred (400) feet of any property or parcel
87 of land alleged to be in need of the cleaning. Notice shall be
88 provided to the property owner by:

89 (a) United States mail two (2) weeks before the date of
90 the hearing mailed to the address of the subject property, except
91 where the land or structure(s) is apparently vacant, and to the
92 address where the ad valorem tax notice for such property is sent
93 by the office charged with collecting ad valorem tax; and

94 (b) Posting notice for at least two (2) weeks before
95 the date of a hearing on the property or parcel of land alleged to
96 be in need of cleaning and at city hall or another place in the
97 municipality where such notices are posted.

98 Any notice required by this section shall include language
99 that informs the property owner that an adjudication at the
100 hearing that the property or parcel of land is in need of cleaning
101 will authorize the municipality to reenter the property or parcel
102 of land for a period of two (2) years after final adjudication
103 without any further hearing if notice is posted on the property or
104 parcel of land and at city hall or another place in the
105 municipality where such notices are generally posted at least
106 seven (7) days before the property or parcel of land is reentered



107 for cleaning. A copy of the required notice mailed and posted as
108 required by this section shall be recorded in the minutes of the
109 governing authority in conjunction with the hearing required by
110 this section.

111 If, at such hearing, the governing authority shall adjudicate
112 the property or parcel of land in its then condition to be a
113 menace to the public health, safety and welfare of the community,
114 the governing authority, if the owner does not do so himself,
115 shall proceed to clean the land, by the use of municipal employees
116 or by contract, by cutting grass and weeds; filling cisterns;
117 securing abandoned or dilapidated buildings; removing rubbish,
118 abandoned or dilapidated fences, outside toilets, abandoned or
119 dilapidated buildings, slabs, personal property, which removal of
120 personal property shall not be subject to the provisions of
121 Section 21-39-21, and other debris; and draining cesspools and
122 standing water therefrom. The governing authority may by
123 resolution adjudicate the actual cost of cleaning the property and
124 may also impose a penalty not to exceed One Thousand Five Hundred
125 Dollars (\$1,500.00) or fifty percent (50%) of the actual cost,
126 whichever is more. The cost and any penalty may become a civil
127 debt against the property owner, and/or, at the option of the
128 governing authority, an assessment against the property. The
129 "cost assessed against the property" means either the cost to the
130 municipality of using its own employees to do the work or the cost
131 to the municipality of any contract executed by the municipality



132 to have the work done, and administrative costs and legal costs of
133 the municipality. For subsequent cleaning within the one-year
134 period after the date of the hearing at which the property or
135 parcel of land was adjudicated in need of cleaning, upon seven (7)
136 days' notice posted both on the property or parcel of land
137 adjudicated in need of cleaning and at city hall or another place
138 in the municipality where such notices are generally posted, and
139 consistent with the municipality's adjudication as authorized in
140 this subsection (1), a municipality may reenter the property or
141 parcel of land to maintain cleanliness without further notice or
142 hearing no more than six (6) times in any twelve-month period with
143 respect to removing or securing abandoned or dilapidated
144 buildings, slabs, dilapidated fences and outside toilets, and no
145 more than twelve (12) times in any twenty-four-month period with
146 respect to cutting grass and weeds and removing rubbish, personal
147 property and other debris on the land, and the expense of cleaning
148 of the property, except as otherwise provided in this section for
149 removal of hazardous substances, shall not exceed an aggregate
150 amount of Twenty Thousand Dollars (\$20,000.00) per year, or the
151 fair market value of the property subsequent to cleaning,
152 whichever is more. The aggregate cost of removing hazardous
153 substances will be the actual cost of such removal to the
154 municipality and shall not be subject to the cost limitations
155 provided in this subsection. The governing authority may assess
156 the same penalty for each time the property or land is cleaned as



157 otherwise provided in this section. The penalty provided herein
158 shall not be assessed against the State of Mississippi upon
159 request for reimbursement under Section 29-1-145, nor shall a
160 municipality clean a parcel owned by the State of Mississippi
161 without first giving notice. Upon written authority from the
162 Secretary of State's office, for state-owned properties, a
163 municipality may forgo the notification process that is prescribed
164 in this subsection and proceed to clean the properties and assess
165 costs as prescribed in this subsection, except that penalties
166 shall not be assessed against the State of Mississippi.

