

By: Representative Mattox

To: Judiciary B

HOUSE BILL NO. 1547

1 AN ACT TO REQUIRE MONIES COLLECTED BY A COURT FROM A
 2 DEFENDANT IN A CRIMINAL CASE TO FIRST BE CREDITED TOWARD THE
 3 PAYMENT OF RESTITUTION; TO AMEND SECTION 99-37-5, MISSISSIPPI CODE
 4 OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO AMEND
 5 SECTION 99-37-3, MISSISSIPPI CODE OF 1972, TO REQUIRE A COURT TO
 6 TAKE INTO CONSIDERATION A DEFENDANT'S FUTURE ABILITY TO PAY WHEN
 7 DETERMINING WHETHER TO ORDER RESTITUTION; TO AMEND SECTION
 8 25-7-27, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT
 9 UNCOLLECTED FEES DUE TO A MARSHAL OR CONSTABLE BE PAID FROM THE
 10 FIRST PROCEEDS RECEIVED BY THE COURT FROM THE GUILTY PARTY; AND
 11 FOR RELATED PURPOSES.

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

13 **SECTION 1.** In criminal matters adjudicated after July 1,
 14 2024, the following is the allocation formula for monies paid by a
 15 defendant to the court:

16 (a) The first monies paid in a case must be credited
 17 toward the payment of restitution owed to the victim.

18 (b) Once restitution has been paid in full, the next
 19 monies paid in the case must be credited toward the payment of
 20 court costs, including any fees imposed by the court.



21 (c) Once court costs have been paid in full, the next
22 monies paid in the case must be credited toward the payment of
23 assessments.

24 (d) Once assessments have been paid in full, any
25 additional monies paid by the defendant must be credited toward
26 the payment of any fines and penalties assessed.

27 **SECTION 2.** Section 99-37-5, Mississippi Code of 1972, is
28 amended as follows:

29 99-37-5. (1) When a defendant is sentenced to pay a fine or
30 costs or ordered to make restitution, the court may order payment
31 to be made forthwith or within a specified period of time or in
32 specified installments. In matters adjudicated after July 1,
33 2024, the first monies paid in a case must be credited toward the
34 payment of restitution owed to the victim.

35 (2) If a defendant is sentenced to a term of imprisonment,
36 an order of payment of a fine, costs or restitution shall not be
37 enforceable during the period of imprisonment unless the court
38 expressly finds that the defendant has assets to pay all or part
39 of the amounts ordered at the time of sentencing.

40 (* * *3) When a defendant sentenced to pay a fine or costs
41 or ordered to make restitution is also placed on probation or
42 imposition or execution of sentence is suspended, the court may
43 make payment of the fine or costs or the making of restitution a
44 condition of probation or suspension of sentence. Such offenders
45 shall make restitution payments directly to the victim. As an



46 alternative to a contempt proceeding under Sections 99-37-7
47 through 99-37-13, the intentional refusal to obey the restitution
48 order or a failure by a defendant to make a good faith effort to
49 make such restitution may be considered a violation of the
50 defendant's probation and may be cause for revocation of his
51 probation or suspension of sentence.

52 **SECTION 3.** Section 99-37-3, Mississippi Code of 1972, is
53 amended as follows:

54 99-37-3. (1) When a person is convicted of criminal
55 activities which have resulted in pecuniary damages, in addition
56 to any other sentence it may impose, the court may order that the
57 defendant make restitution to the victim; provided, however, that
58 the justice court shall not order restitution in an amount
59 exceeding Five Thousand Dollars (\$5,000.00).

60 (2) In determining whether to order restitution, which may
61 be complete, partial or nominal, and the method of payment, the
62 court shall take into account:

63 (a) The financial resources of the defendant, including
64 the future ability of the defendant to pay or perform, and the
65 burden that payment of restitution will impose, with due regard to
66 the other obligations of the defendant;

67 (b) The ability of the defendant to pay restitution on
68 an installment basis or on other conditions to be fixed by the
69 court; and



70 (c) The rehabilitative effect on the defendant of the
71 payment of restitution and the method of payment.

72 (3) If the defendant objects to the imposition, amount or
73 distribution of the restitution, the court shall, at the time of
74 sentencing, allow him to be heard on such issue.

75 (4) If the court determines that restitution is
76 inappropriate or undesirable, an order reciting such finding shall
77 be entered, which should also state the underlying circumstances
78 for such determination.

79 **SECTION 4.** Section 25-7-27, Mississippi Code of 1972, is
80 amended as follows:

81 25-7-27. (1) Marshals and constables shall charge the
82 following fees:

83 (a) (i) In all civil and criminal cases, for each
84 service of process, summons, warrant, writ or other
85 notice.....\$ 55.00

86 (ii) In all cases where there is more than one (1)
87 defendant residing at the same household, for service on each
88 additional defendant.....\$ 10.00

89 (iii) For service of each process of every kind
90 and nature issued from outside the county where it is to be
91 served, the fees provided in subparagraphs (i) and (ii) of this
92 paragraph, as applicable, shall be assessed.

93 (iv) When a complaining party has provided
94 erroneous information to the clerk of the court relating to the



95 service of process on the defendant or defendants and process
96 cannot be served after diligent search and inquiry on oath thereof
97 of the marshal or constable, as the case may be, charged with
98 serving such process, the fees provided in subparagraphs (i) and
99 (ii) of this paragraph, as applicable, shall be assessed.

100 (v) When process has been attempted in one (1)
101 county but the defendant is not found, and process must be served
102 on that defendant in another county, the clerk shall notify the
103 complaining party that an additional fee or fees must be paid
104 before the process can be delivered to the other county.

105 (b) After final judgment has been enrolled, further
106 proceedings involving levy of execution on judgments, and
107 attachment and garnishment proceedings shall be a new suit for
108 which the marshal or constable shall be entitled to the following
109 fee.....\$ 55.00

110 (c) For conveying a person charged with a crime to
111 jail, mileage reimbursement in an amount not to exceed the rate
112 established under Section 25-3-41(2).

113 To be paid out of the county treasury on the allowance of the
114 board of supervisors, when the state fails in the prosecution, or
115 the person is convicted but is not able to pay the costs.

116 (d) For other service, the same fees allowed sheriffs
117 for similar services.

118 (e) For service as a bailiff in any court in a civil
119 case, to be paid by the county on allowance of the court on



120 issuance of a warrant therefor, an amount equal to the amount
121 provided under Section 19-25-31 for each day, or part thereof, for
122 which he serves as bailiff when the court is in session.

123 (f) For serving all warrants and other process and
124 attending all trials in state cases in which the state fails in
125 the prosecution, to be paid out of the county treasury on the
126 allowance of the board of supervisors without itemization,
127 subject, however, to the condition that the marshal or constable
128 must not have overcharged in the collection of fees for costs,
129 contrary to the provisions of this section,
130 annually.....\$4,500.00

131 (2) Marshals and constables shall be paid all uncollected
132 fees levied under subsection (1) of this section in full from
133 the * * * proceeds received by the court from the guilty party or
134 from any other source of payment in connection with the case.

135 (3) In addition to the fees authorized to be paid to a
136 constable under subsection (1) of this section, a constable may
137 receive payments for collecting delinquent criminal fines in
138 justice court pursuant to the provisions of Section 19-3-41(3).

139 **SECTION 5.** This act shall take effect and be in force from
140 and after July 1, 2024.

