

By: Representative Scott

To: Judiciary B

HOUSE BILL NO. 968

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
2 TO REDUCE THE PUNISHMENT FOR SIMPLE POSSESSION OF A SMALL AMOUNT
3 OF MARIJUANA TO A CIVIL PENALTY; TO AMEND SECTION 21-23-7,
4 MISSISSIPPI CODE OF 1972, TO GRANT TO MUNICIPAL COURTS
5 JURISDICTION OVER CIVIL OFFENSES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 41-29-139, Mississippi Code of 1972, is
8 amended as follows:

9 41-29-139. (a) **Transfer and possession with intent to**
10 **transfer.** Except as authorized by this article, it is unlawful
11 for any person knowingly or intentionally:

12 (1) To sell, barter, transfer, manufacture, distribute,
13 dispense or possess with intent to sell, barter, transfer,
14 manufacture, distribute or dispense, a controlled substance; or

15 (2) To create, sell, barter, transfer, distribute,
16 dispense or possess with intent to create, sell, barter, transfer,
17 distribute or dispense, a counterfeit substance.

18 (b) **Punishment for transfer and possession with intent to**
19 **transfer.** Except as otherwise provided in Section 41-29-142, any



20 person who violates subsection (a) of this section shall be, if
21 convicted, sentenced as follows:

22 (1) For controlled substances classified in Schedule I
23 or II, as set out in Sections 41-29-113 and 41-29-115, other than
24 marijuana or synthetic cannabinoids:

25 (A) If less than two (2) grams or ten (10) dosage
26 units, by imprisonment for not more than eight (8) years or a fine
27 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

28 (B) If two (2) or more grams or ten (10) or more
29 dosage units, but less than ten (10) grams or twenty (20) dosage
30 units, by imprisonment for not less than three (3) years nor more
31 than twenty (20) years or a fine of not more than Two Hundred
32 Fifty Thousand Dollars (\$250,000.00), or both.

33 (C) If ten (10) or more grams or twenty (20) or
34 more dosage units, but less than thirty (30) grams or forty (40)
35 dosage units, by imprisonment for not less than five (5) years nor
36 more than thirty (30) years or a fine of not more than Five
37 Hundred Thousand Dollars (\$500,000.00), or both.

38 (2) (A) For marijuana:

39 1. If thirty (30) grams or less, by
40 imprisonment for not more than three (3) years or a fine of not
41 more than Three Thousand Dollars (\$3,000.00), or both;

42 2. If more than thirty (30) grams but less
43 than two hundred fifty (250) grams, by imprisonment for not more



44 than five (5) years or a fine of not more than Five Thousand
45 Dollars (\$5,000.00), or both;

46 3. If two hundred fifty (250) or more grams
47 but less than five hundred (500) grams, by imprisonment for not
48 less than three (3) years nor more than ten (10) years or a fine
49 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

50 4. If five hundred (500) or more grams but
51 less than one (1) kilogram, by imprisonment for not less than five
52 (5) years nor more than twenty (20) years or a fine of not more
53 than Twenty Thousand Dollars (\$20,000.00), or both.

54 (B) For synthetic cannabinoids:

55 1. If ten (10) grams or less, by imprisonment
56 for not more than three (3) years or a fine of not more than Three
57 Thousand Dollars (\$3,000.00), or both;

58 2. If more than ten (10) grams but less than
59 twenty (20) grams, by imprisonment for not more than five (5)
60 years or a fine of not more than Five Thousand Dollars
61 (\$5,000.00), or both;

62 3. If twenty (20) or more grams but less than
63 forty (40) grams, by imprisonment for not less than three (3)
64 years nor more than ten (10) years or a fine of not more than
65 Fifteen Thousand Dollars (\$15,000.00), or both;

66 4. If forty (40) or more grams but less than
67 two hundred (200) grams, by imprisonment for not less than five



68 (5) years nor more than twenty (20) years or a fine of not more
69 than Twenty Thousand Dollars (\$20,000.00), or both.

