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Chapter No. 358

13/HR12/R1273

JAB / CST

# *HOUSE BILL NO. 80*

Originated in House

A handwritten signature in black ink, appearing to read "Andrew H. ...", written over a horizontal line.

Clerk

HOUSE BILL NO. 80

AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT MUNICIPALITIES ARE ALLOWED TO CHARGE CONVICTED MISDEMEANOR OFFENDERS FOR JAIL COSTS; AND FOR RELATED PURPOSES.

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

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

21-23-7. (1) The municipal judge shall hold court in a public building designated by the governing authorities of the municipality and may hold court every day except Sundays and legal holidays if the business of the municipality so requires; provided, however, the municipal judge may hold court outside the boundaries of the municipality but not more than within a sixty-mile radius of the municipality to handle preliminary matters and criminal matters such as initial appearances and felony preliminary hearings. The municipal judge shall have the jurisdiction to hear and determine, without a jury and without a record of the testimony, all cases charging violations of the municipal ordinances and state misdemeanor laws made offenses

against the municipality and to punish offenders therefor as may be prescribed by law. Except as otherwise provided by law, criminal proceedings shall be brought by sworn complaint filed in the municipal court. Such complaint shall state the essential elements of the offense charged and the statute or ordinance relied upon. Such complaint shall not be required to conclude with a general averment that the offense is against the peace and dignity of the state or in violation of the ordinances of the municipality. He may sit as a committing court in all felonies committed within the municipality, and he shall have the power to bind over the accused to the grand jury or to appear before the proper court having jurisdiction to try the same, and to set the amount of bail or refuse bail and commit the accused to jail in cases not bailable. The municipal judge is a conservator of the peace within his municipality. He may conduct preliminary hearings in all violations of the criminal laws of this state occurring within the municipality, and any person arrested for a violation of law within the municipality may be brought before him for initial appearance. The municipal court shall have jurisdiction of any case remanded to it by a circuit court grand jury. The municipal court shall have civil jurisdiction over actions filed pursuant to and as provided in Title 93, Chapter 21, Mississippi Code of 1972, the Protection from Domestic Abuse Act.

(2) In the discretion of the court, where the objects of justice would be more likely met, as an alternative to imposition

or payment of fine and/or incarceration, the municipal judge shall have the power to sentence convicted offenders to work on a public service project where the court has established such a program of public service by written guidelines filed with the clerk for public record. Such programs shall provide for reasonable supervision of the offender and the work shall be commensurate with the fine and/or incarceration that would have ordinarily been imposed. Such program of public service may be utilized in the implementation of the provisions of Section 99-19-20, and public service work thereunder may be supervised by persons other than the sheriff.

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

(4) When a person shall be charged with an offense in municipal court punishable by confinement, the municipal judge, being satisfied that such person is an indigent person and is unable to employ counsel, may, in the discretion of the court, appoint counsel from the membership of The Mississippi Bar residing in his county who shall represent him. Compensation for

appointed counsel in criminal cases shall be approved and allowed by the municipal judge and shall be paid by the municipality. The maximum compensation shall not exceed Two Hundred Dollars (\$200.00) for any one (1) case. The governing authorities of a municipality may, in their discretion, appoint a public defender(s) who must be a licensed attorney and who shall receive a salary to be fixed by the governing authorities.

(5) The municipal judge of any municipality is hereby authorized to suspend the sentence and to suspend the execution of the sentence, or any part thereof, on such terms as may be imposed by the municipal judge. However, the suspension of imposition or execution of a sentence hereunder may not be revoked after a period of two (2) years. The municipal judge shall have the power to establish and operate a probation program, dispute resolution program and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice. Any such program shall be established by the court with written policies and procedures filed with the clerk of the court for public record. Subsequent to original sentencing, the municipal judge, in misdemeanor cases, is hereby authorized to suspend sentence and to suspend the execution of a sentence, or any part thereof, on such terms as may be imposed by the municipal judge, if (a) the judge or his or her predecessor was authorized to order such suspension when the sentence was originally imposed; and (b)

such conviction (i) has not been appealed; or (ii) has been appealed and the appeal has been voluntarily dismissed.

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

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

(8) In the discretion of the court, a plea of nolo contendere may be entered to any charge in municipal court. Upon the entry of a plea of nolo contendere the court shall convict the defendant of the offense charged and shall proceed to sentence the

defendant according to law. The judgment of the court shall reflect that the conviction was on a plea of nolo contendere. An appeal may be made from a conviction on a plea of nolo contendere as in other cases.

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

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

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

Dismissal of any affidavit, complaint or charge  
in municipal court ..... \$ 50.00  
Suspension of a minor's driver's license in lieu of

conviction..... \$ 50.00  
 Service of scire facias or return "not found" ..... \$ 20.00  
 Causing search warrant to issue or causing prosecution  
 without reasonable cause or refusing to cooperate  
 after initiating action..... \$ 100.00  
 Certified copy of the court record..... \$ 5.00  
 Service of arrest warrant for failure to answer  
 citation or traffic summons..... \$ 25.00  
 Jail cost per day..... \* \* \* actual jail  
cost paid by the municipality but not to exceed.. \$ 35.00  
 Service of court documents related to the filing of a petition  
 or issuance of a protection from domestic abuse order under  
 Title 93, Chapter 21, Mississippi Code of 1972... \$ 25.00  
 Any other item of court cost..... \$ 50.00  
 No filing fee or such cost shall be imposed for the bringing  
 of an action in municipal court.

(12) A municipal court judge shall not dismiss a criminal  
 case but may transfer the case to the justice court of the county  
 if the municipal court judge is prohibited from presiding over the  
 case by the Canons of Judicial Conduct and provided that venue and  
 jurisdiction are proper in the justice court. Upon transfer of  
 any such case, the municipal court judge shall give the municipal  
 court clerk a written order to transmit the affidavit or complaint  
 and all other records and evidence in the court's possession to  
 the justice court by certified mail or to instruct the arresting

officer to deliver such documents and records to the justice court. There shall be no court costs charged for the transfer of the case to the justice court.

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

**SECTION 2.** This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 13, 2013

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 7, 2013

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

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