

MANUAL FOR
MISSISSIPPI
COURT ADMINISTRATORS

2021

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MANUAL FOR MISSISSIPPI COURT ADMINISTRATORS

We would like to thank Mississippi's Executive Council of Court Administrators for its suggestions in putting together the *Manual for Mississippi Court Administrators*.

Your manual is easy to use.

- Contents lists the specific chapters.
- Each chapter has a title page listing topics discussed.
- Diagrams and checklists complement various topics.

Please email any suggestions for improving the style, format, or content of the manual to charlton@olemiss.edu.

This manual is intended as a reference to the law rather than as a substitute for the actual materials cited. To ensure lawful compliance of the law always refer to the most recent publications of rules, statutes, cases, etc.

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MISSISSIPPI COURT SYSTEM (DIAGRAM)

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100 INTRODUCTION

Court administrators can more effectively perform their duties if they are familiar with the overall structure and workings of the Mississippi court system. Sometimes there is concurrent jurisdiction. Other times the judgment, sentence, or disposition of one court affects a matter pending in another court. Below is an overview of our court system to facilitate a better understanding of the various courts and their relation to each other. An insert at the end of the chapter includes the full text of the cited constitutional and statutory provisions.

101 MISSISSIPPI COURTS

Constitutional courts:

Constitutionally established courts under Article VI include: Sections 144 (supreme court); 156 (circuit courts); 159 (chancery courts); and 171 (justice courts).

Statutory courts:

Statutorily established courts include: Sections 9-4-1 (court of appeals); 9-9-1 (county courts); 11-27-3 (special court of eminent domain); 21-23-1 (municipal courts); and 43-21-107 (youth courts).

Judicial oath of office:

Article VI, Section 155 requires the judges of the several courts of this state, before proceeding to execute the duties of their respective offices, to take the judicial oath of office.

102 SUPREME COURT

Districts:

There are three (3) supreme court districts, which may sit in two divisions of three judges each, as set forth in:

- Article VI, Sections 145, 145A, 145B, and 149A; and
- Section 9-3-1.

Terms:

Supreme court terms are twice a year, commencing in March and September, as set forth in:

- Article VI, Section 148; and
- Section 9-3-3. (Modified or supplanted by M.R.A.P. 26(d)).

Justices:

Number, terms of office, and eligibility requirements are set forth in Article VI, Sections 145B, 149, and 150.

Jurisdiction:

Supreme court has jurisdiction as set forth in Article VI, Section 146. Rule and statutory provisions pertaining to jurisdiction include:

- M.R.A.P. 16 and 17; and
- Sections 9-3-9 and 11-51-3.

103 COURT OF APPEALS

Districts:

Court of appeals is comprised of ten (10) appellate judges, two (2) from each court of appeals district, as set forth in Sections 9-4-1 and 9-4-5.

Terms:

Court of appeals terms are set forth in Section 9-4-7.

Judges:

Terms and eligibility of judges are set forth in Section 9-4-5.

Jurisdiction:

Laws relating the jurisdiction of the court of appeals include

- M.R.A.P. 16; and
- Section 9-4-3.

104 *CIRCUIT COURTS*

Districts:

There are twenty-two (22) circuit court districts as set forth in Sections 9-7-3 through 9-7-57.

Terms:

Circuit court terms are at least twice a year as set forth in:

- Article VI, Section 158; and
- Section 9-7-3.

Judges:

Number, terms, and eligibility of circuit court judges are set forth in:

- Article VI, Sections 153 and 154; and
- Section 9-7-3.

Jurisdiction:

Laws pertaining to circuit court jurisdiction include: Article VI, Sections 156 and 161 and Section 9-7-81. Transfer of jurisdiction from circuit court to chancery court is set forth in Article VI, Sections 147 and 157 and Section 9-7-83. Transfer of jurisdiction from circuit court to county court is set forth in Section 9-9-27.

Venue:

Venue in circuit courts for civil actions is set forth in M.R.C.P. 82. Venue in circuit courts for criminal offenses is set forth in Section 99-11-3. Change of venue is set forth in M.R.C.P. 82(d) and Section 11-11-51 for civil actions and MRCrP 11 for criminal offenses.

Appeals:

Appeals from circuit court are authorized under Sections 11-51-3 and 99-35-101. Rule 3 of the Mississippi Rules of Appellate Procedures provides in part: "In all cases, both civil and criminal, in which an appeal is permitted by law as of right to the Supreme Court, there shall be one procedure for perfecting such appeal. That procedure is prescribed in these rules."

105 *CHANCERY COURTS*

Districts:

There are twenty (20) chancery court districts as set forth in Sections 9-5-3 through 9-5-58.

Terms:

Chancery court terms are at least twice a year as set forth in:

- Article VI, Section 164; and
- Section 9-5-3.

Judges:

Number, terms, and eligibility of chancery court judges are set forth in:

- Article VI, Sections 153 and 154; and
- Section 9-5-3.

Jurisdiction:

Laws pertaining to chancery court jurisdiction include:

- Article VI, Sections 159, 160, and 161; and
- Sections 9-5-81, 43-21-151(1)(c); 93-11-65(4). *See also* U.R.Y.C.P. 2(a)(2).

Transfer of jurisdiction from chancery court to circuit court is set forth in Article VI, Sections 147 and 162 and Section 9-7-83.

Venue:

Venue in chancery courts is set forth in M.R.C.P. 82 and Section 11-5-1. Change of venue is set forth in Section 11-5-5.

Appeals:

Appeals from chancery court are authorized under Section 11-51-3. Rule 3 of the Mississippi Rules of Appellate Procedures provides in part: “In all cases, both civil and criminal, in which an appeal is permitted by law as of right to the Supreme Court, there shall be one procedure for perfecting such appeal. That procedure is prescribed in these rules.”

106 COUNTY COURTS

Localities:

County courts are established as set forth in Section 9-9-1.

Terms:

County court terms are each month as set forth in Section 9-9-19.

Judges:

Terms and eligibility of county court judges are set forth in:

- Article VI, Section 154; and
- Section 9-9-5.

Jurisdiction:

Laws pertaining to county court jurisdiction include Section 9-9-21. Transfer of jurisdiction from county court to circuit court is set forth in Section 9-9-27.

Venue:

Venue in county courts for civil actions is set forth in M.R.C.P. 82 and Section 11-9-3. Venue in county courts for criminal offenses is set forth in Section 99-11-3. Change of venue for criminal proceedings is set forth in MRCrP 11.

Appeals:

Appeals from county court are set forth in:

- URCCC 5.01, 5.02, 5.04, 5.05 (civil appeals) and MRCrP 30 (criminal appeals); and
- Section 11-51-79.

Appeals from justice court or municipal court to county court are authorized under Section 11-51-81. *See also* Brown v. Collections, Inc., 188 So. 3d 1171, 1177 (Miss. 2016) (“Unlike Section 11–51–79, the [rules of court] provide a mechanism for interlocutory appeals to this court. . . . When such a conflict exists, our court's rules trump statutory law.”); Jones v. City of Ridgeland, 48 So.3d 530, 535 (Miss. 2010) (“[T]he ‘three-court rule’ in Section 11-51-81 is unconstitutional and void.”).

107 *YOUTH COURTS*

Localities:

Youth courts are established as set forth in Section 43-21-107.

Terms:

Youth court is in session at all times as set forth in Section 43-21-203.

Judges:

Terms and eligibility of youth court judges depend on which particular court division within the county is authorized, as set forth in Section 43-21-107, to hear youth court cases.

Jurisdiction:

Laws pertaining to youth court jurisdiction include Section 43-21-105. *See also* U.R.Y.C.P. 3(b) which provides: "These rules shall not be construed to extend or limit the jurisdiction of the courts of Mississippi." The Comment to this rule sets forth actions not within the jurisdiction of the youth court.

Venue:

Venue in youth courts is set forth in U.R.Y.C.P. 21 and Section 43-21-155.

Appeals:

Procedures for a rehearing of a referee's order are set forth in U.R.Y.C.P. 36 and Section 43-21-111(5). Appeals from final orders and decrees of the court shall be pursuant to U.R.Y.C.P. 37 and Section 43-21-651. Also, Mississippi Rules of Appellate Procedures, Rule 3 provides in part: "In all cases, both civil and criminal, in which an appeal is permitted by law as of right to the Supreme Court, there shall be one procedure for perfecting such appeal. That procedure is prescribed in these rules."

108 JUSTICE COURTS

Localities:

Laws relating localities and election processes of justice court judges include Article VI, Section 171.

Terms:

Justice courts hold regular terms as set forth in Section 9-11-15.

Judges:

Number, terms and eligibility of justice court judges are set forth in:

- Article VI, Section 171; and
- Section 9-11-2.

Jurisdiction:

Laws pertaining to justice court jurisdiction include:

- Article VI, Section 171; and
- Sections 9-11-9, 9-11-10, and 99-33-1.

Transfer of jurisdiction from justice court to municipal is set forth in Section 99-33-17.

Venue:

Venue in justice courts for *civil actions* is set forth in Sections 11-9-101, 11-9-103, and 11-11-17. Venue in justice court for *criminal offenses* is set forth in Section 99-33-1.

Appeals:

Appeals from justice courts are set forth in:

- Rule 27 of the Rules of Justice Court;
- MRCrP 29 and Sections 83-39-31, 99-35-3, and 99-35-7; and
- Sections 11-51-93 and 11-51-95 (certiorari proceedings).

109 MUNICIPAL COURTS

Localities:

Municipal courts are established as set forth in Section 21-23-1.

Terms:

Municipal courts may hold court every day except Sundays and legal holidays if the business of the municipality so requires as set forth in Section 21-23-7.

Judges:

Terms and eligibility of municipal court judges are set forth in Sections 21-23-3, 21-23-5, and 21-23-9.

Jurisdiction:

Laws pertaining to municipal court jurisdiction include Section 21-23-7.

Venue:

Venue in municipal courts is set forth in Section 21-23-7.

Appeals:

Appeals from municipal courts are set forth in MRCrP 29 and Sections 83-39-31, 99-35-3, and 99-35-7.

110 SPECIAL COURT OF EMINENT DOMAIN

Localities:

Special courts of eminent domain are established as set forth in Section 11-27-3.

Terms:

Special courts of eminent domain may hear cases in term-time or vacation as set forth in Sections 11-27-5 and 11-27-7.

Judges:

Terms and eligibility of special courts of eminent domain judges depend on which particular court division within the county is authorized, as set forth in Section 11-27-3, to hear eminent domain cases.

Jurisdiction:

Laws pertaining to special courts of eminent domain jurisdiction include Section 11-27-3. Such are preference cases as set forth in Section 11-27-5.

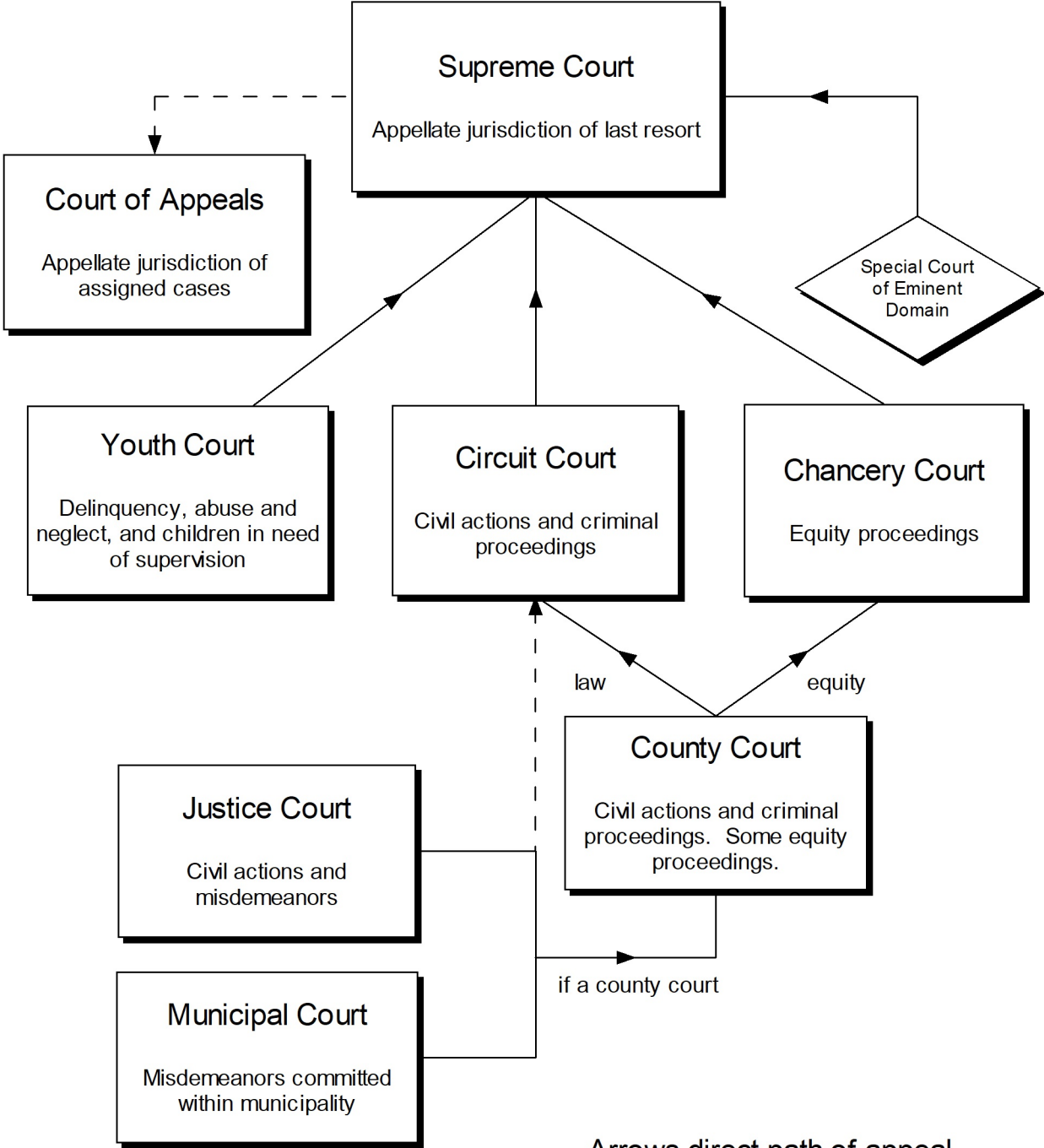
Venue:

Venue in special courts of eminent domain is set forth in Section 11-27-5 (if property is situated in only one county) or Section 11-27-31 (if property is situated in more than one county).

