

By: Senator(s) Simmons (12th)

To: Judiciary, Division B

SENATE BILL NO. 2623

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT SIMPLE POSSESSION OF 30 GRAMS OR LESS OF MARIJUANA
3 IS A CIVIL INFRACTION; TO AMEND SECTION 21-23-7, MISSISSIPPI CODE
4 OF 1972, TO PROVIDE THAT MUNICIPAL COURTS SHALL HAVE JURISDICTION
5 TO IMPOSE CIVIL PENALTIES; 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. a. If * * * ten (10) grams or less of
162 synthetic cannabinoids, by a fine of not less than One Hundred
163 Dollars (\$100.00) nor more than Two Hundred Fifty Dollars
164 (\$250.00). The provisions of this paragraph (2) (A) may be



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

180 Upon a first or second conviction under this paragraph
181 (2) (A), the courts shall forward a report of the conviction to the
182 Mississippi Bureau of Narcotics which shall make and maintain a
183 private, nonpublic record for a period not to exceed two (2) years
184 from the date of conviction. The private, nonpublic record shall
185 be solely for the use of the courts in determining the penalties
186 which attach upon conviction under this paragraph (2) (A) and shall
187 not constitute a criminal record for the purpose of private or
188 administrative inquiry and the record of each conviction shall be



189 expunged at the end of the period of two (2) years following the
190 date of such conviction;

191 b. If thirty (30) grams or less of
192 marijuana, a civil fine of One Hundred Dollars (\$100.00);

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

208 b. Additionally, a person who is the
209 operator of a motor vehicle, who possesses on his person or
210 knowingly keeps or allows to be kept in a motor vehicle within the
211 area of the vehicle normally occupied by the driver or passengers,
212 more than one (1) gram, but not more than thirty (30) grams of
213 marijuana, commits a civil infraction and may be fined One Hundred



214 Dollars (\$100.00). For the purposes of this subsection, such area
215 of the vehicle shall not include the trunk of the motor vehicle or
216 the areas not normally occupied by the driver or passengers if the
217 vehicle is not equipped with a trunk. A utility or glove
218 compartment shall be deemed to be within the area occupied by the
219 driver and passengers.

220 (B) Marijuana:

221 1. If more than thirty (30) grams but less
222 than two hundred fifty (250) grams, by a fine of not more than One
223 Thousand Dollars (\$1,000.00), or confinement in the county jail
224 for not more than one (1) year, or both; or by a fine of not more
225 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
226 custody of the Department of Corrections for not more than three
227 (3) years, or both;

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

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

236 4. If one (1) kilogram or more but less than
237 five (5) kilograms, by imprisonment for not less than six (6)



238 years nor more than twenty-four (24) years or a fine of not more
239 than Five Hundred Thousand Dollars (\$500,000.00), or both;

240 5. If five (5) kilograms or more, by
241 imprisonment for not less than ten (10) years nor more than thirty
242 (30) years or a fine of not more than One Million Dollars
243 (\$1,000,000.00), or both.

244 (C) Synthetic cannabinoids:

245 1. If more than ten (10) grams but less than
246 twenty (20) grams, by a fine of not more than One Thousand Dollars
247 (\$1,000.00), or confinement in the county jail for not more than
248 one (1) year, or both; or by a fine of not more than Three
249 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
250 the Department of Corrections for not more than three (3) years,
251 or both;

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

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

260 4. If two hundred (200) or more grams, by
261 imprisonment for not less than six (6) years nor more than



262 twenty-four (24) years or a fine of not more than Five Hundred
263 Thousand Dollars (\$500,000.00), or both.

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

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

271 (B) If fifty (50) or more grams or one hundred
272 (100) or more dosage units, but less than one hundred fifty (150)
273 grams or five hundred (500) dosage units, by imprisonment for not
274 less than one (1) year nor more than four (4) years or a fine of
275 not more than Ten Thousand Dollars (\$10,000.00), or both.

276 (C) If one hundred fifty (150) or more grams or
277 five hundred (500) or more dosage units, but less than three
278 hundred (300) grams or one thousand (1,000) dosage units, by
279 imprisonment for not less than two (2) years nor more than eight
280 (8) years or a fine of not more than Fifty Thousand Dollars
281 (\$50,000.00), or both.

282 (D) If three hundred (300) or more grams or one
283 thousand (1,000) or more dosage units, but less than five hundred
284 (500) grams or two thousand five hundred (2,500) dosage units, by
285 imprisonment for not less than four (4) years nor more than



286 sixteen (16) years or a fine of not more than Two Hundred Fifty
287 Thousand Dollars (\$250,000.00), or both.

