

By: Representatives McGee, Summers, Reynolds To: Judiciary A

HOUSE BILL NO. 354

1 AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT A MUNICIPAL JUDGE SHALL HAVE THE POWER TO ORDER A
 3 DEFENDANT TO REMEDY A REAL PROPERTY MUNICIPAL ORDINANCE VIOLATION
 4 WITHIN A REASONABLE TIME PERIOD PRESCRIBED BY THE JUDGE; TO
 5 PROVIDE THAT A MUNICIPAL JUDGE MAY AUTHORIZE THE MUNICIPALITY,
 6 UPON ITS REQUEST, TO REMEDY THE VIOLATION THROUGH THE USE OF
 7 MUNICIPAL EMPLOYEES OR CONTRACTORS IF SUCH DEFENDANT FAILS TO
 8 REMEDY THE VIOLATION; TO PROVIDE THAT IF A MUNICIPALITY REMEDIES A
 9 VIOLATION DUE TO A DEFENDANT'S FAILURE TO DO SO, THE MUNICIPALITY
 10 MAY PETITION THE COURT TO ASSESS CERTAIN CLEANUP COSTS TO THE
 11 DEFENDANT AND AFTER A HEARING CONCERNING THE ASSESSMENT OF SUCH
 12 COSTS, THE COURT MAY ASSESS THE COSTS TO THE DEFENDANT AS A
 13 JUDGEMENT; AND FOR RELATED PURPOSES.

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

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

17 21-23-7. (1) The municipal judge shall hold court in a
 18 public building designated by the governing authorities of the
 19 municipality, or may hold court in an adult detention center as
 20 provided under this subsection, and may hold court every day
 21 except Sundays and legal holidays if the business of the
 22 municipality so requires; provided, however, the municipal judge
 23 may hold court outside the boundaries of the municipality but not



24 more than within a sixty-mile radius of the municipality to handle
25 preliminary matters and criminal matters such as initial
26 appearances and felony preliminary hearings. The municipal judge
27 may hold court outside the boundaries of the municipality but not
28 more than within a one-mile radius of the municipality for any
29 purpose; however, a municipal judge may hold court outside the
30 boundaries of the municipality more than within a one-mile radius
31 of the municipality when accepting a plea of a defendant at an
32 adult detention center within the county. The municipal judge
33 shall have the jurisdiction to hear and determine, without a jury
34 and without a record of the testimony, all cases charging
35 violations of the municipal ordinances and state misdemeanor laws
36 made offenses against the municipality and to punish offenders
37 therefor as may be prescribed by law. Except as otherwise
38 provided by law, criminal proceedings shall be brought by sworn
39 complaint filed in the municipal court. Such complaint shall
40 state the essential elements of the offense charged and the
41 statute or ordinance relied upon. Such complaint shall not be
42 required to conclude with a general averment that the offense is
43 against the peace and dignity of the state or in violation of the
44 ordinances of the municipality. He may sit as a committing court
45 in all felonies committed within the municipality, and he shall
46 have the power to bind over the accused to the grand jury or to
47 appear before the proper court having jurisdiction to try the
48 same, and to set the amount of bail or refuse bail and commit the



49 accused to jail in cases not bailable. The municipal judge is a
50 conservator of the peace within his municipality. He may conduct
51 preliminary hearings in all violations of the criminal laws of
52 this state occurring within the municipality, and any person
53 arrested for a violation of law within the municipality may be
54 brought before him for initial appearance. The municipal court
55 shall have jurisdiction of any case remanded to it by a circuit
56 court grand jury. The municipal court shall have civil
57 jurisdiction over actions filed pursuant to and as provided in
58 Title 93, Chapter 21, Mississippi Code of 1972, the Protection
59 from Domestic Abuse Act.

60 (2) In the discretion of the court, where the objects of
61 justice would be more likely met, as an alternative to imposition
62 or payment of fine and/or incarceration, the municipal judge shall
63 have the power to sentence convicted offenders to work on a public
64 service project where the court has established such a program of
65 public service by written guidelines filed with the clerk for
66 public record. Such programs shall provide for reasonable
67 supervision of the offender and the work shall be commensurate
68 with the fine and/or incarceration that would have ordinarily been
69 imposed. Such program of public service may be utilized in the
70 implementation of the provisions of Section 99-19-20, and public
71 service work thereunder may be supervised by persons other than
72 the sheriff.



73 (3) The municipal judge may solemnize marriages, take oaths,
74 affidavits and acknowledgments, and issue orders, subpoenas,
75 summonses, citations, warrants for search and arrest upon a
76 finding of probable cause, and other such process under seal of
77 the court to any county or municipality, in a criminal case, to be
78 executed by the lawful authority of the county or the municipality
79 of the respondent, and enforce obedience thereto. The absence of
80 a seal shall not invalidate the process.

81 (4) When a person shall be charged with an offense in
82 municipal court punishable by confinement, the municipal judge,
83 being satisfied that such person is an indigent person and is
84 unable to employ counsel, may, in the discretion of the court,
85 appoint counsel from the membership of The Mississippi Bar
86 residing in his county who shall represent him. Compensation for
87 appointed counsel in criminal cases shall be approved and allowed
88 by the municipal judge and shall be paid by the municipality. The
89 maximum compensation shall not exceed Two Hundred Dollars
90 (\$200.00) for any one (1) case. The governing authorities of a
91 municipality may, in their discretion, appoint a public
92 defender(s) who must be a licensed attorney and who shall receive
93 a salary to be fixed by the governing authorities.