70 (3) For controlled substances classified in Schedules
71 III and IV, as set out in Sections 41-29-117 and 41-29-119:

72 (A) If less than two (2) grams or ten (10) dosage
73 units, by imprisonment for not more than five (5) years or a fine
74 of not more than Five Thousand Dollars (\$5,000.00), or both;

75 (B) If two (2) or more grams or ten (10) or more
76 dosage units, but less than ten (10) grams or twenty (20) dosage
77 units, by imprisonment for not more than eight (8) years or a fine
78 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

79 (C) If ten (10) or more grams or twenty (20) or
80 more dosage units, but less than thirty (30) grams or forty (40)
81 dosage units, by imprisonment for not more than fifteen (15) years
82 or a fine of not more than One Hundred Thousand Dollars
83 (\$100,000.00), or both;

84 (D) If thirty (30) or more grams or forty (40) or
85 more dosage units, but less than five hundred (500) grams or two
86 thousand five hundred (2,500) dosage units, by imprisonment for
87 not more than twenty (20) years or a fine of not more than Two
88 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

89 (4) For controlled substances classified in Schedule V,
90 as set out in Section 41-29-121:



91 (A) If less than two (2) grams or ten (10) dosage
92 units, by imprisonment for not more than one (1) year or a fine of
93 not more than Five Thousand Dollars (\$5,000.00), or both;

94 (B) If two (2) or more grams or ten (10) or more
95 dosage units, but less than ten (10) grams or twenty (20) dosage
96 units, by imprisonment for not more than five (5) years or a fine
97 of not more than Ten Thousand Dollars (\$10,000.00), or both;

98 (C) If ten (10) or more grams or twenty (20) or
99 more dosage units, but less than thirty (30) grams or forty (40)
100 dosage units, by imprisonment for not more than ten (10) years or
101 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
102 both;

103 (D) For thirty (30) or more grams or forty (40) or
104 more dosage units, but less than five hundred (500) grams or two
105 thousand five hundred (2,500) dosage units, by imprisonment for
106 not more than fifteen (15) years or a fine of not more than Fifty
107 Thousand Dollars (\$50,000.00), or both.

108 (c) **Simple possession.** Except as otherwise provided under
109 subsection (i) of this section for actions that are lawful under
110 the Mississippi Medical Cannabis Act and in compliance with rules
111 and regulations adopted thereunder, it is unlawful for any person
112 knowingly or intentionally to possess any controlled substance
113 unless the substance was obtained directly from, or pursuant to, a
114 valid prescription or order of a practitioner while acting in the
115 course of his professional practice, or except as otherwise



116 authorized by this article. The penalties for any violation of
117 this subsection (c) with respect to a controlled substance
118 classified in Schedules I, II, III, IV or V, as set out in Section
119 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
120 marijuana or synthetic cannabinoids, shall be based on dosage unit
121 as defined herein or the weight of the controlled substance as set
122 forth herein as appropriate:

123 "Dosage unit (d.u.)" means a tablet or capsule, or in the
124 case of a liquid solution, one (1) milliliter. In the case of
125 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
126 stamp, square, dot, microdot, tablet or capsule of a controlled
127 substance.

128 For any controlled substance that does not fall within the
129 definition of the term "dosage unit," the penalties shall be based
130 upon the weight of the controlled substance.

131 The weight set forth refers to the entire weight of any
132 mixture or substance containing a detectable amount of the
133 controlled substance.

134 If a mixture or substance contains more than one (1)
135 controlled substance, the weight of the mixture or substance is
136 assigned to the controlled substance that results in the greater
137 punishment.

138 A person shall be charged and sentenced as follows for a
139 violation of this subsection with respect to:



140 (1) A controlled substance classified in Schedule I or
141 II, except marijuana and synthetic cannabinoids:

142 (A) If less than one-tenth (0.1) gram or two (2)
143 dosage units, the violation is a misdemeanor and punishable by
144 imprisonment for not more than one (1) year or a fine of not more
145 than One Thousand Dollars (\$1,000.00), or both.