288 (d) **Paraphernalia.** (1) Except as otherwise provided under
289 subsection (i) of this section for actions that are lawful under
290 the Mississippi Medical Cannabis Act and in compliance with rules
291 and regulations adopted thereunder, it is unlawful for a person
292 who is not authorized by the State Board of Medical Licensure,
293 State Board of Pharmacy, or other lawful authority to use, or to
294 possess with intent to use, paraphernalia to plant, propagate,
295 cultivate, grow, harvest, manufacture, compound, convert, produce,
296 process, prepare, test, analyze, pack, repack, store, contain,
297 conceal, inject, ingest, inhale or otherwise introduce into the
298 human body a controlled substance in violation of the Uniform
299 Controlled Substances Law. Any person who violates this
300 subsection (d) (1) is guilty of a misdemeanor and, upon conviction,
301 may be confined in the county jail for not more than six (6)
302 months, or fined not more than Five Hundred Dollars (\$500.00), or
303 both; however, no person shall be charged with a violation of this
304 subsection when such person is also charged with the possession of
305 thirty (30) grams or less of marijuana under subsection (c) (2) (A)
306 of this section.

307 (2) It is unlawful for any person to deliver, sell,
308 possess with intent to deliver or sell, or manufacture with intent
309 to deliver or sell, paraphernalia, knowing, or under circumstances
310 where one reasonably should know, that it will be used to plant,



311 propagate, cultivate, grow, harvest, manufacture, compound,
312 convert, produce, process, prepare, test, analyze, pack, repack,
313 store, contain, conceal, inject, ingest, inhale, or otherwise
314 introduce into the human body a controlled substance in violation
315 of the Uniform Controlled Substances Law. Except as provided in
316 subsection (d) (3), a person who violates this subsection (d) (2) is
317 guilty of a misdemeanor and, upon conviction, may be confined in
318 the county jail for not more than six (6) months, or fined not
319 more than Five Hundred Dollars (\$500.00), or both.

320 (3) Any person eighteen (18) years of age or over who
321 violates subsection (d) (2) of this section by delivering or
322 selling paraphernalia to a person under eighteen (18) years of age
323 who is at least three (3) years his junior is guilty of a
324 misdemeanor and, upon conviction, may be confined in the county
325 jail for not more than one (1) year, or fined not more than One
326 Thousand Dollars (\$1,000.00), or both.

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



336 (e) It shall be unlawful for any physician practicing
337 medicine in this state to prescribe, dispense or administer any
338 amphetamine or amphetamine-like anorectics and/or central nervous
339 system stimulants classified in Schedule II, pursuant to Section
340 41-29-115, for the exclusive treatment of obesity, weight control
341 or weight loss. Any person who violates this subsection, upon
342 conviction, is guilty of a misdemeanor and may be confined for a
343 period not to exceed six (6) months, or fined not more than One
344 Thousand Dollars (\$1,000.00), or both.

345 (f) **Trafficking.** (1) Any person trafficking in controlled
346 substances shall be guilty of a felony and, upon conviction, shall
347 be imprisoned for a term of not less than ten (10) years nor more
348 than forty (40) years and shall be fined not less than Five
349 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
350 (\$1,000,000.00). The ten-year mandatory sentence shall not be
351 reduced or suspended. The person shall not be eligible for
352 probation or parole, the provisions of Sections 41-29-149,
353 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

354 (2) "Trafficking in controlled substances" as used
355 herein means:

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



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

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

368 (D) A violation of subsection (c) of this section
369 involving five hundred (500) or more grams or two thousand five
370 hundred (2,500) or more dosage units of a Schedule III, IV or V
371 controlled substance; or

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

375 (g) **Aggravated trafficking.** Any person trafficking in
376 Schedule I or II controlled substances, except marijuana and
377 synthetic cannabinoids, of two hundred (200) grams or more shall
378 be guilty of aggravated trafficking and, upon conviction, shall be
379 sentenced to a term of not less than twenty-five (25) years nor
380 more than life in prison and shall be fined not less than Five
381 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
382 (\$1,000,000.00). The twenty-five-year sentence shall be a
383 mandatory sentence and shall not be reduced or suspended. The
384 person shall not be eligible for probation or parole, the



385 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
386 the contrary notwithstanding.

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

396 (A) The offender was not a leader of the criminal
397 enterprise;

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

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

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

405 The court may also consider whether information and
406 assistance were furnished to a law enforcement agency, or its
407 designee, which, in the opinion of the trial judge, objectively
408 should or would have aided in the arrest or prosecution of others
409 who violate this subsection. The accused shall have adequate



410 opportunity to develop and make a record of all information and
411 assistance so furnished.

412 (2) If the court reduces the prescribed sentence
413 pursuant to this subsection, it must specify on the record the
414 circumstances warranting the departure.