Appeals:

Appeals from judgments of special courts of eminent domain are to the Mississippi Supreme Court as set forth in Section 11-27-29. Orders overruling or granting motions to dismiss for failure to state a claim are appealable as set forth in Section 11-27-15. Also, Mississippi Rules of Appellate Procedures, Rule 3 provides in part: "In all cases, both civil and criminal, in which an appeal is permitted by law as of right to the Supreme Court, there shall be one procedure for perfecting such appeal. That procedure is prescribed in these rules."

Mississippi Court System



Arrows direct path of appeal

***FULL TEXT OF CONSTITUTIONAL AND STATUTORY PROVISIONS
CITED WITHIN CHAPTER (Listed in Numerical Order):***

CONSTITUTIONAL PROVISIONS

- **Miss. Const. art. VI § 144. Judicial power of state**

The judicial power of the state shall be vested in a Supreme Court and such other courts as are provided for in this constitution.

- **Miss. Const. art. VI § 145. Composition of Supreme Court**

The Supreme Court shall consist of three judges, any two of whom, when convened, shall form a quorum. The legislature shall divide the state into three Supreme Court districts, and there shall be elected one judge for and from each district by the qualified electors thereof at a time and in the manner provided by law; but the removal of a judge to the state capitol during his term of office shall not render him ineligible as his own successor for the districts from which he has removed. The present incumbents shall be considered as holding their terms of office from the state at large. The adoption of this amendment shall not abridge the terms of any of the present incumbents, but they shall continue to hold their respective offices until the expiration of the terms for which they were respectively appointed.

- **Miss. Const. art. VI § 145A. Addition of judges to Supreme Court**

The Supreme Court shall consist of six judges, that is to say, of three judges in addition to the three provided for by section 145 of this Constitution, any four of whom when convened shall form a quorum. The additional judges herein provided for shall be selected one for and from each of the Supreme Court districts in the manner provided by section 145 of this Constitution, or any amendments thereto. Their terms of office shall be as provided by section 149 of this Constitution, or any amendment thereto.

- **Miss. Const. art. VI § 145B. Further addition of judges to Supreme Court**

The Supreme Court shall consist of nine judges, that is to say, of three judges in addition to the six provided for by section 145A of this Constitution, any five of whom when convened shall constitute a quorum. The additional judges herein provided for shall be selected one for and from each of the supreme court districts in the manner provided by section 145A of this Constitution or any amendment thereto. Their terms of office shall be as provided by section 149 of this Constitution or any amendment thereto.

- **Miss. Const. art. VI § 146. Jurisdiction of Supreme Court**

The Supreme Court shall have such jurisdiction as properly belongs to a court of appeals and shall exercise no jurisdiction on matters other than those specifically provided by this Constitution or by general law. The Legislature may by general law provide for the Supreme Court to have original and

appellate jurisdiction as to any appeal directly from an administrative agency charged by law with the responsibility for approval or disapproval of rates sought to be charged the public by any public utility. The Supreme Court shall consider cases and proceedings for modification of public utility rates in an expeditious manner regardless of their position on the court docket.

- **Miss. Const. art. VI § 147. Reversal of judgment for want of jurisdiction; remand**

No judgment or decree in any chancery or circuit court rendered in a civil cause shall be reversed or annulled on the ground of want of jurisdiction to render said judgment or decree, from any error or mistake as to whether the cause in which it was rendered was of equity or common-law jurisdiction; but if the Supreme Court shall find error in the proceedings other than as to jurisdiction, and it shall be necessary to remand the case, the Supreme Court may remand it to that court which, in its opinion, can best determine the controversy.

- **Miss. Const. art. VI § 148. Holding of Supreme Court at seat of government**

The Supreme Court shall be held twice in each year at the seat of government at such time as the legislature may provide.

- **Miss. Const. art. VI § 149. Term of office of Supreme Court judges**

The term of office of the judges of the Supreme Court shall be eight (8) years. The legislature shall provide as near as can be conveniently done that the offices of not more than a majority of the judges of said court shall become vacant at any one time; and if necessary for the accomplishment of that purpose, it shall have power to provide that the terms of office of some of the judges first to be elected shall expire in less than eight years. The adoption of this amendment shall not abridge the terms of any of the present incumbents of the office of judge of the Supreme Court; but they shall continue to hold their respective offices until the expiration of the terms for which they were respectively appointed.

- **Miss. Const. art. VI § 149A. Divisions of Supreme Court**

The Supreme Court shall have power, under such rules and regulations as it may adopt, to sit in two divisions of three judges each, any two of whom when convened shall form a quorum; each division shall have full power to hear and adjudge all cases that may be assigned to it by the court. In event the judges composing any division shall differ as to the judgment to be rendered in any cause, or in event any judge of either division, within a time and in a manner to be fixed by the rules to be adopted by the court, shall certify that in his opinion any decision of any division of the court is in conflict with any prior decision of the court or of any division thereof, the cause shall then be considered and adjudged by the full court or a quorum thereof.

- **Miss. Const. art. VI § 150. Eligibility requirements for Supreme Court judges**

No person shall be eligible to the office of judge of the Supreme Court who shall not have attained the age of thirty years at the time of his appointment, and who shall not have been a practicing attorney and a citizen of the state for five years immediately preceding such appointment.

- **Miss. Const. art. VI § 153. Election and terms of circuit and chancery court judges**

The judges of the circuit and chancery courts shall be elected by the people in a manner and at a time to be provided by the legislature and the judges shall hold their office for a term of four years.

- **Miss. Const. art. VI § 154. Qualifications for circuit or chancery court judges**

No person shall be eligible to the office of judge of the circuit court or of the chancery court who shall not have been a practicing lawyer for five years and who shall not have attained the age of twenty-six years, and who shall not have been five years a citizen of this state.

- **Miss. Const. art. VI § 155. Judicial oath of office**

The judges of the several courts of this state shall, before they proceed to execute the duties of their respective offices, take the following oath or affirmation, to-wit: "I, _____, solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ according to the best of my ability and understanding, agreeably to the Constitution of the United States and the Constitution and laws of the state of Mississippi. So help me God."

- **Miss. Const. art. VI § 156. Jurisdiction of circuit court**

The circuit court shall have original jurisdiction in all matters civil and criminal in this state not vested by this Constitution in some other court, and such appellate jurisdiction as shall be prescribed by law.

- **Miss. Const. art. VI § 157. Exclusive jurisdiction of chancery court; transfer**

All causes that may be brought in the circuit court whereof the chancery court has exclusive jurisdiction shall be transferred to the chancery court.

- **Miss. Const. art. VI § 158. Holding of circuit court**

A circuit court shall be held in each county at least twice in each year, and the judges of said courts may interchange circuits with each other in such manner as may be provided by law.

- **Miss. Const. art. VI § 159. Jurisdiction of chancery court**

The chancery court shall have full jurisdiction in the following matters and cases, viz.:

- (a) All matters in equity;
- (b) Divorce and alimony;
- (c) Matters testamentary and of administration;
- (d) Minor's business;
- (e) Cases of idiocy, lunacy, and persons of unsound mind;
- (f) All cases of which the said court had jurisdiction under the laws in force when this Constitution is put in operation.

- **Miss. Const. art. VI § 160. Additional jurisdiction of chancery court**

And in addition to the jurisdiction heretofore exercised by the chancery court in suits to try title and to cancel deeds and other clouds upon title to real estate, it shall have jurisdiction in such cases to decree possession, and to displace possession; to decree rents and compensation for improvements and taxes; and in all cases where said court heretofore exercised jurisdiction, auxiliary to courts of common law, it may exercise such jurisdiction to grant the relief sought, although the legal remedy may not have been exhausted or the legal title established by a suit at law.

- **Miss. Const. art. VI § 161. Concurrent jurisdiction of chancery and circuit court**

And the chancery court shall have jurisdiction, concurrent with the circuit court, of suits on bonds of fiduciaries and public officers for failure to account for money or property received, or wasted or lost by neglect or failure to collect, and of suits involving inquiry into matters of mutual accounts; but if the plaintiff brings his suit in the circuit court, that court may, on application of the defendant, transfer the cause to the chancery court, if it appear that the accounts to be investigated are mutual and complicated.

- **Miss. Const. art. VI § 162. Transfer to circuit court**

All causes that may be brought in the chancery court whereof the circuit court has exclusive jurisdiction shall be transferred to the circuit court.

- **Miss. Const. art. VI § 164. Holding of chancery court**

A chancery court shall be held in each county at least twice in each year.

- **Miss. Const. art. VI § 171. Justice court judges; jurisdiction**

A competent number of justice court judges and constables shall be chosen in each county in the manner provided by law, but not less than two (2) such judges in any county, who shall hold their office for the term of four (4) years. Each justice court judge shall have resided two (2) years in the county next preceding his selection and shall be high school graduate or have a general equivalency diploma unless he shall have served as a justice of the peace or been elected to the office of justice of the peace prior to

January 1, 1976. All persons elected to the office of justice of the peace in November, 1975, shall take office in January, 1976, as justice court judges.

The maximum civil jurisdiction of the justice court shall extend to causes in which the principal amount in controversy is Five Hundred Dollars (\$500.00) or such higher amount as may be prescribed by law.

The justice court shall have jurisdiction concurrent with the circuit court over all crimes whereof the punishment prescribed does not extend beyond a fine and imprisonment in the county jail; but the Legislature may confer on the justice court exclusive jurisdiction in such petty misdemeanors as the Legislature shall see proper.

In all causes tried in justice court, the right of appeal shall be secured under such rules and regulations as shall be prescribed by law, and no justice court judge shall preside at the trial of any cause where he may be interested, or the parties or either of them shall be connected with him by affinity or consanguinity, except by the consent of the justice court judge and of the parties.

All reference in the Mississippi Code to justice of the peace shall mean justice court judge.

- **Miss. Const. art. VI § 172. Establishment and abolishment of inferior courts**

The legislature shall, from time to time, establish such other inferior courts as may be necessary, and abolish the same whenever deemed expedient.

STATUTES

- **Miss. Code Ann. § 9-3-1. Districts**

The state shall be divided into three (3) Supreme Court districts, as follows, to wit:

The counties of Bolivar, Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Jefferson, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Sharkey, Sunflower, Warren, Washington and Yazoo shall constitute the First District.

The counties of Adams, Amite, Clarke, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Jackson, Jasper, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Pearl River, Perry, Pike, Simpson, Smith, Stone, Walthall, Wayne, and Wilkinson shall constitute the Second District.

The counties of Alcorn, Attala, Benton, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, DeSoto, Grenada, Itawamba, Lafayette, Lee, Leflore, Lowndes, Marshall, Monroe, Montgomery, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Webster, Winston and Yalobusha, shall constitute the Third District.

- **Miss. Code Ann. § 9-3-3. Court terms**

A term of the supreme court shall be held twice in each year in the city of Jackson, to be styled the Supreme Court; and the terms shall commence the second Monday of September and the first Monday of March, and the court shall be kept open for the discharge of business for at least nine months of every year if the business therein should require.

- **Miss. Code Ann. § 9-3-9. Court jurisdiction**

The Supreme Court shall have such jurisdiction as properly belongs to a court of appeals, and shall hear and determine all manner of pleas, complaints, motions, causes, and controversies, civil and criminal, which are now pending therein, or which may be brought before it, and which shall be cognizable in said court; but a cause shall not be removed into said court until after final judgment in the court below, except as provided by Section 9-4-3, or in cases particularly provided for by law; and the Supreme Court may grant new trials and correct errors of the circuit court in granting or refusing the same.

Provided, however, the Supreme Court shall have such original and appellate jurisdiction as may be otherwise provided by law in cases and proceedings for modification of any rates charged or sought to be charged to the public by any public utility.

- **Miss. Code Ann. § 9-4-1. Establishment**

(1) There is hereby established a court to be known as the "Court of Appeals of the State of Mississippi," which shall be a court of record.

(2) The Court of Appeals shall be comprised of ten (10) appellate judges, two (2) from each Court of Appeals District, selected in accordance with Section 9-4-5.

- **Miss. Code Ann. § 9-4-3. Jurisdiction**

(1) The Court of Appeals shall have the power to determine or otherwise dispose of any appeal or other proceeding assigned to it by the Supreme Court. The jurisdiction of the Court of Appeals is limited to those matters which have been assigned to it by the Supreme Court. The Supreme Court shall prescribe rules for the assignment of matters to the Court of Appeals. These rules may provide for the selective assignment of individual cases and may provide for the assignment of cases according to subject matter or other general criteria. However, the Supreme Court shall retain appeals in cases imposing the death penalty, or cases involving utility rates, annexations, bond issues, election contests, or a statute held unconstitutional by the lower court.

(2) Decisions of the Court of Appeals are final and are not subject to review by the Supreme Court, except by writ of certiorari. The Supreme Court may grant certiorari review only by the affirmative vote of four (4) of its members. At any time before final decision by the Court of Appeals, the Supreme Court may, by order, transfer to the Supreme Court any case pending before the Court of Appeals.

(3) The Court of Appeals shall have jurisdiction to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition or any other process when this may be necessary in any case assigned to it by the Supreme Court.

(4) The Court of Appeals shall issue a decision in every case heard before the Court of Appeals within two hundred seventy (270) days after the final briefs have been filed with the court.

(5) The Supreme Court shall issue a decision in every case within its original jurisdiction, including all direct and post-conviction collateral relief appeals or applications in cases imposing the death penalty, within two hundred seventy (270) days after the final briefs have been filed with the court. The Supreme

Court shall issue a decision in every case received on certiorari from the Court of Appeals within one hundred eighty (180) days after the final briefs have been filed with the court.

• **Miss. Code Ann. § 9-4-5. Qualifications and terms of office; districts**

(1) The term of office of judges of the Court of Appeals shall be eight (8) years. An election shall be held on the first Tuesday after the first Monday in November 1994, to elect the ten (10) judges of the Court of Appeals, two (2) from each congressional district; provided, however, judges of the Court of Appeals who are elected to take office after the first Monday of January 2002, shall be elected from the Court of Appeals Districts described in subsection (5) of this section. The judges of the Court of Appeals shall begin service on the first Monday of January 1995.