167 (2) When the fee or cost to clean property or a parcel of
168 land that is one (1) acre or less does not exceed Two Hundred
169 Fifty Dollars (\$250.00), excluding administrative costs, and the
170 property or parcel is located within a municipality having a
171 population over one thousand five hundred (1,500), the governing
172 authority of the municipality may authorize one or more of its
173 employees to determine whether the property or parcel of land is
174 in such a state of uncleanliness as to be a menace to the public
175 health, safety and welfare of the community and the determination
176 made by the authorized municipal employee shall be set forth and
177 recorded in the minutes of the governing authority. Notice of
178 this determination shall be provided to the property owner by:

179 (a) United States mail seven (7) days before the date
180 of cleaning of the property or parcel of land mailed to the
181 address of the subject property, except where the land or



182 structure(s) is apparently vacant, and to the address where the ad
183 valorem tax notice for such property is sent by the office charged
184 with collecting ad valorem tax; and

185 (b) Posting notice for at least seven (7) days before
186 the cleaning of the property or parcel of land and at city hall or
187 another place in the municipality where such notices are posted.

188 Any notice required by this subsection shall include language
189 that informs the property owner that the appropriate municipal
190 official has determined that the property or parcel of land is a
191 menace to the public health, safety and welfare of the community
192 and in need of cleaning and the municipality is authorized to
193 enter the property for cleaning and that the municipality is
194 further authorized to reenter the property or parcel of land for a
195 period of two (2) years after this cleaning without any further
196 hearing or action if notice is posted on the property or parcel of
197 land and at city hall or another place in the municipality where
198 such notices are generally posted at least seven (7) days before
199 the property or parcel of land is reentered for cleaning. A copy
200 of the required notice mailed and posted as required by this
201 subsection shall be recorded in the minutes of the governing
202 authority in conjunction with the determination made by the
203 municipal employee in this subsection (2).

204 If an authorized municipal employee determines that the
205 condition of property or parcel of land is a menace to the public
206 health, safety and welfare of the community, the governing



207 authority, if the owner does not do so himself, shall proceed to
208 clean the land, by the use of municipal employees or by contract,
209 by cutting grass and weeds; filling cisterns; securing abandoned
210 or dilapidated buildings; removing rubbish, abandoned or
211 dilapidated fences, outside toilets, abandoned or dilapidated
212 buildings, slabs, personal property, which removal of personal
213 property shall not be subject to the provisions of Section
214 21-39-21, and other debris; and draining cesspools and standing
215 water therefrom. The governing authority shall by resolution
216 adjudicate the actual cost of cleaning the property under this
217 provision, provided the same does not exceed Two Hundred Fifty
218 Dollars (\$250.00) and may also impose a penalty not to exceed One
219 Hundred Dollars (\$100.00) or one hundred percent (100%) of the
220 actual cost of cleaning the property, whichever is more. The cost
221 and any penalty imposed may become a civil debt against the
222 property owner, and/or, at the option of the governing authority,
223 an assessment against the property. The "cost assessed against
224 the property" means either the cost to the municipality of using
225 its own employees to do the work or the cost to the municipality
226 of any contract executed by the municipality to have the work
227 done, and additionally may include administrative costs of the
228 municipality not to exceed Fifty Dollars (\$50.00). For subsequent
229 cleaning within the one-year period set forth in this subsection
230 (2), upon seven (7) days' notice posted both on the property or
231 parcel of land adjudicated in need of cleaning and at city hall or