146 (B) If one-tenth (0.1) gram or more or two (2) or
147 more dosage units, but less than two (2) grams or ten (10) dosage
148 units, by imprisonment for not more than three (3) years or a fine
149 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

150 (C) If two (2) or more grams or ten (10) or more
151 dosage units, but less than ten (10) grams or twenty (20) dosage
152 units, by imprisonment for not more than eight (8) years or a fine
153 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
154 or both.

155 (D) If ten (10) or more grams or twenty (20) or
156 more dosage units, but less than thirty (30) grams or forty (40)
157 dosage units, by imprisonment for not less than three (3) years
158 nor more than twenty (20) years or a fine of not more than Five
159 Hundred Thousand Dollars (\$500,000.00), or both.

160 (2) (A) Marijuana and synthetic cannabinoids:

161 1. (I) If thirty (30) grams or less of
162 marijuana * * * by a civil penalty not to exceed One Hundred
163 Dollars (\$100.00), to be deposited to the general fund of the



164 municipality or county of the court in which the civil fine is
165 imposed.

166 (II) If ten (10) grams or less of
167 synthetic cannabinoids, by a fine of not less than One Hundred
168 Dollars (\$100.00) nor more than Two Hundred Fifty Dollars
169 (\$250.00). The provisions of this paragraph (2) (A) may be
170 enforceable by summons if the offender provides proof of identity
171 satisfactory to the arresting officer and gives written promise to
172 appear in court satisfactory to the arresting officer, as directed
173 by the summons. A second conviction under this section within two
174 (2) years is a misdemeanor punishable by a fine of Two Hundred
175 Fifty Dollars (\$250.00), not more than sixty (60) days in the
176 county jail, and mandatory participation in a drug education
177 program approved by the Division of Alcohol and Drug Abuse of the
178 State Department of Mental Health, unless the court enters a
179 written finding that a drug education program is inappropriate. A
180 third or subsequent conviction under this paragraph (2) (A) within
181 two (2) years is a misdemeanor punishable by a fine of not less
182 than Two Hundred Fifty Dollars (\$250.00) nor more than One
183 Thousand Dollars (\$1,000.00) and confinement for not more than six
184 (6) months in the county jail.

185 Upon a first or second conviction under this paragraph
186 (2) (A), the courts shall forward a report of the conviction to the
187 Mississippi Bureau of Narcotics which shall make and maintain a
188 private, nonpublic record for a period not to exceed two (2) years



189 from the date of conviction. The private, nonpublic record shall
190 be solely for the use of the courts in determining the penalties
191 which attach upon conviction under this paragraph (2)(A) and shall
192 not constitute a criminal record for the purpose of private or
193 administrative inquiry and the record of each conviction shall be
194 expunged at the end of the period of two (2) years following the
195 date of such conviction;

196 2. Additionally, a person who is the operator
197 of a motor vehicle, who possesses on his person or knowingly keeps
198 or allows to be kept in a motor vehicle within the area of the
199 vehicle normally occupied by the driver or passengers, more than
200 one (1) gram, but not more than thirty (30) grams of marijuana or
201 not more than ten (10) grams of synthetic cannabinoids is guilty
202 of a misdemeanor and, upon conviction, may be fined not more than
203 One Thousand Dollars (\$1,000.00) or confined for not more than
204 ninety (90) days in the county jail, or both. For the purposes of
205 this subsection, such area of the vehicle shall not include the
206 trunk of the motor vehicle or the areas not normally occupied by
207 the driver or passengers if the vehicle is not equipped with a
208 trunk. A utility or glove compartment shall be deemed to be
209 within the area occupied by the driver and passengers.