(2)(a) In order to provide that the offices of not more than a majority of the judges of said court shall become vacant at any one (1) time, the terms of office of six (6) of the judges first to be elected shall expire in less than eight (8) years. For the purpose of all elections of members of the court, each of the ten (10) judges of the Court of Appeals shall be considered a separate office. The two (2) offices in each of the five (5) districts shall be designated Position Number 1 and Position Number 2, and in qualifying for office as a candidate for any office of judge of the Court of Appeals each candidate shall state the position number of the office to which he aspires and the election ballots shall so indicate.

(i) In Congressional District Number 1, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends January 1, 1999, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2003.

(ii) In Congressional District Number 2, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 2003, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2001.

(iii) In Congressional District Number 3, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 2001, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 1999.

(iv) In Congressional District Number 4, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 1999, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2003.

(v) In Congressional District Number 5, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 2003, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2001.

(b) The laws regulating the general elections shall apply to and govern the elections of judges of the Court of Appeals except as otherwise provided in Sections 23-15-974 through 23-15-985.

(c) In the year prior to the expiration of the term of an incumbent, and likewise each eighth year thereafter, an election shall be held in the manner provided in this section in the district from which the incumbent Court of Appeals judge was elected at which there shall be elected a successor to the incumbent, whose term of office shall thereafter begin on the first Monday of January of the year in which the term of the incumbent he succeeds expires.

(3) No person shall be eligible for the office of judge of the Court of Appeals who has not attained the age of thirty (30) years at the time of his election and who has not been a practicing attorney and citizen of the state for five (5) years immediately preceding such election.

(4) Any vacancy on the Court of Appeals shall be filled by appointment of the Governor for that portion of the unexpired term prior to the election to fill the remainder of said term according to provisions of Section 23-15-849, Mississippi Code of 1972.

(5) (a) The State of Mississippi is hereby divided into five (5) Court of Appeals Districts as follows:

FIRST DISTRICT. The First Court of Appeals District shall be composed of the following counties and portions of counties: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba, Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge; in Montgomery County the precincts of North Winona, Lodi, Stewart, Nations and Poplar Creek; in Panola County the precincts of East Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North Springport, South Springport, Eureka, Williamson, East Batesville 4, West Batesville 4, Fern Hill, North Batesville A, East Batesville 5 and West Batesville 5; and in Tallahatchie County the precincts of Teasdale, Enid, Springhill, Charleston Beat 1, Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla, Murphreesboro and Rosebloom.

SECOND DISTRICT. The Second Court of Appeals District shall be composed of the following counties and portions of counties: Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys, Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower, Tunica, Warren, Washington and Yazoo; in Attala County the precincts of Northeast, Hesterville, Possomneck, North Central, McAdams, Newport, Sallis and Southwest; that portion of Grenada County not included in the First Court of Appeals District; in Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41, 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga, Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas, St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the precincts of Conway, West Carthage, Wiggins, Thomastown and Ofahoma; in Madison County the precincts of Farmhaven, Canton Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6, Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora, Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon, Canton Precinct 1 and Canton Precinct 4; that portion of Montgomery County not included in the First Court of Appeals District; that portion of Panola County not included in the First Court of Appeals District; and that portion of Tallahatchie County not included in the First Court of Appeals District.

THIRD DISTRICT. The Third Court of Appeals District shall be composed of the following counties and portions of counties: Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba, Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that portion of Attala County not included in the Second Court of Appeals District; in Jones County the precincts of Northwest High School, Shady Grove, Sharon, Erata, Glade, Myrick School, Northeast High School, Rustin, Sandersville Civic Center, Tuckers, Antioch and Landrum; that portion of Leake County not included in the Second Court of Appeals District; that portion of Madison County not included in the Second Court of Appeals District; and in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee, Diamond, Chaparral, Matherville, Coit and Eucutta.

FOURTH DISTRICT. The Fourth Court of Appeals District shall be composed of the following counties and portions of counties: Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,

Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson; that portion of Hinds County not included in the Second Court of Appeals District; and that portion of Jones county not included in the Third Court of Appeals District.

FIFTH DISTRICT. The Fifth Court of Appeals District shall be composed of the following counties and portions of counties: Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Pearl River, Perry and Stone; and that portion of Wayne County not included in the Third Court of Appeals District.

(b) The boundaries of the Court of Appeals Districts described in paragraph (a) of this subsection shall be the boundaries of the counties and precincts listed in paragraph (a) of this subsection as such boundaries existed on October 1, 1990.

- **Miss. Code Ann. § 9-4-7. Other personnel**

(1) The Court of Appeals shall be subject to the administrative policies and procedures as may be established by the Supreme Court, including docket control of the Court of Appeals cases. Whenever feasible, and subject to approval of the Supreme Court, the administrative structure of the Supreme Court shall also support the Court of Appeals.

(2) The Clerk of the Supreme Court shall be the Clerk of the Court of Appeals and appointment of employees by the Court of Appeals shall be governed by personnel policies adopted and approved by the Administrative Office of the Courts. Whenever feasible and approved by the Supreme Court, employees of the Supreme Court shall also serve the Court of Appeals. The records of the Court of Appeals shall be kept by the Supreme Court Clerk or a deputy of the clerk.

(3) The Chief Justice of the Supreme Court shall appoint a Chief Judge of the Court of Appeals for a term of four (4) years, and the person so named shall be eligible for reappointment, subject to the discretion of the Chief Justice.

(4) The Chief Justice may assign one or more Court of Appeals Judges to serve as lower court trial judges to provide docket relief as he deems necessary.

(5) The Court of Appeals shall be authorized to employ an Opinion Editor of the Court of Appeals.

- **Miss. Code Ann. § 9-5-3. Chancery court districts**

(1) The state shall be divided into an appropriate number of chancery court districts, severally numbered and composed of the counties as set forth in the sections which follow. A court to be styled "The Chancery Court of the County of ..." shall be held in each county, and within each judicial district of a county having two (2) judicial districts, at least twice a year. Court shall be held in chancery court districts consisting of a single county on the same dates state agencies and political subdivisions are open for business excluding legal holidays. The dates upon which terms shall commence and the number of days for which terms shall continue in chancery court districts consisting of more than one (1) county shall be set by order of the chancellor in accordance with the provisions of subsection (2) of this section. A matter in court may extend past a term if the interest of justice so requires.

(2) An order establishing the commencement and continuation of terms of court for each of the counties within a chancery court district consisting of more than one (1) county shall be entered annually and not later than October 1 of the year immediately preceding the calendar year for which the terms of court are to become effective. Notice of the dates upon which terms of court shall commence and the number of days for which the terms shall continue in each of the counties within a chancery court district shall be posted in the office of the chancery clerk of each county within the district and mailed to the office of the Secretary of State for publication and distribution to all Mississippi Bar members. If an order is not timely entered, the terms of court for each of the counties within the chancery court district shall remain unchanged for the next calendar year.

(3) The number of chancellorships for each chancery court district shall be determined by the Legislature based upon the following criteria:

- (a) The population of the district;
- (b) The number of cases filed in the district;
- (c) The caseload of each chancellor in the district;
- (d) The geographic area of the district;
- (e) An analysis of the needs of the district by the court personnel of the district; and
- (f) Any other appropriate criteria.

(4) The Judicial College of the University of Mississippi Law Center and the Administrative Office of Courts shall determine the appropriate:

- (a) Specific data to be collected as a basis for applying the above criteria;
- (b) Method of collecting and maintaining the specified data; and
- (c) Method of assimilating the specified data.

(5) In a district having more than one (1) office of chancellor, there shall be no distinction whatsoever in the powers, duties and emoluments of those offices except that the chancellor who has been for the longest time continuously a chancellor of that court or, should no chancellor have served longer in office than the others, the chancellor who has been for the longest time a member of The Mississippi Bar shall be the senior chancellor. The senior chancellor shall have the right to assign causes and dockets and to set terms in districts consisting of more than one (1) county.

• **Miss. Code Ann. § 9-7-3. Terms of court in general**

(1) The state is divided into an appropriate number of circuit court districts severally numbered and composed of the counties as set forth in the sections which follow. A court to be styled "The Circuit Court of the County of" shall be held in each county, and within each judicial district of a county having two (2) judicial districts, at least twice a year. Court shall be held in circuit court districts consisting of a single county on the same dates state agencies and political subdivisions are open for business excluding legal holidays. The dates upon which terms shall commence and the number of days for which the terms shall continue in circuit court districts consisting of more than one (1) county shall be set by order of the circuit court judge in accordance with the provisions of subsection (2) of this section. A matter in court may extend past a term if the interest of justice so requires.

(2) An order establishing the commencement and continuation of terms of court for each of the counties within a circuit court district consisting of more than one (1) county shall be entered annually and not

later than October 1 of the year immediately preceding the calendar year for which the terms of court are to become effective. Notice of the dates upon which the terms of court shall commence and the number of days for which the terms shall continue in each of the counties within a circuit court district shall be posted in the office of the circuit clerk of each county within the district and mailed to the office of the Secretary of State for publication and distribution to all Mississippi Bar members. If an order is not timely entered, the terms of court for each of the counties within any circuit court district shall remain unchanged for the next calendar year. A certified copy of any order entered under the provisions of this subsection shall, immediately upon the entry thereof, be delivered to the clerk of the board of supervisors in each of the counties within the circuit court district.

(3) The number of judges in each circuit court district shall be determined by the Legislature based upon the following criteria:

- (a) The population of the district;
- (b) The number of cases filed in the district;
- (c) The case load of each judge in the district;
- (d) The geographic area of the district;
- (e) An analysis of the needs of the district by the court personnel of the district; and
- (f) Any other appropriate criteria.

(4) The Judicial College of the University of Mississippi Law Center and the Administrative Office of Courts shall determine the appropriate:

- (a) Specific data to be collected as a basis for applying the above criteria;
- (b) Method of collecting and maintaining the specified data; and
- (c) Method of assimilating the specified data.

(5) In a district having more than one (1) office of circuit judge, there shall be no distinction whatsoever in the powers, duties and emoluments of those offices except that the judge who has been for the longest time continuously a judge of that court or, should no judge have served longer in office than the others, the judge who has been for the longest time a member of The Mississippi Bar, shall be the senior judge. The senior judge shall have the right to assign causes and dockets and to set terms in districts consisting of more than one (1) county. A circuit court judge shall have the right to assign criminal matters to county court as provided in Section 9-9-21.

• **Miss. Code Ann. § 9-7-81. Jurisdiction in general**

The circuit court shall have original jurisdiction in all actions when the principal of the amount in controversy exceeds two hundred dollars, and of all other actions and causes, matters and things arising under the constitution and laws of this state which are not exclusively cognizable in some other court, and such appellate jurisdiction as prescribed by law. Such court shall have power to hear and determine all prosecutions in the name of the state for treason, felonies, crimes, and misdemeanors, except such as may be exclusively cognizable before some other court; and said court shall have all the powers belonging to a court of oyer and terminer and general jail delivery, and may do and perform all other acts properly pertaining to a circuit court of law.

- **Miss. Code Ann. § 9-7-83. Jurisdiction of transfers and remands**

The circuit court shall have jurisdiction of all cases transferred to it by the chancery court or remanded to it by the supreme court.

- **Miss. Code Ann. § 9-9-1. Continuation and creation of county courts**

(1) There shall be an inferior court to be known as the county court in and for each of the following counties:

(a) Each county of the state wherein a county court is in existence on July 1, 1985;

(b) From and after January 1, 1987, each county that has a population exceeding fifty thousand (50,000) inhabitants as shown by the latest federal decennial census; and

(c) The board of supervisors of any county having a population exceeding thirty-nine thousand (39,000) inhabitants as shown by the latest federal decennial census in which Highways 589 and 98 intersect shall have the option to establish a county court under the provisions of this section.

(2)(a) A county judge for a county that is required to establish a county court under subsection (1)(b) of this section shall be elected by the qualified electors of the county for the same term and in the same manner as provided for the election of circuit court judges at an election held at the same time as the next regular election of circuit court judges first occurring after the date upon which it can be determined that a county court is required under the provisions of subsection (1)(b) of this section to be established in such county.

(b) A county judge for a county electing to establish a county court under subsection (1)(c) of this section shall be elected by the qualified electors of the county in the same manner as provided for the election of circuit court judges at an election held at the November general election first occurring after the date when the board of supervisors spreads upon its minutes a resolution creating the county court. The term of the county court judge so elected shall begin on the first day of January following the November election, and shall end at the same time as for county court judges generally. Thereafter, the county court judge shall be elected and serve for a term as provided for county court judges generally.

(3) The provisions of this section shall not be construed so as to require that a county court be established in any county in which the board of supervisors has agreed and contracted with the board of supervisors of any other county or counties to support and maintain one (1) county court for such counties as provided in Section 9-9-3.

- **Miss. Code Ann. § 9-9-19. Court term fixed**

(1) A term of court shall be held in the county courthouse of the county, beginning on the second Monday of each month and continuing so long as may be necessary; but in counties where there are two (2) circuit court districts the county court shall meet alternately in the two (2) districts in the county courthouse in the same month and in the same district as the board of supervisors of said county holds its meetings. Provided that in the County of Jones, a county having two (2) judicial districts, that a term shall be held in the second judicial district of said county on the second Monday of each month; and provided that in the first judicial district a term shall be held on the fourth Monday of January, the fourth Monday of March, the fourth Monday of April, the fourth Monday of June and the fourth Monday of October. Provided that in the County of Hinds, a county having two (2) judicial districts, a term shall be held in the first judicial district on the second Monday of each month and in the second judicial district

on the second Monday of March, June, September and December, and provided further that, when such terms are held concurrently, either of the county judges of Hinds County may be assigned to hold all or any part of such terms in either of the two (2) judicial districts. Provided, further, that in the County of Bolivar, a county having two (2) judicial districts, a term shall be held in the first judicial district on the second Monday of April, August and December, and in the second judicial district on the second Monday of January, February, March, May, June, July, September, October and November. Provided, however, that in the County of Harrison, a county having two (2) county judges and two (2) judicial districts, that a term shall be held in each judicial district concurrently each month. Provided, however, that the judge of the county court for good cause shown may, by order spread on the minutes of the county court, designate some place other than the county courthouse for the holding of such term of the county court as may be designated in said order. The county judge may call a special term of the county court upon giving ten (10) days' notice, and such notice shall be given by posting the same at the front door of the courthouse in said county and by the publication of said notice for one insertion in some newspaper of general circulation in the county.

(2) If a county court is established pursuant to an agreement between two or more counties as provided in section 9-9-3, the terms thereof shall remain continuously open and shall not be closed and the judge of such court shall sit in rotation in the county seat of each county, beginning on Monday of each week for at least a week in each county in each month.