232 another place in the municipality where such notices are generally
233 posted, and consistent with the municipal official's determination
234 as authorized in this subsection (2), a municipality may reenter
235 the property or parcel of land to maintain cleanliness without
236 further notice or hearing under this subsection (2) no more than
237 six (6) times in any twelve-month period with respect to removing
238 or securing abandoned or dilapidated buildings, slabs, dilapidated
239 fences and outside toilets, and no more than twelve (12) times in
240 any twenty-four-month period with respect to cutting grass and
241 weeds and removing rubbish, personal property and other debris on
242 the land, and the expense of cleaning of the property shall not
243 exceed an aggregate amount of One Thousand Dollars (\$1,000.00) per
244 year under this subsection (2). The governing authority may
245 assess the same actual costs, administrative costs and penalty for
246 each time the property or land is cleaned as otherwise provided in
247 this subsection (2). The penalty provided herein shall not be
248 assessed against the State of Mississippi upon request for
249 reimbursement under Section 29-1-145, nor shall a municipality
250 clean a parcel owned by the State of Mississippi without first
251 giving notice. Upon written authority from the Secretary of
252 State's office, for state-owned properties, a municipality may
253 forgo the notification process that is prescribed in this
254 subsection and proceed to clean the properties and assess costs as
255 prescribed in this subsection, except that penalties shall not be
256 assessed against the State of Mississippi. A determination made



257 by an appropriate municipal employee under this subsection (2)
258 that the state or condition of property or a parcel of land is a
259 menace to the public health, safety and welfare of the community
260 shall not subsequently be used to replace a hearing if subsection
261 (1) of this section is later utilized by a municipality when the
262 prerequisites of this subsection (2) are not satisfied.

263 (3) If the governing authority declares, by resolution, that
264 the cost and any penalty shall be collected as a civil debt, the
265 governing authority may authorize the institution of a suit on
266 open account against the owner of the property in a court of
267 competent jurisdiction in the manner provided by law for the cost
268 and any penalty, plus court costs, reasonable attorney's fees and
269 interest from the date that the property was cleaned.

270 (4) (a) If the governing authority declares that the cost
271 and any penalty shall be collected as an assessment against the
272 property, then the assessment above provided for shall be a lien
273 against the property and may be enrolled in the office of the
274 chancery clerk of the county as other liens and encumbrances are
275 enrolled, and the tax collector of the municipality shall, upon
276 order of the board of governing authorities, proceed to sell the
277 land to satisfy the lien as now provided by law for the sale of
278 lands for delinquent municipal taxes. The lien against the
279 property shall be an encumbrance upon the property and shall
280 follow title of the property.



281 (b) (i) All assessments levied under the provisions of
282 this section shall be included with municipal ad valorem taxes and
283 payment shall be enforced in the same manner in which payment is
284 enforced for municipal ad valorem taxes, and all statutes
285 regulating the collection of other taxes in a municipality shall
286 apply to the enforcement and collection of the assessments levied
287 under the provisions of this section, including utilization of the
288 procedures authorized under Sections 17-13-9(2) and 27-41-2.

289 (ii) All assessments levied under the provisions
290 of this section shall become delinquent at the same time municipal
291 ad valorem taxes become delinquent. Delinquencies shall be
292 collected in the same manner and at the same time delinquent ad
293 valorem taxes are collected and shall bear the same penalties as
294 those provided for delinquent taxes. If the property is sold for
295 the nonpayment of an assessment under this section, it shall be
296 sold in the manner that property is sold for the nonpayment of
297 delinquent ad valorem taxes. If the property is sold for
298 delinquent ad valorem taxes, the assessment under this section
299 shall be added to the delinquent tax and collected at the same
300 time and in the same manner.

301 (5) All decisions rendered under the provisions of this
302 section may be appealed in the same manner as other appeals from
303 municipal boards or courts are taken. However, an appeal from a
304 decision of a municipal officer or official shall be made to the
305 governing authority and such appeal shall be in writing, state the



306 basis for the appeal and be filed with the city clerk no later
307 than seven (7) days from the latest date of notice required under
308 this section.