210 (B) Marijuana:

211 1. If more than thirty (30) grams but less
212 than two hundred fifty (250) grams, by a fine of not more than One
213 Thousand Dollars (\$1,000.00), or confinement in the county jail



214 for not more than one (1) year, or both; or by a fine of not more
215 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
216 custody of the Department of Corrections for not more than three
217 (3) years, or both;

218 2. If two hundred fifty (250) or more grams
219 but less than five hundred (500) grams, by imprisonment for not
220 less than two (2) years nor more than eight (8) years or by a fine
221 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

222 3. If five hundred (500) or more grams but
223 less than one (1) kilogram, by imprisonment for not less than four
224 (4) years nor more than sixteen (16) years or a fine of not more
225 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

226 4. If one (1) kilogram or more but less than
227 five (5) kilograms, by imprisonment for not less than six (6)
228 years nor more than twenty-four (24) years or a fine of not more
229 than Five Hundred Thousand Dollars (\$500,000.00), or both;

230 5. If five (5) kilograms or more, by
231 imprisonment for not less than ten (10) years nor more than thirty
232 (30) years or a fine of not more than One Million Dollars
233 (\$1,000,000.00), or both.

234 (C) Synthetic cannabinoids:

235 1. If more than ten (10) grams but less than
236 twenty (20) grams, by a fine of not more than One Thousand Dollars
237 (\$1,000.00), or confinement in the county jail for not more than
238 one (1) year, or both; or by a fine of not more than Three



239 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
240 the Department of Corrections for not more than three (3) years,
241 or both;

242 2. If twenty (20) or more grams but less than
243 forty (40) grams, by imprisonment for not less than two (2) years
244 nor more than eight (8) years or by a fine of not more than Fifty
245 Thousand Dollars (\$50,000.00), or both;

246 3. If forty (40) or more grams but less than
247 two hundred (200) grams, by imprisonment for not less than four
248 (4) years nor more than sixteen (16) years or a fine of not more
249 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

250 4. If two hundred (200) or more grams, by
251 imprisonment for not less than six (6) years nor more than
252 twenty-four (24) years or a fine of not more than Five Hundred
253 Thousand Dollars (\$500,000.00), or both.

254 (3) A controlled substance classified in Schedule III,
255 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
256 conviction, may be punished as follows:

257 (A) If less than fifty (50) grams or less than one
258 hundred (100) dosage units, the offense is a misdemeanor and
259 punishable by not more than one (1) year or a fine of not more
260 than One Thousand Dollars (\$1,000.00), or both.

261 (B) If fifty (50) or more grams or one hundred
262 (100) or more dosage units, but less than one hundred fifty (150)
263 grams or five hundred (500) dosage units, by imprisonment for not



264 less than one (1) year nor more than four (4) years or a fine of
265 not more than Ten Thousand Dollars (\$10,000.00), or both.

266 (C) If one hundred fifty (150) or more grams or
267 five hundred (500) or more dosage units, but less than three
268 hundred (300) grams or one thousand (1,000) dosage units, by
269 imprisonment for not less than two (2) years nor more than eight
270 (8) years or a fine of not more than Fifty Thousand Dollars
271 (\$50,000.00), or both.

272 (D) If three hundred (300) or more grams or one
273 thousand (1,000) or more dosage units, but less than five hundred
274 (500) grams or two thousand five hundred (2,500) dosage units, by
275 imprisonment for not less than four (4) years nor more than
276 sixteen (16) years or a fine of not more than Two Hundred Fifty
277 Thousand Dollars (\$250,000.00), or both.

278 (d) **Paraphernalia.** (1) Except as otherwise provided under
279 subsection (i) of this section for actions that are lawful under
280 the Mississippi Medical Cannabis Act and in compliance with rules
281 and regulations adopted thereunder, it is unlawful for a person
282 who is not authorized by the State Board of Medical Licensure,
283 State Board of Pharmacy, or other lawful authority to use, or to
284 possess with intent to use, paraphernalia to plant, propagate,
285 cultivate, grow, harvest, manufacture, compound, convert, produce,
286 process, prepare, test, analyze, pack, repack, store, contain,
287 conceal, inject, ingest, inhale or otherwise introduce into the
288 human body a controlled substance in violation of the Uniform



289 Controlled Substances Law. Any person who violates this
290 subsection (d) (1) is guilty of a misdemeanor and, upon conviction,
291 may be confined in the county jail for not more than six (6)
292 months, or fined not more than Five Hundred Dollars (\$500.00), or
293 both; however, no person shall be charged with a violation of this
294 subsection when such person is also charged with the possession of
295 thirty (30) grams or less of marijuana under subsection (c) (2) (A)
296 of this section.