- **Miss. Code Ann. § 9-9-21. Jurisdiction of county court**

(1) The jurisdiction of the county court shall be as follows: It shall have jurisdiction concurrent with the justice court in all matters, civil and criminal of which the justice court has jurisdiction; and it shall have jurisdiction concurrent with the circuit and chancery courts in all matters of law and equity wherein the amount of value of the thing in controversy shall not exceed, exclusive of costs and interest, the sum of Two Hundred Thousand Dollars (\$200,000.00), and the jurisdiction of the county court shall not be affected by any setoff, counterclaim or cross-bill in such actions where the amount sought to be recovered in such setoff, counterclaim or cross-bill exceeds Two Hundred Thousand Dollars (\$200,000.00). Provided, however, the party filing such setoff, counterclaim or cross-bill which exceeds Two Hundred Thousand Dollars (\$200,000.00) shall give notice to the opposite party or parties as provided in Section 13-3-83, and on motion of all parties filed within twenty (20) days after the filing of such setoff, counterclaim or cross-bill, the county court shall transfer the case to the circuit or chancery court wherein the county court is situated and which would otherwise have jurisdiction. It shall have exclusively the jurisdiction heretofore exercised by the justice court in the following matters and causes: namely, eminent domain, the partition of personal property, and actions of unlawful entry and detainer, provided that the actions of eminent domain and unlawful entry and detainer may be returnable and triable before the judge of said court in vacation. The county court shall have jurisdiction over criminal matters in the county assigned by a judge of the circuit court district in which the county is included.

(2) In the event of the establishment of a county court by an agreement between two (2) or more counties as provided in Section 9-9-3, it shall be lawful for such court sitting in one (1) county to act upon any and all matters of which it has jurisdiction as provided by law arising in the other county under the jurisdiction of said court.

- **Miss. Code Ann. § 9-9-27. Cases transferred; prosecution by affidavit**

In any civil case instituted in the circuit court, wherein all parties file a motion to transfer said case to the county court for trial, or wherein all parties file an instrument of writing consenting to such a transfer, the circuit court may, in its discretion, transfer the case to the county court for trial; and the said county court shall have full jurisdiction of and shall proceed to try any case so transferred, provided, however, that such order of transfer be rendered prior to the empaneling of the jury in such cases.

In misdemeanor cases and in felony cases not capital, wherein indictments have been returned by the grand jury, the circuit court may transfer with full jurisdiction all or any of the same, in its discretion, to the county court for trial; and the said county court shall have jurisdiction of and shall proceed to try all charges of misdemeanor which may be preferred by the district attorney or by the county prosecuting attorney or by the sheriff on affidavit sworn to before the circuit clerk of the county; and prosecutions by affidavit are hereby authorized in misdemeanor cases under the same procedure as if indictments had been returned in the circuit court and same had been transferred to the county court.

And, provided further, any reputable citizen may make an affidavit charging crime before the judge of the county court, and such affidavit shall be filed with the clerk of the county court, and if the crime charged is a misdemeanor, the county court shall have jurisdiction to try and dispose of said charge and, if the crime charged be a felony, the county judge shall have jurisdiction to hear and determine said cause, the same as now provided by law to be done by justices of the peace, and to commit the person so charged, with or without bail as the evidence may warrant, or to discharge the defendant.

- **Miss. Code Ann. § 9-11-2. Number of justice court judges**

(1) From and after January 1, 1984, there shall be a competent number of justice court judges in each county of the state. The number of justice court judges for each county shall be determined as follows:

(a) In counties with a population, according to the latest federal decennial census, of thirty-five thousand (35,000) and less, there shall be two (2) justice court judges unless the board of supervisors, by resolution duly spread upon its minutes, finds that one (1) justice court judge is a competent number to adequately handle the needs of the citizens of the county.

(b) In counties with a population, according to the latest federal decennial census, of more than thirty-five thousand (35,000) and less than seventy thousand (70,000), there shall be three (3) justice court judges, unless the board of supervisors, by resolution duly spread upon its minutes, finds that two (2) is a competent number of justice court judges to adequately handle the needs of the citizens of the county.

(c) In counties with a population, according to the latest federal decennial census, of seventy thousand (70,000) and less than one hundred fifty thousand (150,000), there shall be four (4) justice court judges, unless the board of supervisors, by resolution duly spread upon its minutes, finds that three (3) is a competent number of justice court judges to adequately handle the needs of the citizens of the county.

(d) In counties with a population, according to the latest federal decennial census, of one hundred fifty thousand (150,000) and more, there shall be five (5) justice court judges, unless the board of

supervisors, by resolution duly spread upon its minutes, finds that four (4) is a competent number of justice court judges to adequately handle the needs of the citizens of the county.

(2) The board of supervisors shall establish single member election districts in the county for the election of each of the justice court judges authorized and required to be elected for the county under the provisions of subsection (1) of this section, and one (1) justice court judge shall be elected for each district by the electors thereof. In any county authorized and required under the provisions of subsection (1)(a) of this section to provide for the election of two (2) justice court judges for the county in which there are two (2) judicial districts, the smaller of such judicial districts, according to population based upon the latest federal decennial census, shall comprise or shall be wholly encompassed within one (1) of such election districts.

(3)(a) Nothing in this section shall be construed to authorize or require more than five (5) justice court judges in any one (1) county from and after January 1, 1984, nor to authorize or require an increase in the number of justice court judges for any county during the term of office of any justice court judge.

(b) Nothing in this section shall be construed to authorize or require a county to decrease the number of justice court judge positions in the county as of June 30, 2014.

- **Miss. Code Ann. § 9-11-9. Civil jurisdiction; pecuniary interest in outcome of action.**

Justice court judges shall have jurisdiction of all actions for the recovery of debts or damages or personal property, where the principal of the debt, the amount of the demand, or the value of the property sought to be recovered shall not exceed Three Thousand Five Hundred Dollars (\$3,500.00).

The justice court judges shall have no pecuniary interest in the outcome of any action once suit has been filed.

- **Miss. Code Ann. § 9-11-10. Civil jurisdiction; prerequisite; penalties**

No justice of the peace court shall have jurisdiction over any civil suit attempted to be filed therein unless and until all legally required court costs, as set out, but not restricted to, sections 25-7-25 and 25-7-27, Mississippi Code of 1972, are deposited with the court. The justice of the peace shall not file, docket, issue process, or otherwise assume jurisdiction until such costs shall have been paid.

Any violation shall constitute a misdemeanor wherein the county court, or in the absence of a county court, the circuit court shall have jurisdiction. Upon conviction the justice of the peace shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00).

- **Miss. Code Ann. § 9-11-15. Regular terms; nonresident defendant; contempt of court**

(1) Justice court judges shall hold regular terms of their courts, at such times as they may appoint, not exceeding two (2) and not less than one (1) in every month, at the appropriate justice court courtroom established by the board of supervisors; and they may continue to hold their courts from day to day so long as business may require; and all process shall be returnable, and all trials shall take place at such regular terms, except where it is otherwise provided; but where the defendant is a nonresident or transient person, and it shall be shown by the oath of either party that a delay of the trial until the regular term will be of material injury to him, it shall be lawful for the judge to have the parties brought before him at any reasonable time and hear the evidence and give judgment or where the defendant is a nonresident or

transient person and the judge and all parties agree, it shall be lawful for the judge to have the parties brought before him on the day a citation is made and hear the evidence and give judgment. Such court shall be a court of record, with all the power incident to a court of record, including power to fine in the amount of fine and length of imprisonment as is authorized for a municipal court in Section 21-23-7(11) for contempt of court

(2)(a) In counties with a population of less than one hundred fifty thousand (150,000), each justice court shall designate at least one-half ($\frac{1}{2}$) day each month as a traffic court day, sufficient to handle the traffic violations docket of that court, and shall notify all appropriate law enforcement agencies of the date or dates. On the day or days so designated, the justice court shall give priority to all cases involving traffic violations.

(b) In counties with a population of one hundred fifty thousand (150,000) or more, each justice court shall designate at least one (1) day each month as a traffic court day, sufficient to handle the traffic violations of that court, and shall notify all appropriate law enforcement agencies of the date or dates. On the day or days so designated, the justice court shall give priority to all cases involving traffic violations. The one (1) day may be one (1) whole day or it may be divided into half days as long as one-half ($\frac{1}{2}$) day is held in the morning and one-half ($\frac{1}{2}$) day is held in the afternoon, in the discretion of the court.

(3) The justice court may, in its discretion, upon prior notice to the county prosecutor 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, order the record of conviction of a person of any or all misdemeanors in that court expunged, and upon so doing, such person thereafter legally stands as though he or she had never been convicted of the 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.

(4) Notwithstanding the provisions of subsection (3) of this section, a person who was convicted in justice 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.

- **Miss. Code Ann. § 11-5-1. Venue of actions**

Suits to confirm title to real estate, and suits to cancel clouds or remove doubts therefrom, shall be brought in the county where the land, or some part thereof, is situated; suits against executors, administrators, and guardians, touching the performance of their official duties, and suits for an account and settlement by them, and suits for the distribution of personalty of decedents among the heirs and distributees, and suits for the payment of legacies, shall be brought in the chancery court in which the will was admitted to probate, or letters of administration were granted, or the guardian was appointed; other suits respecting real or personal property may be brought in the chancery court of the county in which the property, or some portion thereof, may be; and all cases not otherwise provided may be brought in the chancery court of any county where the defendant, or any necessary party defendant, may reside or be found; and in all cases process may issue to any county to bring in defendants and to enforce all orders and decrees of the court.

- **Miss. Code Ann. § 11-5-5. Venue change in jury cases**

The chancery court may award a change of venue for the trial of all issues to be tried by a jury pursuant to the procedure provided for in the Mississippi Rules of Civil Procedure. The clerk of the court from which the issue is to be removed, and the clerk of the court to which it is removed, respectively, shall, upon an order for a change of venue, discharge the duties directed to be performed by the clerks of circuit courts in such cases; and in such case the chancery court to which the venue is changed shall try the issue by a jury, and shall proceed and render decrees and finally dispose of the cause as if the suit had begun therein.

- **Miss. Code Ann. § 11-9-3. Venue**

The venue of actions, suits and proceedings in the county court shall be the same as that now generally provided, or which may hereafter be provided with respect to the particular action, suit or proceedings. Provided, however, that all suits and matters filed in the county court which, if there were no county court, would be triable in the justice court, shall be tried at the courthouse of the county or courthouse of the proper judicial district in counties having two (2) circuit and chancery court districts therein.

- **Miss. Code Ann. § 11-9-101. Proper venue**

(1) The jurisdiction of the justice court shall be coextensive with its county, and any process may be issued in matters within its jurisdiction, to be executed in any part of the county. Every defendant may be sued only in the county in which he resides or where the cause of action arose and if a defendant does not reside in the State of Mississippi or has no fixed place of residence, he shall be sued in the county where the cause of action arose. Whenever by reason of interest, relationship to one of the parties, or other like cause, any justice court judge shall be disqualified to preside in any case before him, the same shall be transferred to a justice court judge in the county, free from such objection, who shall hear and determine the same. Nothing herein contained shall be construed as authorizing or empowering the clerk of the justice court or any justice court judge to perform any official act outside of the territorial boundaries of their county.

(2) The provisions of this section shall not apply to any cause of action commenced before January 1, 1984; and any such action shall be concluded in accordance with state law as it was constituted before that date.

- **Miss. Code Ann. § 11-9-103. Multiple defendants, proper venue**

In suits or proceedings against two (2) or more defendants, jointly or jointly and severally liable, it shall be lawful to bring the suit in the justice court of the county wherein either of the defendants reside or where the cause of action arose; and such justice court shall have power to issue a summons or other process to bring in all codefendants from any other county.

- **Miss. Code Ann. § 11-11-17. Improper venue, transfer**

Where an action is brought in any justice court of this state, of which the court in which it is brought has jurisdiction of the subject matter, but lacks venue jurisdiction, such action shall not be dismissed because of such lack of proper venue, but on objection on the part of the defendant shall, by the court, be transferred, together with all prepaid costs remaining after the court in which the action was originally brought has deducted the costs incurred in that court, to the venue to which it belongs.

- **Miss. Code Ann. § 11-11-51. Sufficient cause to change venue**

When either party to any civil action in the circuit court shall desire to change the venue, he shall present to the court, or the judge of the district, a petition setting forth under oath that he has good reason to believe, and does believe that, from the undue influence of the adverse party, prejudice existing in the public mind, or for some other sufficient cause to be stated in the petition, he cannot obtain a fair and impartial trial in the county where the action is pending, and that the application is made as soon as convenient after being advised of such undue influence, prejudice, or other cause, and not to delay the trial or to vex or harass the adverse party. On reasonable notice in writing to the adverse party of the time and place of making the application, if made in vacation, the court, if in term time, or the judge in vacation, shall hear the parties and examine the evidence which either may adduce, and may award a change of venue to some convenient county where an impartial trial may be had, and, if practicable, in which the circuit court may next be held. If made in vacation, the order shall be indorsed on the petition and directed to the clerk, who shall file the same with the papers in the suit.

- **Miss. Code Ann. § 11-27-3. Creation of court**

A special court of eminent domain is hereby created, to consist of a judge, jury, and such other officers and personnel as hereinafter set out, and it shall have and exercise the jurisdiction and powers hereinafter enumerated. The original powers and jurisdiction shall be and is hereby fixed in the county court in each county that has elected to come under the provisions of section 9-9-1 Mississippi Code of 1972, or that may hereafter come under the provisions of said section 9-9-1, and in every other county of this state, the original powers and jurisdiction shall be and is hereby fixed in the circuit court of such county, which said powers and jurisdiction may be exercised in full either in termtime or vacation, or both.

- **Miss. Code Ann. § 11-27-5. Complaint to condemn**

Any person or corporation having the right to condemn private property for public use shall file a complaint to condemn with the circuit clerk of the county in which the affected property, or some part thereof, is situated and shall make all the owners of the affected property involved, and any mortgagee, trustee or other person having any interest therein or lien thereon a defendant thereto. The complaint shall be considered a matter of public interest and shall be a preference case over other cases except other preference causes. The complaint shall describe in detail the property sought to be condemned, shall state with certainty the right to condemn, and shall identify the interest or claim of each defendant.