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

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

420 21-23-7. (1) The municipal judge shall hold court in a
421 public building designated by the governing authorities of the
422 municipality, or may hold court in an adult detention center as
423 provided under this subsection, and may hold court every day
424 except Sundays and legal holidays if the business of the
425 municipality so requires; provided, however, the municipal judge
426 may hold court outside the boundaries of the municipality but not
427 more than within a sixty-mile radius of the municipality to handle
428 preliminary matters and criminal matters such as initial
429 appearances and felony preliminary hearings. The municipal judge
430 may hold court outside the boundaries of the municipality but not
431 more than within a one-mile radius of the municipality for any
432 purpose; however, a municipal judge may hold court outside the
433 boundaries of the municipality more than within a one-mile radius
434 of the municipality when accepting a plea of a defendant at an



435 adult detention center within the county. The municipal judge
436 shall have the jurisdiction to hear and determine, without a jury
437 and without a record of the testimony, civil infractions and all
438 cases charging violations of the municipal ordinances and state
439 misdemeanor laws made offenses against the municipality and to
440 punish offenders therefor and impose civil penalties as may be
441 prescribed by law. Except as otherwise provided by law, criminal
442 proceedings shall be brought by sworn complaint filed in the
443 municipal court. Such complaint shall state the essential
444 elements of the offense charged and the statute or ordinance
445 relied upon. Such complaint shall not be required to conclude
446 with a general averment that the offense is against the peace and
447 dignity of the state or in violation of the ordinances of the
448 municipality. He may sit as a committing court in all felonies
449 committed within the municipality, and he shall have the power to
450 bind over the accused to the grand jury or to appear before the
451 proper court having jurisdiction to try the same, and to set the
452 amount of bail or refuse bail and commit the accused to jail in
453 cases not bailable. The municipal judge is a conservator of the
454 peace within his municipality. He may conduct preliminary
455 hearings in all violations of the criminal laws of this state
456 occurring within the municipality, and any person arrested for a
457 violation of law within the municipality may be brought before him
458 for initial appearance. The municipal court shall have
459 jurisdiction of any case remanded to it by a circuit court grand



460 jury. The municipal court shall have civil jurisdiction over
461 actions filed pursuant to and as provided in Title 93, Chapter 21,
462 Mississippi Code of 1972, the Protection from Domestic Abuse Act.

463 (2) In the discretion of the court, where the objects of
464 justice would be more likely met, as an alternative to imposition
465 or payment of fine and/or incarceration, the municipal judge shall
466 have the power to sentence convicted offenders to work on a public
467 service project where the court has established such a program of
468 public service by written guidelines filed with the clerk for
469 public record. Such programs shall provide for reasonable
470 supervision of the offender and the work shall be commensurate
471 with the fine and/or incarceration that would have ordinarily been
472 imposed. Such program of public service may be utilized in the
473 implementation of the provisions of Section 99-19-20, and public
474 service work thereunder may be supervised by persons other than
475 the sheriff.

476 (3) The municipal judge may solemnize marriages, take oaths,
477 affidavits and acknowledgments, and issue orders, subpoenas,
478 summonses, citations, warrants for search and arrest upon a
479 finding of probable cause, and other such process under seal of
480 the court to any county or municipality, in a criminal case, to be
481 executed by the lawful authority of the county or the municipality
482 of the respondent, and enforce obedience thereto. The absence of
483 a seal shall not invalidate the process.



484 (4) When a person shall be charged with an offense in
485 municipal court punishable by confinement, the municipal judge,
486 being satisfied that such person is an indigent person and is
487 unable to employ counsel, may, in the discretion of the court,
488 appoint counsel from the membership of The Mississippi Bar
489 residing in his county who shall represent him. Compensation for
490 appointed counsel in criminal cases shall be approved and allowed
491 by the municipal judge and shall be paid by the municipality. The
492 maximum compensation shall not exceed Two Hundred Dollars
493 (\$200.00) for any one (1) case. The governing authorities of a
494 municipality may, in their discretion, appoint a public
495 defender(s) who must be a licensed attorney and who shall receive
496 a salary to be fixed by the governing authorities.

497 (5) The municipal judge of any municipality is hereby
498 authorized to suspend the sentence and to suspend the execution of
499 the sentence, or any part thereof, on such terms as may be imposed
500 by the municipal judge. However, the suspension of imposition or
501 execution of a sentence hereunder may not be revoked after a
502 period of two (2) years. The municipal judge shall have the power
503 to establish and operate a probation program, dispute resolution
504 program and other practices or procedures appropriate to the
505 judiciary and designed to aid in the administration of justice.
506 Any such program shall be established by the court with written
507 policies and procedures filed with the clerk of the court for
508 public record. Subsequent to original sentencing, the municipal



509 judge, in misdemeanor cases, is hereby authorized to suspend
510 sentence and to suspend the execution of a sentence, or any part
511 thereof, on such terms as may be imposed by the municipal judge,
512 if (a) the judge or his or her predecessor was authorized to order
513 such suspension when the sentence was originally imposed; and (b)
514 such conviction (i) has not been appealed; or (ii) has been
515 appealed and the appeal has been voluntarily dismissed.