297 (2) It is unlawful for any person to deliver, sell,
298 possess with intent to deliver or sell, or manufacture with intent
299 to deliver or sell, paraphernalia, knowing, or under circumstances
300 where one reasonably should know, that it will be used to plant,
301 propagate, cultivate, grow, harvest, manufacture, compound,
302 convert, produce, process, prepare, test, analyze, pack, repack,
303 store, contain, conceal, inject, ingest, inhale, or otherwise
304 introduce into the human body a controlled substance in violation
305 of the Uniform Controlled Substances Law. Except as provided in
306 subsection (d) (3), a person who violates this subsection (d) (2) is
307 guilty of a misdemeanor and, upon conviction, may be confined in
308 the county jail for not more than six (6) months, or fined not
309 more than Five Hundred Dollars (\$500.00), or both.

310 (3) Any person eighteen (18) years of age or over who
311 violates subsection (d) (2) of this section by delivering or
312 selling paraphernalia to a person under eighteen (18) years of age
313 who is at least three (3) years his junior is guilty of a



314 misdemeanor and, upon conviction, may be confined in the county
315 jail for not more than one (1) year, or fined not more than One
316 Thousand Dollars (\$1,000.00), or both.

317 (4) It is unlawful for any person to place in any
318 newspaper, magazine, handbill, or other publication any
319 advertisement, knowing, or under circumstances where one
320 reasonably should know, that the purpose of the advertisement, in
321 whole or in part, is to promote the sale of objects designed or
322 intended for use as paraphernalia. Any person who violates this
323 subsection is guilty of a misdemeanor and, upon conviction, may be
324 confined in the county jail for not more than six (6) months, or
325 fined not more than Five Hundred Dollars (\$500.00), or both.

326 (e) It shall be unlawful for any physician practicing
327 medicine in this state to prescribe, dispense or administer any
328 amphetamine or amphetamine-like anorectics and/or central nervous
329 system stimulants classified in Schedule II, pursuant to Section
330 41-29-115, for the exclusive treatment of obesity, weight control
331 or weight loss. Any person who violates this subsection, upon
332 conviction, is guilty of a misdemeanor and may be confined for a
333 period not to exceed six (6) months, or fined not more than One
334 Thousand Dollars (\$1,000.00), or both.

335 (f) **Trafficking.** (1) Any person trafficking in controlled
336 substances shall be guilty of a felony and, upon conviction, shall
337 be imprisoned for a term of not less than ten (10) years nor more
338 than forty (40) years and shall be fined not less than Five



339 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
340 (\$1,000,000.00). The ten-year mandatory sentence shall not be
341 reduced or suspended. The person shall not be eligible for
342 probation or parole, the provisions of Sections 41-29-149,
343 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

344 (2) "Trafficking in controlled substances" as used
345 herein means:

346 (A) A violation of subsection (a) of this section
347 involving thirty (30) or more grams or forty (40) or more dosage
348 units of a Schedule I or II controlled substance except marijuana
349 and synthetic cannabinoids;

350 (B) A violation of subsection (a) of this section
351 involving five hundred (500) or more grams or two thousand five
352 hundred (2,500) or more dosage units of a Schedule III, IV or V
353 controlled substance;

354 (C) A violation of subsection (c) of this section
355 involving thirty (30) or more grams or forty (40) or more dosage
356 units of a Schedule I or II controlled substance except marijuana
357 and synthetic cannabinoids;

358 (D) A violation of subsection (c) of this section
359 involving five hundred (500) or more grams or two thousand five
360 hundred (2,500) or more dosage units of a Schedule III, IV or V
361 controlled substance; or



362 (E) A violation of subsection (a) of this section
363 involving one (1) kilogram or more of marijuana or two hundred
364 (200) grams or more of synthetic cannabinoids.