309 (6) Nothing contained under this section shall prevent any
310 municipality from enacting criminal penalties for failure to
311 maintain property so as not to constitute a menace to public
312 health, safety and welfare.

313 (7) (a) If private property or a parcel of land located
314 within a municipality is a perpetual care cemetery subject to
315 Section 41-43-1 et seq., the governing authority of the
316 municipality may proceed pursuant to the same provisions of this
317 section used to determine whether a property is a public health
318 menace to instead determine if the perpetual care cemetery and all
319 structures on the cemetery are not being properly maintained and
320 have become detrimental to the public health and welfare. A
321 perpetual care cemetery that is "not being properly maintained and
322 has become detrimental to the public health and welfare" means a
323 perpetual care cemetery that shows signs of neglect, including,
324 without limitation, the unchecked growth of vegetation, repeated
325 and unchecked acts of vandalism, unusable entrances and exits,
326 excess rubbish or debris, or the disintegration of grave markers
327 or boundaries. Upon notice and opportunity to be heard as
328 provided in subsection (1) of this section, the governing
329 authority of the municipality may adjudicate the property or
330 parcel of land in its then condition to be not properly maintained



331 and detrimental to the public health and welfare, and if the owner
332 does not do so itself, may proceed to clean the property or parcel
333 of land as provided in subsection (1) of this section. When
334 cleaning the property or parcel of land of a perpetual care
335 cemetery pursuant to this subsection (7), the penalty or penalties
336 provided in subsection (1) of this section shall not be assessed
337 against owners of the perpetual care cemeteries.

338 (b) The governing authority of a municipality that
339 cleans the property or parcel of land of a perpetual care cemetery
340 pursuant to this subsection (7) may make application to the
341 Secretary of State for an order directing the trustee of the
342 perpetual care cemetery trust fund to release accrued interest or
343 principal of the trust fund sufficient to reimburse the
344 municipality for only the actual cleanup costs incurred by the
345 municipality. The application to the Secretary of State shall
346 include a statement by the municipality that all of the
347 requirements of this section have been met.

348 (c) If the Secretary of State is satisfied that the
349 notice and hearing requirements of this section have been met, and
350 that the application for an order directing the trustee to release
351 accrued interest of the perpetual care cemetery trust fund does
352 not threaten the ability of the trust fund to provide for the care
353 and maintenance of the cemetery, the Secretary of State may order
354 the trustee to release accrued interest of the trust fund



355 sufficient to reimburse the municipality for the actual costs of
356 cleanup performed by the municipality.

357 (d) If the Secretary of State is satisfied that the
358 notice and hearing requirements of this section have been met, but
359 makes a determination that the accrued interest of the perpetual
360 care cemetery trust fund is insufficient to reimburse the
361 municipality for the actual costs of cleanup performed by the
362 municipality, or that an order to release accrued interest would
363 threaten the ability of the trust fund to provide for the care and
364 maintenance of the cemetery, the Secretary of State may consider
365 an order directing the trustee to reimburse the municipality from
366 the principal of the trust fund. If the Secretary of State
367 determines that an order to the trustee to release principal from
368 the trust fund will not threaten the solvency of the trust fund,
369 the Secretary of State may order the trustee to release principal
370 of the trust fund in an amount sufficient to reimburse the
371 municipality for the actual costs of cleanup performed by the
372 municipality.

373 (i) The Secretary of State may not order the
374 trustee to release an amount of more than fifteen percent (15%) of
375 principal of the trust fund to reimburse the municipality for the
376 actual costs of cleanup performed by the municipality.

377 (ii) The provisions of this section may be
378 utilized no more than once in a four-year period.