516 (6) Upon prior notice to the municipal prosecuting attorney
517 and upon a showing in open court of rehabilitation, good conduct
518 for a period of two (2) years since the last conviction in any
519 court and that the best interest of society would be served, the
520 court may, in its discretion, order the record of conviction of a
521 person of any or all misdemeanors in that court expunged, and upon
522 so doing the said person thereafter legally stands as though he
523 had never been convicted of the said misdemeanor(s) and may
524 lawfully so respond to any query of prior convictions. This order
525 of expunction does not apply to the confidential records of law
526 enforcement agencies and has no effect on the driving record of a
527 person maintained under Title 63, Mississippi Code of 1972, or any
528 other provision of said Title 63.

529 (7) Notwithstanding the provisions of subsection (6) of this
530 section, a person who was convicted in municipal court of a
531 misdemeanor before reaching his twenty-third birthday, excluding
532 conviction for a traffic violation, and who is a first offender,



533 may utilize the provisions of Section 99-19-71, to expunge such
534 misdemeanor conviction.

535 (8) In the discretion of the court, a plea of nolo
536 contendere may be entered to any charge in municipal court. Upon
537 the entry of a plea of nolo contendere the court shall convict the
538 defendant of the offense charged and shall proceed to sentence the
539 defendant according to law. The judgment of the court shall
540 reflect that the conviction was on a plea of nolo contendere. An
541 appeal may be made from a conviction on a plea of nolo contendere
542 as in other cases.

543 (9) Upon execution of a sworn complaint charging a
544 misdemeanor, the municipal court may, in its discretion and in
545 lieu of an arrest warrant, issue a citation requiring the
546 appearance of the defendant to answer the charge made against him.
547 On default of appearance, an arrest warrant may be issued for the
548 defendant. The clerk of the court or deputy clerk may issue such
549 citations.

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

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



558 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
559 of court. The municipal court may have the power to impose
560 reasonable costs of court, not in excess of the following:

561	Dismissal of any affidavit, complaint or charge	
562	in municipal court.....	\$ 50.00
563	Suspension of a minor's driver's license in lieu of	
564	conviction.....	\$ 50.00
565	Service of scire facias or return "not found".....	\$ 20.00
566	Causing search warrant to issue or causing	
567	prosecution without reasonable cause or refusing to	
568	cooperate after initiating action.....	\$ 100.00
569	Certified copy of the court record.....	\$ 5.00
570	Service of arrest warrant for failure to answer	
571	citation or traffic summons.....	\$ 25.00
572	Jail cost per day - actual jail cost paid by the municipality	
573	but not to exceed.....	\$ 35.00
574	Service of court documents related to the filing	
575	of a petition or issuance of a protection from domestic	
576	abuse order under Title 93, Chapter 21, Mississippi Code	
577	of 1972	\$ 25.00
578	Any other item of court cost.....	\$ 50.00
579	No filing fee or such cost shall be imposed for the bringing	
580	of an action in municipal court.	

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



583 if the municipal court judge is prohibited from presiding over the
584 case by the Canons of Judicial Conduct and provided that venue and
585 jurisdiction are proper in the justice court. Upon transfer of
586 any such case, the municipal court judge shall give the municipal
587 court clerk a written order to transmit the affidavit or complaint
588 and all other records and evidence in the court's possession to
589 the justice court by certified mail or to instruct the arresting
590 officer to deliver such documents and records to the justice
591 court. There shall be no court costs charged for the transfer of
592 the case to the justice court.

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

598 (14) For violations of municipal ordinances related to real
599 property, the municipal judge shall have the power to order a
600 defendant to remedy violations within a reasonable time period as
601 set by the judge, and at the discretion of the judge, the judge
602 may simultaneously authorize the municipality, at its request, the
603 option to remedy the violation itself, through the use of its own
604 employees or its contractors, without further notice should the
605 defendant fail to fully do so within the time period set by the
606 judge. Subsequent to the municipality remedying the violation,
607 the municipality may petition the court to assess documented



608 cleanup costs to the defendant, and, if, following a hearing on
609 such petition, the judge determines (a) the violations were not
610 remedied by the defendant within the time required by the court,
611 (b) that the municipality remedied the violation itself after such
612 time period expired and (c) that the costs incurred by the
613 municipality were reasonable, the court may assess the costs to
614 the defendant as a judgement, which may be enrolled in the office
615 of the circuit clerk.

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