365 (g) **Aggravated trafficking.** Any person trafficking in
366 Schedule I or II controlled substances, except marijuana and
367 synthetic cannabinoids, of two hundred (200) grams or more shall
368 be guilty of aggravated trafficking and, upon conviction, shall be
369 sentenced to a term of not less than twenty-five (25) years nor
370 more than life in prison and shall be fined not less than Five
371 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
372 (\$1,000,000.00). The twenty-five-year sentence shall be a
373 mandatory sentence and shall not be reduced or suspended. The
374 person shall not be eligible for probation or parole, the
375 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
376 the contrary notwithstanding.

377 (h) **Sentence mitigation.** (1) Notwithstanding any provision
378 of this section, a person who has been convicted of an offense
379 under this section that requires the judge to impose a prison
380 sentence which cannot be suspended or reduced and is ineligible
381 for probation or parole may, at the discretion of the court,
382 receive a sentence of imprisonment that is no less than
383 twenty-five percent (25%) of the sentence prescribed by the
384 applicable statute. In considering whether to apply the departure
385 from the sentence prescribed, the court shall conclude that:



386 (A) The offender was not a leader of the criminal
387 enterprise;

388 (B) The offender did not use violence or a weapon
389 during the crime;

390 (C) The offense did not result in a death or
391 serious bodily injury of a person not a party to the criminal
392 enterprise; and

393 (D) The interests of justice are not served by the
394 imposition of the prescribed mandatory sentence.

395 The court may also consider whether information and
396 assistance were furnished to a law enforcement agency, or its
397 designee, which, in the opinion of the trial judge, objectively
398 should or would have aided in the arrest or prosecution of others
399 who violate this subsection. The accused shall have adequate
400 opportunity to develop and make a record of all information and
401 assistance so furnished.

402 (2) If the court reduces the prescribed sentence
403 pursuant to this subsection, it must specify on the record the
404 circumstances warranting the departure.

405 (i) This section does not apply to any of the actions that
406 are lawful under the Mississippi Medical Cannabis Act and in
407 compliance with rules and regulations adopted thereunder.

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



410 21-23-7. (1) The municipal judge shall hold court in a
411 public building designated by the governing authorities of the
412 municipality, or may hold court in an adult detention center as
413 provided under this subsection, and may hold court every day
414 except Sundays and legal holidays if the business of the
415 municipality so requires; provided, however, the municipal judge
416 may hold court outside the boundaries of the municipality but not
417 more than within a sixty-mile radius of the municipality to handle
418 preliminary matters and criminal matters such as initial
419 appearances and felony preliminary hearings. The municipal judge
420 may hold court outside the boundaries of the municipality but not
421 more than within a one-mile radius of the municipality for any
422 purpose; however, a municipal judge may hold court outside the
423 boundaries of the municipality more than within a one-mile radius
424 of the municipality when accepting a plea of a defendant at an
425 adult detention center within the county. The municipal judge
426 shall have the jurisdiction to hear and determine, without a jury
427 and without a record of the testimony, all cases charging
428 violations of the municipal ordinances * * *, state misdemeanor
429 laws made offenses against the municipality and civil offenses and
430 to punish offenders therefor as may be prescribed by law. Except
431 as otherwise provided by law, criminal proceedings shall be
432 brought by sworn complaint filed in the municipal court. Such
433 complaint shall state the essential elements of the offense
434 charged and the statute or ordinance relied upon. Such complaint