- **Miss. Code Ann. § 11-27-7. Commencement, hearing and pleadings**

The complaint shall be filed with the circuit clerk and shall be assigned a number and placed on the docket as other pleadings in circuit court or county court. The plaintiff shall also file a lis pendens notice in the office of the chancery clerk immediately after filing the complaint. The circuit clerk, or the plaintiff by his attorney, shall forthwith present such complaint to the circuit judge or county judge, as the case may be, who shall by written order directed to the circuit clerk fix the time and place for the hearing of the matter, in termtime or vacation, and the time of hearing shall be fixed on a date to allow sufficient time for each defendant named to be served with process as is otherwise provided by the Mississippi Rules of Civil Procedure, for not less than thirty (30) days prior to the hearing. If a defendant, or other party in interest, shall not be served for the specified time prior to the date fixed, the hearing shall be continued to a day certain to allow the thirty-day period specified. Not less than twenty (20) days prior to the date fixed for such hearing, the plaintiff shall file with the circuit clerk and serve upon the defendants, or their respective attorneys, a statement showing: (1) the fair market value of the property to be condemned, determined as of the date of the filing of the complaint; (2) the damages, if any, to the remainder if less than the whole is taken, giving a total compensation and damages to be due as determined by the plaintiff. Not less than ten (10) days prior to the date fixed for such hearing, each of the defendants shall file with the circuit clerk and serve upon the plaintiff, or his attorney, a statement showing: (1) the fair market value of the property to be condemned, determined as of the date of the filing of the complaint; (2) the damages, if any, to the remainder if less than the whole is taken, giving a total compensation and damages to be due as determined by the defendants. In each such instance, both the plaintiff and the defendant shall set out in such statement the asserted highest and best use of the property and shall itemize the elements of damage, if any, to the remainder if less than the whole is taken. The statements required by this section shall constitute the pleadings of the parties with respect to the issue of value, and shall be treated as pleadings are treated in civil actions in the circuit court. The judge, for good cause shown, may increase or decrease the time for pleading by the plaintiff or by the defendant.

- **Miss. Code Ann. § 11-27-15. Motion to dismiss**

Any defendant may, not less than five (5) days prior to the date fixed for the hearing of the complaint and in the same court where the complaint is pending, serve and file a motion to dismiss under the Mississippi Rules of Civil Procedure for failure to state a claim upon which relief can be granted on any of the following grounds: (1) that the plaintiff seeking to exercise the right of eminent domain is not, in character, such a corporation, association, district or other legal entity as is entitled to the right; (2) that there is no public necessity for the taking of the particular property or a part thereof which it is proposed to condemn; or (3) that the contemplated use alleged to be a public use is not in law a public use for which private property may be taken or damaged. Any such motion, if served and filed, shall be heard and decided by the judge as a preference proceeding, without a jury, prior to the hearing on the complaint. Any party may appeal directly to the Supreme Court from an order overruling or granting any such motion to dismiss, as in other cases, but if the order be to overrule the motion, the appeal therefrom shall not operate as a supersedeas and the court of eminent domain may nevertheless proceed with the trial on the complaint. Any appeal from an order overruling or granting a motion to dismiss shall be a preference action in the Supreme Court and advanced on the docket as appropriate.

- **Miss. Code Ann. § 11-27-29. Review**

(1) Every party shall have the right to appeal directly to the Supreme Court from the judgment entered in the special court of eminent domain, whether tried in county court or circuit court, by giving notice within ten (10) days from the date of the judgment or final order entered by the court to the court reporter to transcribe the record as taken and by prepaying all costs that may be adjudged against him; and said notice to the court reporter shall be given and the costs shall be paid as is otherwise required by law for appeals to the Supreme Court. If the judgment be in excess of the sum, if any, deposited, and the plaintiff, other than the State of Mississippi or any political subdivision thereof, desires an appeal, he shall deposit a sum, or a good and sufficient surety bond with a surety company authorized to do business in the State of Mississippi acceptable to the clerk, equal to double the amount of the judgment, less the amount of the deposit, if any, which shall be held exclusively to secure all damages assessed against plaintiff. In any case where the deposit exceeds the compensation to be paid the defendants as determined by the final judgment, the excess shall be returned to the plaintiff. If the appeal is by the defendant, it shall not operate as a supersedeas, nor shall the right of the plaintiff to enter in and upon the land and to appropriate the same to public use be delayed. If the appeal be by the State of Mississippi or any political subdivision thereof, no bond or prepayment of costs shall be required, except the Supreme Court filing fee as required by Section 25-7-3.

(2) The term of a special court of eminent domain shall begin when the court is convened as provided by statute and shall continue for ten (10) days immediately following the entry and filing of a judgment or final order with the clerk of the court, and thereafter the court shall have jurisdiction to dispose of any post trial motions or proceedings filed within said ten (10) days. The jurisdiction of a special court of eminent domain shall expire upon the entry and filing with the clerk of a final judgment or order disposing of any post trial motions or proceedings.

- **Miss. Code Ann. § 11-27-31. Property in multiple counties**

In case the property sought to be condemned be in more than one (1) county, proceedings may be instituted in either of the counties in which a part of said property is situated.

- **Miss. Code Ann. § 11-51-3. To Supreme Court**

An appeal may be taken to the Supreme Court from any final judgment of a circuit or chancery court in a civil case, not being a judgment by default, by any of the parties or legal representatives of such parties; and in no case shall such appeal be held to vacate the judgment or decree.

- **Miss. Code Ann. § 11-51-79. From county court**

No appeals or certiorari shall be taken from any interlocutory order of the county court, but if any matter or cause be unreasonably delayed of final judgment therein, it shall be good cause for an order of transfer to the circuit or chancery court upon application therefor to the circuit judge or chancellor. Appeals from the law side of the county court shall be made to the circuit court, and those from the equity side to the chancery court on application made therefor and bond given according to law, except as hereinafter provided. Such appeal shall operate as a supersedeas only when such would be applicable in the case of appeals to the Supreme Court. Appeals should be considered solely upon the record as made in the county court and may be heard by the appellate court in termtime or in vacation. If no prejudicial error be

found, the matter shall be affirmed and judgment or decree entered in the same manner and against the like parties and with like penalties as is provided in affirmances in the Supreme Court. If prejudicial error be found, the court shall reverse and shall enter judgment or decree in the manner and against like parties and with like penalties as is provided in reversals in the Supreme Court; provided, that if a new trial is granted the cause shall be remanded to the docket of such circuit or chancery court and a new trial be had therein de novo. Appeals from the county court shall be taken and bond given within thirty (30) days from the date of the entry of the final judgment or decree on the minutes of the court; provided, however, that the county judge may within said thirty (30) days, for good cause shown by affidavit, extend the time, but in no case exceeding sixty (60) days from the date of the said final judgment or decree. Judgments or decrees of affirmance, except as otherwise hereinafter provided, may be appealed to the Supreme Court under the same rules and regulations and under the same penalties, in case of affirmance, as appertain to appeals from other final judgments or decrees of said courts, but when on appeal from the county court a case has been reversed by the circuit or chancery court there shall be no appeal to the Supreme Court until final judgment or decree in the court to which it has been appealed. When the result of an appeal in the Supreme Court shall be a reversal of the lower court and in all material particulars in effect an affirmance of the judgment or decree of the county court, the mandate may go directly to the county court, otherwise to the proper lower court. Provided, however, that when appeals are taken in felony cases which have been transferred from the circuit court to the county court for trial, and have been there tried, such appeals from the judgment of the county court shall be taken directly to the Supreme Court.

- **Miss. Code Ann. § 11-51-81. To county court**

All appeals from courts of justices of the peace, special and general, and from all municipal courts shall be to the county court under the same rules and regulations as are provided on appeals to the circuit court, but appeals from orders of the board of supervisors, municipal boards, and other tribunals other than courts of justice of the peace and municipal courts, shall be direct to the circuit court as heretofore. And from the final judgment of the county court in a case appealed to it under this section, a further appeal may be taken to the circuit court on the same terms and in the same manner as other appeals from the county court to the circuit court are taken: Provided that where the judgment or record of the justice of the peace, municipal or police court is not properly certified, or is not certified at all, that question must be raised in the county court in the absence of which the defect shall be deemed as waived and by such waiver cured and may not thereafter be raised for the first time in the circuit court on the appeal thereto; and provided further that there shall be no appeal from the circuit court to the Supreme Court of any case civil or criminal which originated in a justice of the peace, municipal or police court and was thence appealed to the county court and thence to the circuit court unless in the determination of the case a constitutional question be necessarily involved and then only upon the allowance of the appeal by the circuit judge or by a judge of the Supreme Court.

- **Miss. Code Ann. § 11-51-93. Removal to circuit court, certiorari**

All cases decided by a justice of the peace, whether exercising general or special jurisdiction, may, within six months thereafter, on good cause shown by petition, supported by affidavit, be removed to the circuit court of the county, by writ of certiorari, which shall operate as a supersedeas, the party, in all cases, giving bond, with security, to be approved by the judge or clerk of the circuit court, as in cases of appeal from justices of the peace; and in any cause so removed by certiorari, the court shall be confined to the examination of questions of law arising or appearing on the face of the record and proceedings. In

case of an affirmance of the judgment of the justice, the same judgment shall be given as on appeals. In case of a reversal, the circuit court shall enter up such judgment as the justice ought to have entered, if the same be apparent, or may then try the cause anew on its merits, and may in proper cases enter judgment on the certiorari or appeal bond, and shall, when justice requires it, award restitution. The clerk of the circuit court, on the issuance of a certiorari, shall issue a summons for the party to be affected thereby; and, in case of nonresidents, he may make publication for them as in other cases.

- **Miss. Code Ann. § 11-51-95. Other inferior tribunals, certiorari**

Like proceedings as provided in section 11-51-93 may be had to review the judgments of all tribunals inferior to the circuit court, whether an appeal be provided by law from the judgment sought to be reviewed or not. However, petitions for a writ of certiorari to the circuit court for review of a decision of a municipal civil service commission created under section 21- 31-1 et seq. or section 21-31-51 et seq. shall be filed within thirty (30) days after the entry of the judgment or order of the commission.

- **Miss. Code Ann. § 21-23-1. Establishment**

There shall be a municipal court in all municipalities of this state. Wherever the words "police court" or "police justice" appear in the laws of this state, they shall mean municipal court or municipal judge, respectively.

- **Miss. Code Ann. § 21-23-3. Judge and prosecuting attorney**

In all municipalities having a population of ten thousand (10,000) or more, according to the latest available federal census, there shall be a municipal judge and a prosecuting attorney, who shall be appointed by the governing authorities of the municipality at the time provided for the appointment of other officers. The municipal governing authorities may appoint one (1) additional municipal judge, who shall exercise the same authority and prerogatives of the office, regardless of the presence or absence of the other municipal judge. Except as otherwise provided in Section 21-23-5, a municipal judge shall be a qualified elector of the county in which the municipality is located and shall be an attorney at law. Such municipal judges and prosecuting attorney shall receive a salary, to be paid by the municipality, and to be fixed by the governing authorities of the municipality.

In any proceeding in which a conflict of interest arises for the prosecuting attorney, or any other reason dictates that he recuse himself, the mayor of the municipality may appoint a special prosecuting attorney for that particular proceeding. Such special prosecuting attorney shall be compensated for his services in the same manner and amount as allowed under Section 21-23-7 for appointed counsel for indigent persons.

Provided, however, the governing authorities of any municipality having a population in excess of ten thousand (10,000) persons according to the latest available federal census and situated in a county having an area in excess of nine hundred thirty-five (935) square miles and having a county court may, in their discretion, follow the provisions as set out in Section 21-23-5 for municipalities having a population of less than ten thousand (10,000).

Provided, further, the governing authorities of any municipality having a population in excess of fifty thousand (50,000) according to the latest federal decennial census may, in their discretion, provide for the appointment of not more than ten (10) municipal judges for said municipality, each of whom shall exercise the same authority and prerogatives of their office, regardless of the presence or absence of the other municipal judges.

- **Miss. Code Ann. § 21-23-5. Eligibility as judge; training course**

In any municipality having a population of less than ten thousand (10,000) according to the latest available federal census, it shall be discretionary with the governing authorities of the municipality as to whether or not a municipal judge or a prosecuting attorney, or both, shall be appointed. If the authorities of any municipality having a population of less than twenty thousand (20,000) according to the latest available federal census appoint a municipal judge, he shall be an attorney licensed in the State of Mississippi or a justice court judge of the county in which the municipality is located. The mayor or mayor pro tempore shall not serve as a municipal judge.

- **Miss. Code Ann. § 21-23-7. Operation of court**

(1) The municipal judge shall hold court in a public building designated by the governing authorities of the municipality, or may hold court in an adult detention center as provided under this subsection, 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 may hold court outside the boundaries of the municipality but not more than within a one-mile radius of the municipality for any purpose; however, a municipal judge may hold court outside the boundaries of the municipality more than within a one-mile radius of the municipality when accepting a plea of a defendant at an adult detention center within the county. 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, there was no disposition of such case or the person was found not guilty at trial.

- **Miss. Code Ann. § 21-23-9. Temporary judges**

In any municipality where a municipal judge is appointed or elected, the governing authorities shall have the power and authority to appoint a municipal judge pro tempore who shall have the same powers and qualifications for office as the municipal judge and shall perform all duties of the municipal judge in the absence of such municipal judge or if such municipal judge is unable to serve for any reason. In the event a municipal judge pro tempore is not appointed or is absent or unable for any reason to serve, any justice court judge of the county or municipal judge of another municipality may serve in his place with the same power and authority upon designation by the municipal judge. Any municipality that appoints a municipal judge pro tempore in the absence of a municipal judge or has a justice court judge serve in the absence of a municipal court judge, as provided in this section, is authorized to compensate that municipal judge pro tempore or justice court judge in the same manner and amount as the municipality provides for the appointed or elected municipal judge who is absent.

