

By: Senator(s) Jordan

To: Municipalities;
Judiciary

SENATE BILL NO. 2452

1 AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO
2 ALLOW MUNICIPAL COURT CLERKS TO COLLECT A \$100 ADMINISTRATION FEE
3 AS COSTS OF COURT UPON THOSE CONVICTED OF VIOLATION OF THE
4 MANDATORY AUTOMOBILE LIABILITY INSURANCE LAW; AND FOR RELATED
5 PURPOSES.

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

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

9 21-23-7. (1) The municipal judge shall hold court in a
10 public building designated by the governing authorities of the
11 municipality and may hold court every day except Sundays and legal
12 holidays if the business of the municipality so requires;
13 provided, however, the municipal judge may hold court outside the
14 boundaries of the municipality but not more than within a
15 sixty-mile radius of the municipality to handle preliminary
16 matters and criminal matters such as initial appearances and
17 felony preliminary hearings. The municipal judge shall have the
18 jurisdiction to hear and determine, without a jury and without a
19 record of the testimony, all cases charging violations of the
20 municipal ordinances and state misdemeanor laws made offenses
21 against the municipality and to punish offenders therefor as may
22 be prescribed by law. All criminal proceedings shall be brought
23 by sworn complaint filed in the municipal court. Such complaint
24 shall state the essential elements of the offense charged and the
25 statute or ordinance relied upon. Such complaint shall not be
26 required to conclude with a general averment that the offense is
27 against the peace and dignity of the state or in violation of the
28 ordinances of the municipality. He may sit as a committing court



29 in all felonies committed within the municipality, and he shall
30 have the power to bind over the accused to the grand jury or to
31 appear before the proper court having jurisdiction to try the
32 same, and to set the amount of bail or refuse bail and commit the
33 accused to jail in cases not bailable. The municipal judge is a
34 conservator of the peace within his municipality. He may conduct
35 preliminary hearings in all violations of the criminal laws of
36 this state occurring within the municipality, and any person
37 arrested for a violation of law within the municipality may be
38 brought before him for initial appearance.

39 (2) In the discretion of the court, where the objects of
40 justice would be more likely met, as an alternative to imposition
41 or payment of fine and/or incarceration, the municipal judge shall
42 have the power to sentence convicted offenders to work on a public
43 service project where the court has established such a program of
44 public service by written guidelines filed with the clerk for
45 public record. Such programs shall provide for reasonable
46 supervision of the offender and the work shall be commensurate
47 with the fine and/or incarceration that would have ordinarily been
48 imposed. Such program of public service may be utilized in the
49 implementation of the provisions of Section 99-19-20, and public
50 service work thereunder may be supervised by persons other than
51 the sheriff.

52 (3) The municipal judge may solemnize marriages, take oaths,
53 affidavits and acknowledgments, and issue orders, subpoenas,
54 summonses, citations, warrants for search and arrest upon a
55 finding of probable cause, and other such process under seal of
56 the court to any county or municipality, in a criminal case, to be
57 executed by the lawful authority of the county or the municipality
58 of the respondent, and enforce obedience thereto. The absence of
59 a seal shall not invalidate the process.

60 (4) When a person shall be charged with an offense in
61 municipal court punishable by confinement, the municipal judge,



62 being satisfied that such person is an indigent person and is
63 unable to employ counsel, may, in the discretion of the court,
64 appoint counsel from the membership of The Mississippi Bar
65 residing in his county who shall represent him. Compensation for
66 appointed counsel in criminal cases shall be approved and allowed
67 by the municipal judge and shall be paid by the municipality. The
68 maximum compensation shall not exceed Two Hundred Dollars
69 (\$200.00) for any one (1) case. The governing authorities of a
70 municipality may, in their discretion, appoint a public
71 defender(s) who must be a licensed attorney and who shall receive
72 a salary to be fixed by the governing authorities.

73 (5) The municipal judge of any municipality is hereby
74 authorized to suspend the sentence and to suspend the execution of
75 the sentence, or any part thereof, on such terms as may be imposed
76 by the municipal judge. However, the suspension of imposition or
77 execution of a sentence hereunder may not be revoked after a
78 period of two (2) years. The municipal judge shall have the power
79 to establish and operate a probation program, dispute resolution
80 program and other practices or procedures appropriate to the
81 judiciary and designed to aid in the administration of justice.
82 Any such program shall be established by the court with written
83 policies and procedures filed with the clerk of the court for
84 public record.

85 (6) Upon prior notice to the municipal prosecuting attorney
86 and upon a showing in open court of rehabilitation, good conduct
87 for a period of two (2) years since the last conviction in any
88 court and that the best interest of society would be served, the
89 court may, in its discretion, order the record of conviction of a
90 person of any or all misdemeanors in that court expunged, and upon
91 so doing the said person thereafter legally stands as though he
92 had never been convicted of the said misdemeanor(s) and may
93 lawfully so respond to any query of prior convictions. This order
94 of expunction does not apply to the confidential records of law



95 enforcement agencies and has no effect on the driving record of a
96 person maintained under Title 63, Mississippi Code of 1972, or any
97 other provision of said Title 63.

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

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

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

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

122 (11) The municipal court shall have the power to impose
123 punishment of a fine of not more than One Thousand Dollars
124 (\$1,000.00) or six (6) months' imprisonment, or both, for contempt
125 of court. The municipal court may have the power to impose
126 reasonable costs of court, not in excess of the following:

127 Dismissal of any affidavit, complaint or charge



128	in municipal court.....	\$ 50.00
129	Suspension of a minor's driver's license in lieu of	
130	conviction.....	\$ 50.00
131	Service of scire facias or return "not found".....	\$ 20.00
132	Causing search warrant to issue or causing	
133	prosecution without reasonable cause or	
134	refusing to cooperate after initiating	
135	action.....	\$ 100.00
136	Certified copy of the court record.....	\$ 5.00
137	Service of arrest warrant for failure to answer	
138	citation or traffic summons.....	\$ 25.00
139	Jail cost per day.....	\$ 10.00
140	<u>Conviction under Section 63-15-4 for failure to</u>	
141	<u>maintain proof of automobile liability</u>	
142	<u>insurance for costs of administration.....</u>	\$ 100.00
143	Any other item of court cost.....	\$ 50.00
144	No filing fee or such cost shall be imposed for the bringing	
145	of an action in municipal court.	

146 (12) A municipal court judge shall not dismiss a criminal
147 case but may transfer the case to the justice court of the county
148 if the municipal court judge is prohibited from presiding over the
149 case by the Canons of Judicial Conduct and provided that venue and
150 jurisdiction are proper in the justice court. Upon transfer of
151 any such case, the municipal court judge shall give the municipal
152 court clerk a written order to transmit the affidavit or complaint
153 and all other records and evidence in the court's possession to
154 the justice court by certified mail or to instruct the arresting
155 officer to deliver such documents and records to the justice
156 court. There shall be no court costs charged for the transfer of
157 the case to the justice court.

158 (13) A municipal court judge shall expunge the record of any
159 case in which an arrest was made, the person arrested was released



160 and the case was dismissed or the charges were dropped or there
161 was no disposition of such case.

162 **SECTION 2.** This act shall take effect and be in force from
163 and after July 1, 2003.