435 shall not be required to conclude with a general averment that the
436 offense is against the peace and dignity of the state or in
437 violation of the ordinances of the municipality. He may sit as a
438 committing court in all felonies committed within the
439 municipality, and he shall have the power to bind over the accused
440 to the grand jury or to appear before the proper court having
441 jurisdiction to try the same, and to set the amount of bail or
442 refuse bail and commit the accused to jail in cases not bailable.
443 The municipal judge is a conservator of the peace within his
444 municipality. He may conduct preliminary hearings in all
445 violations of the criminal laws of this state occurring within the
446 municipality, and any person arrested for a violation of law
447 within the municipality may be brought before him for initial
448 appearance. The municipal court shall have jurisdiction of any
449 case remanded to it by a circuit court grand jury. The municipal
450 court shall have civil jurisdiction over actions filed pursuant to
451 and as provided in Chapter 21, Title 93, * * * Mississippi Code of
452 1972, the Protection from Domestic Abuse Act.

453 (2) In the discretion of the court, where the objects of
454 justice would be more likely met, as an alternative to imposition
455 or payment of fine and/or incarceration, the municipal judge shall
456 have the power to sentence convicted offenders to work on a public
457 service project where the court has established such a program of
458 public service by written guidelines filed with the clerk for
459 public record. Such programs shall provide for reasonable



460 supervision of the offender and the work shall be commensurate
461 with the fine and/or incarceration that would have ordinarily been
462 imposed. Such program of public service may be utilized in the
463 implementation of the provisions of Section 99-19-20, and public
464 service work thereunder may be supervised by persons other than
465 the sheriff.

466 (3) The municipal judge may solemnize marriages, take oaths,
467 affidavits and acknowledgments, and issue orders, subpoenas,
468 summonses, citations, warrants for search and arrest upon a
469 finding of probable cause, and other such process under seal of
470 the court to any county or municipality, in a criminal case, to be
471 executed by the lawful authority of the county or the municipality
472 of the respondent, and enforce obedience thereto. The absence of
473 a seal shall not invalidate the process.

474 (4) When a person shall be charged with an offense in
475 municipal court punishable by confinement, the municipal judge,
476 being satisfied that such person is an indigent person and is
477 unable to employ counsel, may, in the discretion of the court,
478 appoint counsel from the membership of The Mississippi Bar
479 residing in his county who shall represent him. Compensation for
480 appointed counsel in criminal cases shall be approved and allowed
481 by the municipal judge and shall be paid by the municipality. The
482 maximum compensation shall not exceed Two Hundred Dollars
483 (\$200.00) for any one (1) case. The governing authorities of a
484 municipality may, in their discretion, appoint a public



485 defender(s) who must be a licensed attorney and who shall receive
486 a salary to be fixed by the governing authorities.

487 (5) The municipal judge of any municipality is hereby
488 authorized to suspend the sentence and to suspend the execution of
489 the sentence, or any part thereof, on such terms as may be imposed
490 by the municipal judge. However, the suspension of imposition or
491 execution of a sentence hereunder may not be revoked after a
492 period of two (2) years. The municipal judge shall have the power
493 to establish and operate a probation program, dispute resolution
494 program and other practices or procedures appropriate to the
495 judiciary and designed to aid in the administration of justice.
496 Any such program shall be established by the court with written
497 policies and procedures filed with the clerk of the court for
498 public record. Subsequent to original sentencing, the municipal
499 judge, in misdemeanor cases, is hereby authorized to suspend
500 sentence and to suspend the execution of a sentence, or any part
501 thereof, on such terms as may be imposed by the municipal judge,
502 if (a) the judge or his or her predecessor was authorized to order
503 such suspension when the sentence was originally imposed; and (b)
504 such conviction (i) has not been appealed; or (ii) has been
505 appealed and the appeal has been voluntarily dismissed.

506 (6) Upon prior notice to the municipal prosecuting attorney
507 and upon a showing in open court of rehabilitation, good conduct
508 for a period of two (2) years since the last conviction in any
509 court and that the best interest of society would be served, the



510 court may, in its discretion, order the record of conviction of a
511 person of any or all misdemeanors in that court expunged, and upon
512 so doing the said person thereafter legally stands as though he
513 had never been convicted of the said misdemeanor(s) and may
514 lawfully so respond to any query of prior convictions. This order
515 of expunction does not apply to the confidential records of law
516 enforcement agencies and has no effect on the driving record of a
517 person maintained under Title 63, Mississippi Code of 1972, or any
518 other provision of said Title 63.