- **Miss. Code Ann. § 43-21-105. Definitions**

The following words and phrases, for purposes of this chapter, shall have the meanings ascribed herein unless the context clearly otherwise requires:

- (a) “Youth court” means the Youth Court Division.
- (b) “Judge” means the judge of the Youth Court Division.
- (c) “Designee” means any person that the judge appoints to perform a duty which this chapter requires to be done by the judge or his designee. The judge may not appoint a person who is involved in law enforcement or who is an employee of the Mississippi Department of Human Services or the Mississippi Department of Child Protection Services to be his designee.
- (d) “Child” and “youth” are synonymous, and each means a person who has not reached his eighteenth birthday. A child who has not reached his eighteenth birthday and is on active duty for a branch of the armed services or is married is not considered a “child” or “youth” for the purposes of this chapter.
- (e) “Parent” means the father or mother to whom the child has been born, or the father or mother by whom the child has been legally adopted.
- (f) “Guardian” means a court-appointed guardian of the person of a child.
- (g) “Custodian” means any person having the present care or custody of a child whether such person be a parent or otherwise.
- (h) “Legal custodian” means a court-appointed custodian of the child.
- (i) “Delinquent child” means a child who has reached his tenth birthday and who has committed a delinquent act.
- (j) “Delinquent act” is any act, which if committed by an adult, is designated as a crime under state or federal law, or municipal or county ordinance other than offenses punishable by life imprisonment or death. A delinquent act includes escape from lawful detention and violations of the Uniform Controlled Substances Law and violent behavior.
- (k) “Child in need of supervision” means a child who has reached his seventh birthday and is in need of treatment or rehabilitation because the child:
 - (i) Is habitually disobedient of reasonable and lawful commands of his parent, guardian or custodian and is ungovernable; or
 - (ii) While being required to attend school, willfully and habitually violates the rules thereof or willfully and habitually absents himself therefrom; or
 - (iii) Runs away from home without good cause; or
 - (iv) Has committed a delinquent act or acts.

(l) “Neglected child” means a child:

(i) Whose parent, guardian or custodian or any person responsible for his care or support, neglects or refuses, when able so to do, to provide for him proper and necessary care or support, or education as required by law, or medical, surgical, or other care necessary for his well-being; however, a parent who withholds medical treatment from any child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for that reason alone, be considered to be neglectful under any provision of this chapter; or

(ii) Who is otherwise without proper care, custody, supervision or support; or

(iii) Who, for any reason, lacks the special care made necessary for him by reason of his mental condition, whether the mental condition is having mental illness or having an intellectual disability; or

(iv) Who, for any reason, lacks the care necessary for his health, morals or well-being.

(m) “Abused child” means a child whose parent, guardian or custodian or any person responsible for his care or support, whether legally obligated to do so or not, has caused or allowed to be caused, upon the child, sexual abuse, sexual exploitation, commercial sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury or other maltreatment. However, physical discipline, including spanking, performed on a child by a parent, guardian or custodian in a reasonable manner shall not be deemed abuse under this section. “Abused child” also means a child who is or has been trafficked within the meaning of the Mississippi Human Trafficking Act by any person, without regard to the relationship of the person to the child.

(n) “Sexual abuse” means obscene or pornographic photographing, filming or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened.

(o) “A child in need of special care” means a child with any mental or physical illness that cannot be treated with the dispositional alternatives ordinarily available to the youth court.

(p) A “dependent child” means any child who is not a child in need of supervision, a delinquent child, an abused child or a neglected child, and which child has been voluntarily placed in the custody of the Department of Child Protection Services by his parent, guardian or custodian.

(q) “Custody” means the physical possession of the child by any person.

(r) “Legal custody” means the legal status created by a court order which gives the legal custodian the responsibilities of physical possession of the child and the duty to provide him with food, shelter, education and reasonable medical care, all subject to residual rights and responsibilities of the parent or guardian of the person.

(s) “Detention” means the care of children in physically restrictive facilities.

(t) “Shelter” means care of children in physically nonrestrictive facilities.

(u) “Records involving children” means any of the following from which the child can be identified:

(i) All youth court records as defined in Section 43-21-251;

(ii) All forensic interviews conducted by a child advocacy center in abuse and neglect investigations;

(iii) All law enforcement records as defined in Section 43-21-255;

(iv) All agency records as defined in Section 43-21-257; and

(v) All other documents maintained by any representative of the state, county, municipality or other public agency insofar as they relate to the apprehension, custody, adjudication or disposition of a child who is the subject of a youth court cause.

(v) “Any person responsible for care or support” means the person who is providing for the child at a given time. This term shall include, but is not limited to, stepparents, foster parents, relatives, nonlicensed babysitters or other similar persons responsible for a child and staff of residential care facilities and group homes that are licensed by the Department of Human Services or the Department of Child Protection Services.

(w) The singular includes the plural, the plural the singular and the masculine the feminine when consistent with the intent of this chapter.

(x) “Out-of-home” setting means the temporary supervision or care of children by the staff of licensed day care centers, the staff of public, private and state schools, the staff of juvenile detention facilities, the staff of unlicensed residential care facilities and group homes and the staff of, or individuals representing, churches, civic or social organizations.

(y) “Durable legal custody” means the legal status created by a court order which gives the durable legal custodian the responsibilities of physical possession of the child and the duty to provide him with care, nurture, welfare, food, shelter, education and reasonable medical care. All these duties as enumerated are subject to the residual rights and responsibilities of the natural parent(s) or guardian(s) of the child or children.

(z) “Status offense” means conduct subject to adjudication by the youth court that would not be a crime if committed by an adult.

(aa) “Financially able” means a parent or child who is ineligible for a court-appointed attorney.

(bb) “Assessment” means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse or co-occurring mental health and substance abuse disorders and recommendations for treatment. The term includes, but is not limited to, a drug and alcohol, psychological or psychiatric evaluation, records review, clinical interview or the administration of a formal test and instrument.

(cc) “Screening” means a process, with or without the administration of a formal instrument, that is designed to identify a child who is at increased risk of having mental health, substance abuse or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention or more comprehensive assessment.

(dd) “Durable legal relative guardianship” means the legal status created by a youth court order that conveys the physical and legal custody of a child or children by durable legal guardianship to a relative or fictive kin who is licensed as a foster or resource parent.

(ee) “Relative” means a person related to the child by affinity or consanguinity within the third degree.

(ff) “Fictive kin” means a person not related to the child legally or biologically but who is considered a relative due to a significant, familial-like and ongoing relationship with the child and family.

(gg) “Reasonable efforts” means the exercise of reasonable care and due diligence by the Department of Human Services, the Department of Child Protection Services, or any other appropriate entity or person to use appropriate and available services to prevent the unnecessary removal of the child from the home or provide other services related to meeting the needs of the child and the parents.

(hh) “Commercial sexual exploitation” means any sexual act or crime of a sexual nature, which is committed against a child for financial or economic gain, to obtain a thing of value for quid pro quo exchange of property or for any other purpose.

- **Miss. Code Ann. § 43-21-107. Creation in various counties**

(1) A youth court division is hereby created as a division of the county court of each county now or hereafter having a county court, and the county judge shall be the judge of the youth court unless another judge is named by the county judge as provided by this chapter.

(2) A youth court division is hereby created as a division of the chancery court of each county in which no county court is maintained and any chancellor within a chancery court district shall be the judge of the youth court of that county within such chancery court district unless another judge is named by the senior chancellor of the county or chancery court district as provided by this chapter.

(3) In any county where there is no county court or family court on July 1, 1979, there may be created a youth court division as a division of the municipal court in any city if the governing authorities of such city adopt a resolution to that effect. The cost of the youth court division of the municipal court shall be paid from any funds available to the municipality excluding county funds. No additional municipal youth court shall be formed after January 1, 2007.

• **Miss. Code Ann. § 43-21-111. Regular and special referees**

(1) In any county not having a county court or family court the judge may appoint as provided in Section 43-21-123 regular or special referees who shall be attorneys at law and members of the bar in good standing to act in cases concerning children within the jurisdiction of the youth court, and a regular referee shall hold office until removed by the judge. The requirement that regular or special referees appointed pursuant to this subsection be attorneys shall apply only to regular or special referees who were not first appointed regular or special referees prior to July 1, 1991.

(2) Any referee appointed pursuant to subsection (1) of this section shall be required to receive judicial training approved by the Mississippi Judicial College and shall be required to receive regular annual continuing education in the field of juvenile justice. The amount of judicial training and annual continuing education which shall be satisfactory to fulfill the requirements of this section shall conform with the amount prescribed by the Rules and Regulations for Mandatory Continuing Judicial Education promulgated by the Supreme Court. The Administrative Office of Courts shall maintain a roll of referees appointed under this section, shall enforce the provisions of this subsection and shall maintain records on all such referees regarding such training. Should a referee miss two (2) consecutive training sessions sponsored or approved by the Mississippi Judicial College as required by this subsection or fail to attend one (1) such training session within six (6) months of their initial appointment as a referee, the referee shall be disqualified to serve and be immediately removed as a referee and another member of the bar shall be appointed as provided in this section.

(3) The judge may direct that hearings in any case or class of cases be conducted in the first instance by the referee. The judge may also delegate his own administrative responsibilities to the referee.

(4) All hearings authorized to be heard by a referee shall proceed in the same manner as hearings before the youth court judge. A referee shall possess all powers and perform all the duties of the youth court judge in the hearings authorized to be heard by the referee.

(5) An order entered by the referee shall be mailed immediately to all parties and their counsel. A rehearing by the judge shall be allowed if any party files a written motion for a rehearing or on the court's own motion within three (3) days after notice of referee's order. The youth court may enlarge the time for filing a motion for a rehearing for good cause shown. Any rehearing shall be upon the record of the hearing before the referee, but additional evidence may be admitted in the discretion of the judge. A motion for a rehearing shall not act as a supersedeas of the referee's order, unless the judge shall so order.

(6) The salary for the referee shall be fixed on order of the judge as provided in Section 43-21-123 and shall be paid by the county out of any available funds budgeted for the youth court by the board of supervisors.

(7) Upon request of the boards of supervisors of two (2) or more counties, the judge of the chancery court may appoint a suitable person as referee to two (2) or more counties within his district, and the payment of salary may be divided in such ratio as may be agreed upon by the boards of supervisors.

• **Miss. Code Ann. § 43-21-151. Exclusive original jurisdiction; exceptions; children under 13**

(1) The youth court shall have exclusive original jurisdiction in all proceedings concerning a delinquent child, a child in need of supervision, a neglected child, an abused child or a dependent child except in the following circumstances:

(a) Any act attempted or committed by a child, which if committed by an adult would be punishable under state or federal law by life imprisonment or death, will be in the original jurisdiction of the circuit court;

(b) Any act attempted or committed by a child with the use of a deadly weapon, the carrying of which concealed is prohibited by Section 97-37-1, or a shotgun or a rifle, which would be a felony if committed by an adult, will be in the original jurisdiction of the circuit court; and

(c) When a charge of abuse of a child first arises in the course of a custody action between the parents of the child already pending in the chancery court and no notice of such abuse was provided prior to such chancery proceedings, the chancery court may proceed with the investigation, hearing and determination of such abuse charge as a part of its hearing and determination of the custody issue as between the parents, notwithstanding the other provisions of the Youth Court Law. The proceedings in chancery court on the abuse charge shall be confidential in the same manner as provided in youth court proceedings.

When a child is expelled from the public schools, the youth court shall be notified of the act of expulsion and the act or acts constituting the basis for expulsion.

(2) Jurisdiction of the child in the cause shall attach at the time of the offense and shall continue thereafter for that offense until the child's twentieth birthday, unless sooner terminated by order of the youth court. The youth court shall not have jurisdiction over offenses committed by a child on or after his eighteenth birthday.

(3) No child who has not reached his thirteenth birthday shall be held criminally responsible or criminally prosecuted for a misdemeanor or felony; however, the parent, guardian or custodian of such child may be civilly liable for any criminal acts of such child. No child under the jurisdiction of the youth court shall be held criminally responsible or criminally prosecuted by any court for any act designated as a delinquent act, unless jurisdiction is transferred to another court under Section 43-21-157.

(4) The youth court shall also have jurisdiction of offenses committed by a child which have been transferred to the youth court by an order of a circuit court of this state having original jurisdiction of the offense, as provided by Section 43-21-159.

(5) The youth court shall regulate and approve the use of teen court as provided in Section 43-21-753.

(6) Nothing in this section shall prevent the circuit court from assuming jurisdiction over a youth who has committed an act of delinquency upon a youth court's ruling that a transfer is appropriate pursuant to Section 43-21-157.

- **Miss. Code Ann. § 43-21-155. Proper venue**

(1) If a child is alleged to be a delinquent child or a child in need of supervision, the proceedings shall be commenced in any county where any of the alleged acts are said to have occurred. After adjudication, the youth court may, in the best interest of the child, transfer the case at any stage of the proceeding for disposition to the county where the child resides or to a county where a youth court has previously acquired jurisdiction.

(2) If a child is alleged to be an abused or neglected child, the proceedings shall be commenced in the county where the child's custodian resides or in the county where the child is present when the report is made to the intake unit. After adjudication the youth court may transfer the case at any stage of the proceeding for disposition to the county where the child resides or to a county where a youth court has previously acquired jurisdiction if that is in the best interest of the child.

- **Miss. Code Ann. § 43-21-159. Transfer of cases**

(1) When a person appears before a court other than the youth court, and it is determined that the person is a child under jurisdiction of the youth court, such court shall, unless the jurisdiction of the offense has been transferred to such court as provided in this chapter, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted, immediately dismiss the proceeding without prejudice and forward all documents pertaining to the cause to the youth court; and all entries in permanent records shall be expunged. The youth court shall have the power to order and supervise the expunction or the destruction of such records in accordance with Section 43-21-265. Upon petition therefor, the youth court shall expunge the record of any case within its jurisdiction in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped, there was no disposition of such case, or the person was found not delinquent. In cases where the child is charged with a hunting or fishing violation or a traffic violation, whether it be any state or federal law, a violation of the Mississippi Implied Consent Law, or municipal ordinance or county resolution, or where the child is charged with a violation of Section 67-3-70, the appropriate criminal court shall proceed to dispose of the same in the same manner as for other adult offenders and it shall not be necessary to transfer the case to the youth court of the county. However, unless the cause has been transferred, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted, the youth court shall have power on its own motion to remove jurisdiction from any criminal court of any offense including a hunting or fishing violation, a traffic violation, a violation of the Mississippi Implied Consent Law, or a violation of Section 67-3-70, committed by a child in a matter under the jurisdiction of the youth court and proceed therewith in accordance with the provisions of this chapter.

(2) After conviction and sentence of any child by any other court having original jurisdiction on a misdemeanor charge, and within the time allowed for an appeal of such conviction and sentence, the youth court of the county shall have the full power to stay the execution of the sentence and to release the child on good behavior or on other order as the youth court may see fit to make unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted. When a child is convicted of a misdemeanor and is committed to, incarcerated in or imprisoned in a jail or other place of detention by a criminal court having proper jurisdiction of such charge, such court shall notify the youth court judge or the judge's designee of the conviction and sentence prior to the commencement of such incarceration. The youth court shall have the power to order

and supervise the destruction of any records involving children maintained by the criminal court in accordance with Section 43-21-265. However, the youth court shall have the power to set aside a judgment of any other court rendered in any matter over which the youth court has exclusive original jurisdiction, to expunge or destroy the records thereof in accordance with Section 43-21-265, and to order a refund of fines and costs.