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

381 21-23-7. (1) The municipal judge shall hold court in a
382 public building designated by the governing authorities of the
383 municipality, or may hold court in an adult detention center as
384 provided under this subsection, and may hold court every day
385 except Sundays and legal holidays if the business of the
386 municipality so requires; provided, however, the municipal judge
387 may hold court outside the boundaries of the municipality but not
388 more than within a sixty-mile radius of the municipality to handle
389 preliminary matters and criminal matters such as initial
390 appearances and felony preliminary hearings. The municipal judge
391 may hold court outside the boundaries of the municipality but not
392 more than within a one-mile radius of the municipality for any
393 purpose; however, a municipal judge may hold court outside the
394 boundaries of the municipality more than within a one-mile radius
395 of the municipality when accepting a plea of a defendant at an
396 adult detention center within the county. The municipal judge
397 shall have the jurisdiction to hear and determine, without a jury
398 and without a record of the testimony, all cases charging
399 violations of the municipal ordinances and state misdemeanor laws
400 made offenses against the municipality and to punish offenders
401 therefor as may be prescribed by law. Except as otherwise
402 provided by law, criminal proceedings shall be brought by sworn
403 complaint filed in the municipal court. Such complaint shall



404 state the essential elements of the offense charged and the
405 statute or ordinance relied upon. Such complaint shall not be
406 required to conclude with a general averment that the offense is
407 against the peace and dignity of the state or in violation of the
408 ordinances of the municipality. He may sit as a committing court
409 in all felonies committed within the municipality, and he shall
410 have the power to bind over the accused to the grand jury or to
411 appear before the proper court having jurisdiction to try the
412 same, and to set the amount of bail or refuse bail and commit the
413 accused to jail in cases not bailable. The municipal judge is a
414 conservator of the peace within his municipality. He may conduct
415 preliminary hearings in all violations of the criminal laws of
416 this state occurring within the municipality, and any person
417 arrested for a violation of law within the municipality may be
418 brought before him for initial appearance. The municipal court
419 shall have jurisdiction of any case remanded to it by a circuit
420 court grand jury. The municipal court shall have civil
421 jurisdiction over: (a) actions filed pursuant to and as provided
422 in Chapter 21, Title 93, * * * Mississippi Code of 1972, the
423 Protection from Domestic Abuse Act; and (b) actions filed pursuant
424 to and as provided in Section 1 of this act.

425 (2) In the discretion of the court, where the objects of
426 justice would be more likely met, as an alternative to imposition
427 or payment of fine and/or incarceration, the municipal judge shall
428 have the power to sentence convicted offenders to work on a public



429 service project where the court has established such a program of
430 public service by written guidelines filed with the clerk for
431 public record. Such programs shall provide for reasonable
432 supervision of the offender and the work shall be commensurate
433 with the fine and/or incarceration that would have ordinarily been
434 imposed. Such program of public service may be utilized in the
435 implementation of the provisions of Section 99-19-20, and public
436 service work thereunder may be supervised by persons other than
437 the sheriff.

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

446 (4) When a person shall be charged with an offense in
447 municipal court punishable by confinement, the municipal judge,
448 being satisfied that such person is an indigent person and is
449 unable to employ counsel, may, in the discretion of the court,
450 appoint counsel from the membership of The Mississippi Bar
451 residing in his county who shall represent him. Compensation for
452 appointed counsel in criminal cases shall be approved and allowed
453 by the municipal judge and shall be paid by the municipality. The



454 maximum compensation shall not exceed Two Hundred Dollars
455 (\$200.00) for any one (1) case. The governing authorities of a
456 municipality may, in their discretion, appoint a public
457 defender(s) who must be a licensed attorney and who shall receive
458 a salary to be fixed by the governing authorities.

459 (5) The municipal judge of any municipality is hereby
460 authorized to suspend the sentence and to suspend the execution of
461 the sentence, or any part thereof, on such terms as may be imposed
462 by the municipal judge. However, the suspension of imposition or
463 execution of a sentence hereunder may not be revoked after a
464 period of two (2) years. The municipal judge shall have the power
465 to establish and operate a probation program, dispute resolution
466 program and other practices or procedures appropriate to the
467 judiciary and designed to aid in the administration of justice.
468 Any such program shall be established by the court with written
469 policies and procedures filed with the clerk of the court for
470 public record. Subsequent to original sentencing, the municipal
471 judge, in misdemeanor cases, is hereby authorized to suspend
472 sentence and to suspend the execution of a sentence, or any part
473 thereof, on such terms as may be imposed by the municipal judge,
474 if (a) the judge or his or her predecessor was authorized to order
475 such suspension when the sentence was originally imposed; and (b)
476 such conviction (i) has not been appealed; or (ii) has been
477 appealed and the appeal has been voluntarily dismissed.