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

525 (8) In the discretion of the court, a plea of nolo
526 contendere may be entered to any charge in municipal court. Upon
527 the entry of a plea of nolo contendere the court shall convict the
528 defendant of the offense charged and shall proceed to sentence the
529 defendant according to law. The judgment of the court shall
530 reflect that the conviction was on a plea of nolo contendere. An
531 appeal may be made from a conviction on a plea of nolo contendere
532 as in other cases.

533 (9) Upon execution of a sworn complaint charging a
534 misdemeanor, the municipal court may, in its discretion and in



535 lieu of an arrest warrant, issue a citation requiring the
536 appearance of the defendant to answer the charge made against him.
537 On default of appearance, an arrest warrant may be issued for the
538 defendant. The clerk of the court or deputy clerk may issue such
539 citations.

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

546 (11) The municipal court shall have the power to impose
547 punishment of a fine of not more than One Thousand Dollars
548 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
549 of court. The municipal court may have the power to impose
550 reasonable costs of court, not in excess of the following:

551 Dismissal of any affidavit, complaint or charge	
552 in municipal court.....	\$ 50.00
553 Suspension of a minor's driver's license in lieu of	
554 conviction.....	\$ 50.00
555 Service of scire facias or return "not found".....	\$ 20.00
556 Causing search warrant to issue or causing	
557 prosecution without reasonable cause or refusing to	
558 cooperate after initiating action.....	\$ 100.00
559 Certified copy of the court record.....	\$ 5.00



560 Service of arrest warrant for failure to answer
561 citation or traffic summons.....\$ 25.00
562 Jail cost per day - actual jail cost paid by the municipality
563 but not to exceed..... \$ 35.00
564 Service of court documents related to the filing
565 of a petition or issuance of a protection from domestic
566 abuse order under Chapter 21, Title 93, * * * Mississippi Code of
567 1972\$ 25.00
568 Any other item of court cost.....\$ 50.00
569 No filing fee or such cost shall be imposed for the bringing
570 of an action in municipal court.

571 (12) A municipal court judge shall not dismiss a criminal
572 case but may transfer the case to the justice court of the county
573 if the municipal court judge is prohibited from presiding over the
574 case by the Canons of Judicial Conduct and provided that venue and
575 jurisdiction are proper in the justice court. Upon transfer of
576 any such case, the municipal court judge shall give the municipal
577 court clerk a written order to transmit the affidavit or complaint
578 and all other records and evidence in the court's possession to
579 the justice court by certified mail or to instruct the arresting
580 officer to deliver such documents and records to the justice
581 court. There shall be no court costs charged for the transfer of
582 the case to the justice court.

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



585 and the case was dismissed or the charges were dropped, there was
586 no disposition of such case or the person was found not guilty at
587 trial.

588 (14) For violations of municipal ordinances related to real
589 property, the municipal judge shall have the power to order a
590 defendant to remedy violations within a reasonable time period as
591 set by the judge, and at the discretion of the judge, the judge
592 may simultaneously authorize the municipality, at its request, the
593 option to remedy the violation itself, through the use of its own
594 employees or its contractors, without further notice should the
595 defendant fail to fully do so within the time period set by the
596 judge. Subsequent to the municipality remedying the violation,
597 the municipality may petition the court to assess documented
598 cleanup costs to the defendant, and, if, following a hearing on
599 such petition, the judge determines (a) the violations were not
600 remedied by the defendant within the time required by the court,
601 (b) that the municipality remedied the violation itself after such
602 time period expired and (c) that the costs incurred by the
603 municipality were reasonable, the court may assess the costs to
604 the defendant as a judgement, which may be enrolled in the office
605 of the circuit clerk.

606 **SECTION 3.** This act shall take effect and be in force from
607 and after July 1, 2024.

