

By: Representative Denny

To: Municipalities

HOUSE BILL NO. 358

1 AN ACT TO AMEND SECTIONS 63-15-4 AND 21-23-7, MISSISSIPPI
2 CODE OF 1972, TO ALLOW MUNICIPAL COURT CLERKS TO COLLECT A \$100.00
3 ADMINISTRATION FEE AS COSTS OF COURT UPON THOSE CONVICTED OF
4 VIOLATION OF THE MANDATORY AUTOMOBILE LIABILITY INSURANCE LAW; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 63-15-4, Mississippi Code of 1972, is
8 amended as follows:

9 63-15-4. (1) The following vehicles are exempted from the
10 requirements of this section:

11 (a) Vehicles exempted by Section 63-15-5;

12 (b) Vehicles for which a bond or a certificate of
13 deposit of money or securities in at least the minimum amounts
14 required for proof of financial responsibility is on file with the
15 department;

16 (c) Vehicles that are self-insured under Section
17 63-15-53; and

18 (d) Implements of husbandry.

19 (2) (a) Every motor vehicle operated in this state shall
20 have an insurance card maintained in the vehicle as proof of
21 liability insurance that is in compliance with the liability
22 limits required by Section 63-15-3(j). The insured parties shall
23 be responsible for maintaining the insurance card in each vehicle.

24 (b) An insurance company issuing a policy of motor
25 vehicle liability insurance as required by this section shall
26 furnish to the insured an insurance card for each vehicle at the
27 time the insurance policy becomes effective.



28 (3) Upon stopping a motor vehicle for any other statutory
29 violation, a law enforcement officer, who is authorized to issue
30 traffic citations, shall verify that the insurance card required
31 by this section is in the motor vehicle. However, no driver shall
32 be stopped or detained solely for the purpose of verifying that an
33 insurance card is in the motor vehicle.

34 (4) Failure of the owner or the operator of a motor vehicle
35 to have the insurance card in the motor vehicle is a misdemeanor
36 and, upon conviction, is punishable by a fine of One Thousand
37 Dollars (\$1,000.00), court costs as provided in Section 21-23-7
38 and suspension of driving privilege for a period of one (1) year
39 or until the owner of the motor vehicle shows proof of liability
40 insurance that is in compliance with the liability limits required
41 by Section 63-15-3(j). Fraudulent use of an insurance card shall
42 be punishable in accordance with Section 97-7-10. The funds from
43 such fines shall be deposited in the State General Fund in the
44 State Treasury.

45 (5) If, at the hearing date or the date of payment of the
46 fine, the motor vehicle owner shows proof of motor vehicle
47 liability insurance in the amounts required by Section 63-15-3(j),
48 the fine shall be reduced to One Hundred Dollars (\$100.00). If
49 the owner shows proof that such insurance was in effect at the
50 time of citation, the fine of One Hundred Dollars (\$100.00) and
51 court costs shall be waived.

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

54 21-23-7. (1) The municipal judge shall hold court in a
55 public building designated by the governing authorities of the
56 municipality and may hold court every day except Sundays and legal
57 holidays if the business of the municipality so requires;
58 provided, however, the municipal judge may hold court outside the
59 boundaries of the municipality but not more than within a
60 sixty-mile radius of the municipality to handle preliminary



61 matters and criminal matters such as initial appearances and
62 felony preliminary hearings. The municipal judge shall have the
63 jurisdiction to hear and determine, without a jury and without a
64 record of the testimony, all cases charging violations of the
65 municipal ordinances and state misdemeanor laws made offenses
66 against the municipality and to punish offenders therefor as may
67 be prescribed by law. All criminal proceedings shall be brought
68 by sworn complaint filed in the municipal court. Such complaint
69 shall state the essential elements of the offense charged and the
70 statute or ordinance relied upon. Such complaint shall not be
71 required to conclude with a general averment that the offense is
72 against the peace and dignity of the state or in violation of the
73 ordinances of the municipality. He may sit as a committing court
74 in all felonies committed within the municipality, and he shall
75 have the power to bind over the accused to the grand jury or to
76 appear before the proper court having jurisdiction to try the
77 same, and to set the amount of bail or refuse bail and commit the
78 accused to jail in cases not bailable. The municipal judge is a
79 conservator of the peace within his municipality. He may conduct
80 preliminary hearings in all violations of the criminal laws of
81 this state occurring within the municipality, and any person
82 arrested for a violation of law within the municipality may be
83 brought before him for initial appearance.