(3) Nothing in subsection (1) or (2) shall apply to a youth who has a pending charge or a conviction for any crime over which circuit court has original jurisdiction.

(4) In any case wherein the defendant is a child as defined in this chapter and of which the circuit court has original jurisdiction, the circuit judge, upon a finding that it would be in the best interest of such child and in the interest of justice, may at any stage of the proceedings prior to the attachment of jeopardy transfer such proceedings to the youth court for further proceedings unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted or has previously been convicted of a crime which was in original circuit court jurisdiction, and the youth court shall, upon acquiring jurisdiction, proceed as provided in this chapter for the adjudication and disposition of delinquent child proceeding proceedings. If the case is not transferred to the youth court and the youth is convicted of a crime by any circuit court, the trial judge shall sentence the youth as though such youth was an adult. The circuit court shall not have the authority to commit such child to the custody of the Department of Youth Services for placement in a state-supported training school.

(5) In no event shall a court sentence an offender over the age of eighteen (18) to the custody of the Division of Youth Services for placement in a state-supported training school.

(6) When a child's driver's license is suspended by the youth court for any reason, the clerk of the youth court shall report the suspension, without a court order under Section 43-21-261, to the Commissioner of Public Safety in the same manner as such suspensions are reported in cases involving adults.

(7) No offense involving the use or possession of a firearm by a child who has reached his fifteenth birthday and which, if committed by an adult would be a felony, shall be transferred to the youth court.

• **Miss. Code Ann. § 43-21-203. Operation**

(1) The youth court shall be in session at all times.

(2) All cases involving children shall be heard at any place the judge deems suitable but separately from the trial of cases involving adults.

(3) Hearings in all cases involving children shall be conducted without a jury and may be recessed from time to time.

(4) All hearings shall be conducted under such rules of evidence and rules of court as may comply with applicable constitutional standards.

(5) No proceeding by the youth court in cases involving children shall be a criminal proceeding but shall be entirely of a civil nature.

(6) The general public shall be excluded from the hearing, and only those persons shall be admitted who are found by the youth court to have a direct interest in the cause or work of the youth court. Any person found by the youth court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel.

(7) In all hearings, a complete record of all evidence shall be taken by stenographic reporting, by mechanical or electronic device or by some combination thereof.

(8) The youth court may exclude the attendance of a child from a hearing in neglect and abuse cases with consent of the child's counsel. The youth court may exclude the attendance of a child from any portion of a disposition hearing that would be injurious to the best interest of the child in delinquency and children in need of supervision cases with consent of the child's counsel.

(9) All parties to a youth court cause shall have the right at any hearing in which an investigation, record or report is admitted in evidence:

- (a) To subpoena, confront and examine the person who prepared or furnished data for the report; and
- (b) To introduce evidence controverting the contents of the report.

(10) Except as provided by Section 43-21-561(5) or as otherwise provided by this chapter, the disposition of a child's cause or any evidence given in the youth court in any proceedings concerning the child shall not be admissible against the child in any case or proceeding in any court other than a youth court.

(11) An order or ruling of the youth court judge delivered orally must be reduced to writing within forty-eight (48) hours, excluding Saturdays, Sundays and statutory state holidays.

• **Miss. Code Ann. § 43-21-651. Review by supreme court**

(1) The court to which appeals may be taken from final orders or decrees of the youth court shall be the Supreme Court of Mississippi. In any case wherein an appeal is desired, written notice of intention to appeal shall be filed with the youth court clerk within the time, and costs in the youth court and the filing fee in the Supreme Court shall be paid, as is otherwise required for appeals to the Supreme Court. If the appellant shall make affidavit that he is unable to pay such costs and filing fee, he shall have an appeal without prepayment of court costs and filing fee. Only the initials of the child shall appear on the record on appeal.

(2) The pendency of an appeal shall not suspend the order or decree of the youth court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child shall have been committed, unless the youth court or Supreme Court shall so order. If appellant desires to appeal with supersedeas, the matter first shall be presented to the youth court. If refused, the youth court shall forthwith issue a written order stating the reasons for the denial, which order shall be subject to review by the Supreme Court. If the Supreme Court does not dismiss the proceedings and discharge the child, it shall affirm or modify or reverse the order of the youth court and remand the child to the jurisdiction of the youth court for placement and supervision in accordance with its order, and thereafter the child shall be and remain under the jurisdiction of the youth court in the same manner as if the youth court had made the order without an appeal having been taken.

(3) Appeals from the youth court shall be preference cases in the Supreme Court.

• **Miss. Code Ann. § 83-39-31. Bond fees**

(1) Upon every defendant charged with a criminal offense who posts a cash bail bond, a surety bail bond, a property bail bond or a guaranteed arrest bond certificate conditioned for his appearance at trial, there is imposed a fee equal to two percent (2%) of the face value of each bond or Twenty Dollars (\$20.00), whichever is greater, to be collected by the clerk of the court when the defendant appears in court for final adjudication or at the time the defendant posts cash bond unless subsection (4) applies.

(2) Upon each defendant charged with a criminal offense who is released on his own recognizance, who deposits his driver's license in lieu of bail, or who is released after arrest on written promise to appear, there is imposed a fee of Twenty Dollars (\$20.00) to be collected by the clerk of the court when the defendant appears in court for final adjudication unless subsection (4) applies.

(3) Upon each defendant convicted of a criminal offense who appeals his conviction and posts a bond conditioned for his appearance, there is imposed a fee equal to two percent (2%) of the face value of each bond or Twenty Dollars (\$20.00), whichever is greater. If such defendant is released on his own recognizance pending his appeal, there is imposed a fee of Twenty Dollars (\$20.00). The fee imposed by this subsection shall be imposed and shall be collected by the clerk of the court when the defendant posts a bond unless subsection (4) applies.

(4) If a defendant is found to be not guilty or if the charges against a defendant are dismissed, or if the prosecutor enters a nolle prosequi in the defendant's case or retires the defendant's case to the file, or if the defendant's conviction is reversed on appeal, the fees imposed pursuant to subsections (1), (2), (3) and (7) shall not be imposed.

(5) The State Auditor shall establish by regulation procedures providing for the timely collection, deposit, accounting and, where applicable, refund of the fees imposed by this section. The Auditor shall provide in the regulations for certification of eligibility for refunds and may require the defendant seeking a refund to submit a verified copy of a court order or abstract by which the defendant is entitled to a refund.

(6) It shall be the duty of the clerk or any officer of the court authorized to take bonds or recognizances to promptly collect, at the time such bonds or recognizances are received or taken, all fees imposed pursuant to this section. In all cases, the clerk or officer of the court shall deposit all fees so collected with the State Treasurer, pursuant to appropriate procedures established by the State Auditor, for deposit into the State General Fund.

(7) In addition to the fees imposed by this section, there shall be an assessment of Ten Dollars (\$10.00) imposed upon every criminal defendant charged with a criminal offense who posts a cash bail bond, a surety bail bond, a property bail bond or a guaranteed arrest bond to be collected by the clerk of the court and deposited in the Victims of Domestic Violence Fund created by Section 93-21-117, unless subsection (4) applies.

- **Miss. Code Ann. § 99-11-3. Venue**

(1) The local jurisdiction of all offenses, unless otherwise provided by law, shall be in the county where committed. But, if on the trial the evidence makes it doubtful in which of several counties, including that in which the indictment or affidavit alleges the offense was committed, such doubt shall not avail to procure the acquittal of the defendant.

(2) The provisions of subsection (1) of this section shall not apply to indictments returned by a state grand jury. The venue of trials for indictments returned by a state grand jury shall be as provided by the State Grand Jury Act. This subsection shall stand repealed from and after July 1, 2024.

- **Miss. Code Ann. § 99-33-1. Criminal jurisdiction; remand by circuit court grand jury**

(1) Upon the election of any county to employ a clerk for the justice court of such county in accordance with the provisions of subsection (3) of Section 9-11-27 prior to January 1, 1984, the venue of criminal actions in such county shall be as provided in subsection (2) of this section.

(2) From and after January 1, 1984, justice court judges shall have jurisdiction concurrent with the circuit court of the county over all crimes occurring in the county whereof the punishment prescribed does not extend beyond a fine and imprisonment in the county jail.

(3) A circuit court grand jury, after an evidentiary determination, may remand any case that may be tried as a felony or misdemeanor, and which it deems should be tried as a misdemeanor, to justice or municipal court to be tried as a misdemeanor.

- **Miss. Code Ann. § 99-33-17. Transfers to municipal court**

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

- **Miss. Code Ann. § 99-35-3. Appearance bonds**

The appellant if sentenced to imprisonment for an offense or to stand committed until his fine and costs shall be paid, may be relieved from such imprisonment or commitment pending his appeal, by giving bond with sufficient resident sureties or one or more guaranty or surety companies authorized to do business in this state, to be approved by the justice court judge or municipal judge, payable to the state in the penalty of not less than One Hundred Dollars (\$100.00), nor more than One Thousand Dollars (\$1,000.00), except for the violation of any of the criminal statutes of Mississippi prohibiting the sale and possession of intoxicating liquors, when the bond shall not be less than One Hundred Fifty Dollars (\$150.00), nor more than One Thousand Dollars (\$1,000.00), to be determined by the justice court judge or municipal judge in reference to the grade of the offense as indicated by the judgment and ability of the

appellant to give bond, conditioned to appear before the appellate court at the next term after such appeal shall be taken, to answer to the charge against him, and so to continue until discharged. On default of defendant a forfeiture shall be entered against him and his sureties.

- **Miss. Code Ann. § 99-35-7. Appeals without bond**

Any person who shall have been convicted of a criminal offense against the laws of this state, by the judgment of a justice court, or by a municipal court for the violation of an ordinance of the municipality, who by reason of his poverty is not able to give bond as prescribed in Section 99-35-3, may nevertheless appeal from such conviction on his making an affidavit that, by reason of his poverty, he is unable to give bond or other security to obtain such appeal, but the appeal in such case shall not operate as a supersedeas of the judgment, nor discharge the appellant from custody, but the judgment shall be executed as if an appeal had not been taken, unless the presiding judge of the appellate court shall, for good reason, see fit to stay the execution of the judgment rendered by the court below by ordering the release of the defendant on his own recognizance, and this shall not affect the trial of the case anew in the appellate court.

- **Miss. Code Ann. § 99-35-101. Right of appeal.**

Any person convicted of an offense in a circuit court may appeal to the Supreme Court. However, where the defendant enters a plea of guilty and is sentenced, then no appeal from the circuit court to the Supreme Court shall be allowed.

CHAPTER 2

ADMINISTRATIVE OFFICE OF COURTS

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200 INTRODUCTION

The Administrative Office of Courts (AOC) is specifically charged with the duty of assisting the Chief Justice of the Supreme Court of Mississippi with his duties as the chief administrative officer of all courts of this state. The Administrative Director is appointed by and serves at the pleasure of the Supreme Court of Mississippi as the Director of the Administrative Office of Courts. Among other duties, the Administrative Director coordinates the functions and duties of administrative personnel, *including court administrators and court administrative aides to judges*, directs the expenditure of state monies for any and all functions affecting the operations of the courts, and oversees the development of efficient and uniform practices for the court system.

201 ADMINISTRATIVE OFFICE OF COURTS

§ 9-21-1 Purpose:

The Administrative Office of Courts is hereby created. The purpose of the Administrative Office of Courts shall be to assist in the efficient administration of the nonjudicial business of the courts of the state and in improving the administration of justice in Mississippi by performing the duties and exercising the powers as provided in this chapter. As used in this chapter, unless the context clearly indicates otherwise, the term "court" means any tribunal recognized as a part of the judicial branch of government, but not including county boards of supervisors.

§ 9-21-3 Duties:

(1) The Administrative Office of Courts shall be specifically charged with the duty of assisting the Chief Justice of the Supreme Court of Mississippi with his duties as the chief administrative officer of all courts of this state, including without limitation the task of insuring that the business of the courts of the state is attended with proper dispatch, that the dockets of such courts are not permitted to become congested and that trials and appeals of cases, civil and criminal, are not delayed unreasonably.

(2) The office shall also perform the following duties:

(a) To work with the clerks of all youth courts and civil and criminal trial courts in the state to collect, obtain, compile, digest and publish information and statistics concerning the administration of justice in the state.

(b) To serve as an agency to apply for and receive any grants or other assistance and to coordinate and conduct studies and projects to improve the administration of justice by the courts of the state, and it may conduct such studies with or without the assistance of consultants.

(c) To supply such support to the Judicial Advisory Study Committee necessary to accomplish the purposes of this chapter, including without limitation, research and clerical assistance.

(d) To promulgate standards, rules and regulations for computer and/or electronic filing and storage of all court records and court-related records maintained throughout the state in courts and in offices of circuit and chancery clerks.

(e) It shall perform such other duties relating to the improvement of the administration of justice as may be assigned by the Supreme Court of Mississippi.

202 ADMINISTRATIVE DIRECTOR OF COURTS

§ 9-21-5 Appointment:

The Administrative Director shall be appointed by and shall serve at the pleasure of the Supreme Court of Mississippi as the Director of the Administrative Office of Courts. The Administrative Director shall devote full time to the duties of the office to the exclusion of engagement in any other business or profession for profit.

Duties and authority:

§ 9-21-7

The Administrative Director, with the approval of the Supreme Court, is authorized to employ and set the compensation of such assistants and other employees as are necessary to enable him to perform his duties, subject to approval of the State Personnel Board.

