

By: Representative Scott

To: Judiciary B

HOUSE BILL NO. 279

1 AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE AGE FOR EXPUNCTION OF MISDEMEANORS; AND FOR RELATED
3 PURPOSES.

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

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

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



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



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

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

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



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

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

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



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

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

116 (7) Notwithstanding the provisions of subsection (6) of this
117 section, a person who was convicted in municipal court of a
118 misdemeanor * * *, excluding conviction for a traffic violation,



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

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

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

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

142 (11) The municipal court shall have the power to impose
143 punishment of a fine of not more than One Thousand Dollars



144 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
145 of court. The municipal court may have the power to impose
146 reasonable costs of court, not in excess of the following:

- 147 Dismissal of any affidavit, complaint or charge
148 in municipal court.....\$ 50.00
- 149 Suspension of a minor's driver's license in lieu of
150 conviction.....\$ 50.00
- 151 Service of scire facias or return "not found".....\$ 20.00
- 152 Causing search warrant to issue or causing
153 prosecution without reasonable cause or refusing to
154 cooperate after initiating action.....\$ 100.00
- 155 Certified copy of the court record.....\$ 5.00
- 156 Service of arrest warrant for failure to answer
157 citation or traffic summons.....\$ 25.00
- 158 Jail cost per day - actual jail cost paid by the municipality
159 but not to exceed..... \$ 35.00
- 160 Service of court documents related to the filing
161 of a petition or issuance of a protection from domestic
162 abuse order under Chapter 21, Title 93, * * * Mississippi Code of
163 1972\$ 25.00
- 164 Any other item of court cost.....\$ 50.00
- 165 No filing fee or such cost shall be imposed for the bringing
166 of an action in municipal court.

167 (12) A municipal court judge shall not dismiss a criminal
168 case but may transfer the case to the justice court of the county



169 if the municipal court judge is prohibited from presiding over the
170 case by the Canons of Judicial Conduct and provided that venue and
171 jurisdiction are proper in the justice court. Upon transfer of
172 any such case, the municipal court judge shall give the municipal
173 court clerk a written order to transmit the affidavit or complaint
174 and all other records and evidence in the court's possession to
175 the justice court by certified mail or to instruct the arresting
176 officer to deliver such documents and records to the justice
177 court. There shall be no court costs charged for the transfer of
178 the case to the justice court.

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

184 (14) For violations of municipal ordinances related to real
185 property, the municipal judge shall have the power to order a
186 defendant to remedy violations within a reasonable time period as
187 set by the judge, and at the discretion of the judge, the judge
188 may simultaneously authorize the municipality, at its request, the
189 option to remedy the violation itself, through the use of its own
190 employees or its contractors, without further notice should the
191 defendant fail to fully do so within the time period set by the
192 judge. Subsequent to the municipality remedying the violation,
193 the municipality may petition the court to assess documented



194 cleanup costs to the defendant, and, if, following a hearing on
195 such petition, the judge determines (a) the violations were not
196 remedied by the defendant within the time required by the court,
197 (b) that the municipality remedied the violation itself after such
198 time period expired and (c) that the costs incurred by the
199 municipality were reasonable, the court may assess the costs to
200 the defendant as a judgement, which may be enrolled in the office
201 of the circuit clerk.

202 **SECTION 2.** This act shall take effect and be in force from
203 and after July 1, 2024.