84 (2) In the discretion of the court, where the objects of
85 justice would be more likely met, as an alternative to imposition
86 or payment of fine and/or incarceration, the municipal judge shall
87 have the power to sentence convicted offenders to work on a public
88 service project where the court has established such a program of
89 public service by written guidelines filed with the clerk for
90 public record. Such programs shall provide for reasonable
91 supervision of the offender and the work shall be commensurate
92 with the fine and/or incarceration that would have ordinarily been
93 imposed. Such program of public service may be utilized in the



94 implementation of the provisions of Section 99-19-20, and public
95 service work thereunder may be supervised by persons other than
96 the sheriff.

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

105 (4) When a person shall be charged with an offense in
106 municipal court punishable by confinement, the municipal judge,
107 being satisfied that such person is an indigent person and is
108 unable to employ counsel, may, in the discretion of the court,
109 appoint counsel from the membership of The Mississippi Bar
110 residing in his county who shall represent him. Compensation for
111 appointed counsel in criminal cases shall be approved and allowed
112 by the municipal judge and shall be paid by the municipality. The
113 maximum compensation shall not exceed Two Hundred Dollars
114 (\$200.00) for any one (1) case. The governing authorities of a
115 municipality may, in their discretion, appoint a public
116 defender(s) who must be a licensed attorney and who shall receive
117 a salary to be fixed by the governing authorities.

118 (5) The municipal judge of any municipality is hereby
119 authorized to suspend the sentence and to suspend the execution of
120 the sentence, or any part thereof, on such terms as may be imposed
121 by the municipal judge. However, the suspension of imposition or
122 execution of a sentence hereunder may not be revoked after a
123 period of two (2) years. The municipal judge shall have the power
124 to establish and operate a probation program, dispute resolution
125 program and other practices or procedures appropriate to the
126 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.

(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



160 appearance of the defendant to answer the charge made against him.
161 On default of appearance, an arrest warrant may be issued for the
162 defendant. The clerk of the court or deputy clerk may issue such
163 citations.

164 (10) The municipal court shall have the power to make rules
165 for the administration of the court's business, which rules, if
166 any, shall be in writing filed with the clerk of the court.

167 (11) The municipal court shall have the power to impose
168 punishment of a fine of not more than One Thousand Dollars
169 (\$1,000.00) or six (6) months' imprisonment, or both, for contempt
170 of court. The municipal court may have the power to impose
171 reasonable costs of court, not in excess of the following:

172	Dismissal of any affidavit, complaint or charge	
173	in municipal court.....	\$ 50.00
174	Suspension of a minor's driver's license in lieu of	
175	conviction.....	\$ 50.00
176	Service of scire facias or return "not found".....	\$ 20.00
177	Causing search warrant to issue or causing prosecution	
178	without reasonable cause or refusing to cooperate	
179	after initiating action.....	\$ 100.00
180	Certified copy of the court record.....	\$ 5.00
181	Service of arrest warrant for failure to answer	
182	citation or traffic summons.....	\$ 25.00
183	Jail cost per day.....	\$ 10.00
184	<u>Conviction under Section 63-15-4 for failure to</u>	
185	<u>maintain proof of automobile liability insurance</u>	
186	<u>for costs of administration</u>	\$ <u>100.00</u>
187	Any other item of court cost.....	\$ 50.00

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

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

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

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

206 **SECTION 3.** This act shall take effect and be in force from
207 and after July 1, 2003.