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

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

497 (8) In the discretion of the court, a plea of nolo
498 contendere may be entered to any charge in municipal court. Upon
499 the entry of a plea of nolo contendere the court shall convict the
500 defendant of the offense charged and shall proceed to sentence the
501 defendant according to law. The judgment of the court shall
502 reflect that the conviction was on a plea of nolo contendere. An



503 appeal may be made from a conviction on a plea of nolo contendere
504 as in other cases.

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

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

518 (11) The municipal court shall have the power to impose
519 punishment of a fine of not more than One Thousand Dollars
520 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
521 of court. The municipal court may have the power to impose
522 reasonable costs of court, not in excess of the following:

523 Dismissal of any affidavit, complaint or charge	
524 in municipal court.....	\$ 50.00
525 Suspension of a minor's driver's license in lieu of	
526 conviction.....	\$ 50.00
527 Service of scire facias or return "not found".....	\$ 20.00



528 Causing search warrant to issue or causing
529 prosecution without reasonable cause or refusing to
530 cooperate after initiating action.....\$ 100.00
531 Certified copy of the court record.....\$ 5.00
532 Service of arrest warrant for failure to answer
533 citation or traffic summons.....\$ 25.00
534 Jail cost per day - actual jail cost paid by the municipality
535 but not to exceed..... \$ 35.00
536 Service of court documents related to the filing
537 of a petition or issuance of a protection from domestic
538 abuse order under Chapter 21, Title 93, * * * Mississippi Code of
539 1972\$ 25.00
540 Any other item of court cost.....\$ 50.00
541 No filing fee or such cost shall be imposed for the bringing
542 of an action in municipal court.

543 (12) A municipal court judge shall not dismiss a criminal
544 case but may transfer the case to the justice court of the county
545 if the municipal court judge is prohibited from presiding over the
546 case by the Canons of Judicial Conduct and provided that venue and
547 jurisdiction are proper in the justice court. Upon transfer of
548 any such case, the municipal court judge shall give the municipal
549 court clerk a written order to transmit the affidavit or complaint
550 and all other records and evidence in the court's possession to
551 the justice court by certified mail or to instruct the arresting
552 officer to deliver such documents and records to the justice



553 court. There shall be no court costs charged for the transfer of
554 the case to the justice court.

555 (13) A municipal court judge shall expunge the record of any
556 case in which an arrest was made, the person arrested was released
557 and the case was dismissed or the charges were dropped, there was
558 no disposition of such case or the person was found not guilty at
559 trial.

560 (14) For violations of municipal ordinances related to real
561 property, the municipal judge shall have the power to order a
562 defendant to remedy violations within a reasonable time period as
563 set by the judge, and at the discretion of the judge, the judge
564 may simultaneously authorize the municipality, at its request, the
565 option to remedy the violation itself, through the use of its own
566 employees or its contractors, without further notice should the
567 defendant fail to fully do so within the time period set by the
568 judge. Subsequent to the municipality remedying the violation,
569 the municipality may petition the court to assess documented
570 cleanup costs to the defendant, and, if, following a hearing on
571 such petition, the judge determines (a) the violations were not
572 remedied by the defendant within the time required by the court,
573 (b) that the municipality remedied the violation itself after such
574 time period expired and (c) that the costs incurred by the
575 municipality were reasonable, the court may assess the costs to
576 the defendant as a judgement, which may be enrolled in the office
577 of the circuit clerk.



578 **SECTION 4.** This act shall take effect and be in force from
579 and after July 1, 2023.