94 (5) The municipal judge of any municipality is hereby
95 authorized to suspend the sentence and to suspend the execution of
96 the sentence, or any part thereof, on such terms as may be imposed
97 by the municipal judge. However, the suspension of imposition or



98 execution of a sentence hereunder may not be revoked after a
99 period of two (2) years. The municipal judge shall have the power
100 to establish and operate a probation program, dispute resolution
101 program and other practices or procedures appropriate to the
102 judiciary and designed to aid in the administration of justice.
103 Any such program shall be established by the court with written
104 policies and procedures filed with the clerk of the court for
105 public record. Subsequent to original sentencing, the municipal
106 judge, in misdemeanor cases, is hereby authorized to suspend
107 sentence and to suspend the execution of a sentence, or any part
108 thereof, on such terms as may be imposed by the municipal judge,
109 if (a) the judge or his or her predecessor was authorized to order
110 such suspension when the sentence was originally imposed; and (b)
111 such conviction (i) has not been appealed; or (ii) has been
112 appealed and the appeal has been voluntarily dismissed.

113 (6) Upon prior notice to the municipal prosecuting attorney
114 and upon a showing in open court of rehabilitation, good conduct
115 for a period of two (2) years since the last conviction in any
116 court and that the best interest of society would be served, the
117 court may, in its discretion, order the record of conviction of a
118 person of any or all misdemeanors in that court expunged, and upon
119 so doing the said person thereafter legally stands as though he
120 had never been convicted of the said misdemeanor(s) and may
121 lawfully so respond to any query of prior convictions. This order
122 of expunction does not apply to the confidential records of law



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

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

132 (8) In the discretion of the court, a plea of nolo
133 contendere may be entered to any charge in municipal court. Upon
134 the entry of a plea of nolo contendere the court shall convict the
135 defendant of the offense charged and shall proceed to sentence the
136 defendant according to law. The judgment of the court shall
137 reflect that the conviction was on a plea of nolo contendere. An
138 appeal may be made from a conviction on a plea of nolo contendere
139 as in other cases.

140 (9) Upon execution of a sworn complaint charging a
141 misdemeanor, the municipal court may, in its discretion and in
142 lieu of an arrest warrant, issue a citation requiring the
143 appearance of the defendant to answer the charge made against him.
144 On default of appearance, an arrest warrant may be issued for the
145 defendant. The clerk of the court or deputy clerk may issue such
146 citations.



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

153 (11) The municipal court shall have the power to impose
154 punishment of a fine of not more than One Thousand Dollars
155 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
156 of court. The municipal court may have the power to impose
157 reasonable costs of court, not in excess of the following:

158	Dismissal of any affidavit, complaint or charge	
159	in municipal court.....	\$ 50.00
160	Suspension of a minor's driver's license in lieu of	
161	conviction.....	\$ 50.00
162	Service of scire facias or return "not found".....	\$ 20.00
163	Causing search warrant to issue or causing	
164	prosecution without reasonable cause or refusing to	
165	cooperate after initiating action.....	\$ 100.00
166	Certified copy of the court record.....	\$ 5.00
167	Service of arrest warrant for failure to answer	
168	citation or traffic summons.....	\$ 25.00
169	Jail cost per day - actual jail cost paid by the municipality	
170	but not to exceed.....	\$ 35.00
171	Service of court documents related to the filing	



172 of a petition or issuance of a protection from domestic
173 abuse order under Title 93, Chapter 21, Mississippi
174 Code of 1972\$ 25.00
175 Any other item of court cost.....\$ 50.00

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

178 (12) A municipal court judge shall not dismiss a criminal
179 case but may transfer the case to the justice court of the county
180 if the municipal court judge is prohibited from presiding over the
181 case by the Canons of Judicial Conduct and provided that venue and
182 jurisdiction are proper in the justice court. Upon transfer of
183 any such case, the municipal court judge shall give the municipal
184 court clerk a written order to transmit the affidavit or complaint
185 and all other records and evidence in the court's possession to
186 the justice court by certified mail or to instruct the arresting
187 officer to deliver such documents and records to the justice
188 court. There shall be no court costs charged for the transfer of
189 the case to the justice court.

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

195 (14) For violations of municipal ordinances related to real
196 property, the municipal judge shall have the power to order a



197 defendant to remedy violations within a reasonable time period as
198 set by the judge, and at the discretion of the judge, the judge
199 may simultaneously authorize the municipality, at its request, the
200 option to remedy the violation itself, through the use of its own
201 employees or its contractors, without further violation itself,
202 through the use of its own employees or its contractors, without
203 further notice should the defendant fail to fully do so within the
204 time period set by the judge. Subsequent to the municipality
205 remedying the violation, the municipality may petition the court
206 to assess documented cleanup costs to the defendant, and, if,
207 following a hearing on such petition, the judge determines (a) the
208 violations were not remedied by the defendant within the time
209 required by the court, (b) that the municipality remedied the
210 violation itself after such time period expired and (c) that the
211 costs incurred by the municipality were reasonable, the court may
212 assess the costs to the defendant as a judgement, which may be
213 enrolled in the office of the circuit clerk.

214 **SECTION 2.** This act shall take effect and be in force from
215 and after July 1, 2021.