§ 9-21-9

The Administrative Director of Courts shall have the following duties and authority with respect to all courts in addition to any other duties and responsibilities as may be properly assigned by the Supreme Court:

(a) To require the filing of reports, the collection and compilation of statistical data and other information on the judicial and financial operation of the courts and on the operation of other offices directly related to and serving the courts;

(b) To determine the state of the dockets and evaluate the practices and procedures of the courts and make recommendations concerning the number of judges and other personnel required for the efficient administration of justice;

(c) To prescribe uniform administrative and business methods, systems, forms and records to be used in the offices of the clerks of courts;

(d) To devise, promulgate and require the use of a uniform youth court case tracking system, including a youth court case filing form for filing with each individual youth court matter, to be utilized by the Administrative Office of Courts and the youth courts in order that the number of youthful offenders, abused, neglected, truant and dependent

children, as well as children in need of special care and children in need of supervision, may be tracked with specificity through the youth court and adult justice systems; in support of the uniform case docketing system, the director shall require that all youth courts utilize the Mississippi Youth Court Information Delivery System (MYCIDS);

(e) To develop, promulgate and require the use of a statewide docket numbering system to be utilized by the youth courts, which youth court docket numbers shall standardize and unify the numbering system by which youth court docket numbers are assigned, such that each docket number would, among other things, identify the county and year in which a particular youth court action was commenced;

(f) To develop, promulgate and require the use of uniform youth court orders and forms in all youth courts and youth court proceedings;

(g) To prepare and submit budget recommendations for state appropriations necessary for the maintenance and operation of the judicial system and to authorize expenditures from funds appropriated for these purposes as permitted or authorized by law;

(h) To develop and implement personnel policies for nonjudicial personnel employed by the courts;

(i) To investigate, make recommendations concerning and assist in the securing of adequate physical accommodations for the judicial system;

(j) To procure, distribute, exchange, transfer and assign such equipment, books, forms and supplies as are acquired with state funds or grant funds or otherwise for the judicial system;

(k) To make recommendations for the improvement of the operations of the judicial system;

(l) To prepare and submit an annual report on the work of the judicial system to the Supreme Court;

(m) To take necessary steps in the collection of unpaid court costs, fines and forfeitures;

(n) To perform such additional administrative duties relating to the improvement of the administration of justice as may be assigned by the Supreme Court; and

(o) To promulgate standards, rules and regulations for computer and/or electronic filing and storage of all court records and court-related records maintained throughout the state in courts and in offices of circuit and chancery clerks.

§ 9-21-11

(1) The Administrative Director of Courts is authorized and empowered to: study and apply for any and all applications for funds and grants directed to the office from any federal governmental agency or entity; disburse such aid, assistance, funds, monies, grants or subgrants; and coordinate the same with the overall administration of justice in Mississippi to assist or aid in the administration of justice, criminal or civil, or the improvement of courts and the judicial system.

(2) The courts of the state, regardless of the name they bear, shall be proper local units or entities of government to apply for and receive such assistance, aid, funds, monies, grants and subgrants.

(3) Grants to youth courts shall be made in accordance with Section 43-21-801.

§ 9-21-13

(1) The Administrative Director of Courts shall coordinate the functions and duties of administrative personnel, including court administrators and court administrative aides to judges, to facilitate cooperation and so that the overall administration of justice may be accomplished with efficiency in all courts of the state.

(2) The Administrative Director of Courts is authorized to direct the expenditure of state monies appropriated to the Administrative Office of Courts or any courts of the state for any and all functions or projects directly or indirectly affecting the operation of any court and may transfer monies appropriated for the office or any account to any one or more other accounts or office.

§ 9-21-15

The Administrative Director of Courts is authorized and empowered to employ consultants and consultant firms and to contract with the same for their services for reasonable compensation and as necessary to improve the administration of justice and the courts of the state. The contracts with such consultants or consultant firms shall be considered as contracts for professional services.

§ 9-21-17

The Administrative Director of Courts and the Supreme Court are authorized to use the services of any member of the judiciary of any court and any court-supportive personnel, including, without limitation, court reporters, clerks, bailiffs, law clerks, court administrators, secretaries and employees in clerks' offices to carry out studies, projects and functions designed to improve or effect the efficient administration of justice and the operation of courts.

§ 9-21-19

All judges, clerks of court, and other officers or employees of the courts and of offices related to and serving the courts shall comply with all requests made by the Administrative Director for information and statistical data relative to the work of the courts and of such offices and relative to the expenditure of public monies for their maintenance and operation.

§ 9-21-73

(1) The Director of the Administrative Office of Courts shall establish a program to facilitate the use of interpreters in all courts of the State of Mississippi.

(2)(a) The Administrative Office of Courts shall prescribe the qualifications of and certify persons who may serve as certified interpreters in all courts of the State of Mississippi in bilingual proceedings. The Director of the Administrative Office of Courts may set and charge a reasonable fee for certification.

(b) The director shall maintain a current master list of all certified interpreters and shall report annually to the Supreme Court on the frequency of requests for and the use and effectiveness of the interpreters.

(3) In all state court bilingual proceedings, the presiding judicial officer, with the assistance of the director, shall utilize the services of a certified interpreter to communicate verbatim all spoken or written words when the necessity therefor has been determined pursuant to Section 9-21-79.

(4) All state courts shall maintain on file in the office of the clerk of the court a list of all persons who have been certified as interpreters in accordance with the certification program established pursuant to this section.

203 *SPECIAL FUNDS CREATED IN THE STATE TREASURY*

§ 9-21-14 Comprehensive Electronic Court Systems Fund:

(1) There is created in the State Treasury a special fund to be known as the Comprehensive Electronic Court Systems Fund. The purpose of the fund shall be to provide funding for the development, implementation and maintenance of a comprehensive case management and electronic filing system, one of the purposes of which will be to provide duplicate dockets and case files at remote sites. The system will be designed to:

(a) Provide a framework for the seamless, transparent exchange of data among courts and with appropriate law enforcement, children's services and public welfare agencies.

(b) Allow judges and prosecutors to determine whether there are holds or warrants from other jurisdictions for defendants prior to release on bail or otherwise.

(c) Assist related agencies in tracking the court activity of individuals in all participating jurisdictions.

(d) Assist child protection and human services agencies to determine the status of children and caregivers in the participating jurisdictions.

(e) Duplicate and preserve court documents at remote sites so that they may be protected against catastrophic loss.

(f) Improve the ability of the Administrative Office of Courts and the state courts to handle efficiently monies flowing through the courts and to collect delinquent fees, fines and costs.

(g) Enable the state courts and clerks to generate management reports and analysis tools, allowing them to constantly track individual cases and the overall caseload.

(h) Provide a uniform system for docketing and tracking cases and to automatically generate status reports.

(i) Enable the Administrative Office of Courts to acquire statistical data promptly and efficiently.

(j) Make trial court and individual case dockets available to the public online through use of the Internet.

(2) Monies from the fund shall be distributed by the State Treasurer upon warrants issued by the Administrative Office of Courts.

(3) The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

(a) Monies appropriated by the Legislature for the purposes of funding the comprehensive case management and electronic filing system;

(b) The interest accruing to the fund;

(c) Monies received from the federal government;

(d) Donations; and

(e) Monies received from such other sources as may be provided by law.

(4) The Supreme Court may utilize and fund as a pilot program any case management and electronic filing system of the Three Rivers Planning and Development District or that of any county or vendor that complies with the data and case management and electronic filing policy standards adopted by the Supreme Court. No statewide comprehensive case management and electronic system shall be implemented by the Mississippi Supreme Court unless such system is approved by the Legislature.

§ 9-21-43 Civil Legal Assistance Fund:

(1) There is hereby created in the State Treasury a special fund designated as the Civil Legal Assistance Fund. The funds shall be administered by the Supreme Court through the Administrative Office of Courts. The Administrative Office of Courts may also accept monies from any public or private source for deposit into the fund. Money remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the funds.

(2) All monies shall be allocated to only those organizations providing legal services to low income Mississippians. Furthermore, no monies from this fund shall be expended to provide legal services in matters currently prohibited by the Legal Services Corporation, Washington, D.C., and no funds shall be expended on persons who are not financially eligible to receive legal services as directed by the Legal Services Corporation, Washington, D.C.

(3) The monies appropriated shall be distributed to eligible legal services programs based on the percentage of poverty population within the program service area, consistent with the formula used by the Legal Services Corporation.

(4) Monies appropriated to the fund may be used to promote increased participation by the private bar in the delivery of legal services to the indigent through the Mississippi Volunteer Lawyers Project.

(5) Recipients of funds shall have the following duties:

(a) To develop, operate and administer programs within their respective service areas that provide free legal services to indigent clients involved in civil matters;

(b) To report annually to the Supreme Court, through the Administrative Office of Courts, on its activities, including providing a copy of its annual audit that accounts for the use of the funds; and

(c) To refund annually all unused or uncommitted funds.

§ 9-21-45 Judicial System Operation Fund:

(1) There is created in the State Treasury a special fund designated as the Judicial System Operation Fund. The funds shall be administered by the Supreme Court through the Administrative Office of Courts. The fund shall consist of monies deposited therein as provided in Section 99-19-72 and monies from any other source designated for deposit into the fund. The Administrative Office of Courts may also accept monies from any public or private source for deposit into the fund. Money remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund.

(2) Monies in the fund shall be subject to appropriation by the Legislature and may only be used for the purpose of the operation of the judicial system in the state as determined necessary by the Supreme Court and to provide additional funds for the judicial salaries set forth in Section 25-3-35 and Section 9-9-11(8). Monies in the fund used for the purposes described in this section shall be in addition to other funds available from any other source for such purposes.

204 AOC EMPLOYEE MANUAL

The *AOC Employee Manual* is accessible at <http://courts.ms.gov/> under “AOC” by opening “Employee Information & Forms.”

PURPOSE AND SCOPE

“The Administrative Office of Courts Policies and Procedures Manual has been developed to provide you with pertinent information regarding the Administrative Office of Courts and your role as an employee of the AOC. . . .”

TRIAL COURT SUPPORT STAFF

“Section 9-1-36, Mississippi Code of 1972 Annotated, provides that support staff for chancery and circuit courts throughout the State are employees of the AOC. “Support staff” is defined in Subsection (6)(b) as “court administrators, law clerks, legal research assistants or secretaries, or any combination thereof.” The statute states that members of the support staff are to be hired by the chancery and circuit judges, and are to work at the will and pleasure of the judges. However, such hiring is to be approved by the AOC and is to be done within AOC guidelines concerning job descriptions and salaries.”

CHAPTER 3

COURT ADMINISTRATORS

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301 COURT ADMINISTRATORS

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300 INTRODUCTION

“[C]ourt administration is not the captain of the ship, a responsibility borne by the chief judge, but perhaps an amalgam of navigator, helmsmen, and first mate, charting the course, guiding the vessel, directing the crew in the performance of its duties.”¹ Your job requires a wide range of management and interpersonal skills to successfully accomplish all the various statutorily assigned duties. Below are statutes and rules governing the appointment, duties, compensation, and continuing educational requirements of court administrators. There is also a specific discussion pertaining to duties.

301 COURT ADMINISTRATORS

§ 9-17-1 Appointment:

(1) The judges and chancellors of judicial districts, including chancery, circuit and county courts, may, in their discretion, jointly or independently, establish the office of court administrator in any county by an order entered on the minutes of each participating court in the county. The establishment of the office of court administrator shall be accomplished by vote of a majority of the participating judges and chancellors in the county, and such court administrator shall be appointed by vote of a majority of the judges or chancellors and may be removed by a majority vote of the judges or chancellors. In case of a tie vote, the senior judge or senior chancellor shall cast two (2) votes.

(2) The court administrator shall be provided office space in the same manner as such is afforded the judges and chancellors.

(3) The annual salary of each court administrator appointed pursuant to this section shall be set by vote of the judges and chancellors of each participating county and shall be submitted to the Administrative Office of Courts for approval pursuant to Section 9-1-36. The salary shall be paid in twelve (12) installments on the last working day of the month by the Administrative Office of Courts after it has been authorized by the participating judges and chancellors and an order has been duly placed on the minutes of each participating court. Any county within a judicial district having a court administrator shall transfer to the Administrative Office of Courts one-twelfth (1/12) of its pro rata cost of authorized compensation as defined in Section 9-1-36 for the court administrator by the twentieth day of each month for the compensation that is to be paid on the last day of that month. The board of supervisors may transfer the pro rata cost of the county from the funds of that county pursuant to Section 9-17-5(2)(b).

¹Steve Henley, *The Role of Court Administration in the Management, Independence, and Accountability of the Courts*, 78-MAR Fla. B.J. 26, 27 (2004).

(4) For all travel required in the performance of official duties, the court administrator shall be paid mileage by the county in which the duties were performed at the same rate as provided for state employees in Section 25-3- 41, Mississippi Code of 1972. The court administrator shall file a certificate of mileage expense incurred during that term with the board of supervisors of each participating county and payment of such expense shall be paid proportionately out of the court administration fund established pursuant to Section 9-17-5.

Case law:

Touart v. Johnston, 656 So. 2d 318, 322 (Miss. 1995) (“Miss. Code Ann. § 9-17-1, combined with the approval of the Youth Court budget, as mandated by § 43-21-123 and § 19-9-96, clearly authorizes the hiring by the youth court judge of a youth court administrator who performs non-judicial, administrative functions of the youth court.”).

Duties:

§ 9-17-3

It shall be the duty of the court administrator to:

- (a) Perform all nonjudicial tasks of the court;
- (b) Maintain all statistical reports;
- (c) Serve as liaison with the general public and members of the bar;
- (d) Coordinate and assist in the duties of the clerks of the courts of the district related to the judicial duties of the clerks;
- (e) Provide general administrative support for all judges and chancellors of the district; and
- (f) Perform other duties assigned by the judges.

§ 9-21-13(1)

(1) The Administrative Director of Courts shall coordinate the functions and duties of administrative personnel, including court administrators and court administrative aides to judges, to facilitate cooperation and so that the overall administration of justice may be accomplished with efficiency in all courts of the state.

§ 9-21-17

The Administrative Director of Courts and the Supreme Court are authorized to use the services of any member of the judiciary of any court and any court-supportive personnel, including, without limitation, court reporters, clerks, bailiffs, law clerks, court administrators, secretaries and employees in clerks' offices to carry out studies, projects and functions designed to improve or effect the efficient administration of justice and the operation of courts.

§ 9-21-19

All judges, clerks of court, and other officers or employees of the courts and of offices related to and serving the courts shall comply with all requests made by the Administrative Director for information and statistical data relative to the work of the courts and of such offices and relative to the expenditure of public monies for their maintenance and operation.

Discussion of duties:

Court administrators are *not* clerks or secretaries or receptionists. Yet, at one time or another, most have probably taken on these roles in carrying out their duties. Instead, “the Court administrator is to bring efficiency and economy of the well-managed business to that world in which individualism and studied deliberation must never be sacrificed: the courts.”² Such requires expertise in non-judicial tasks relating to personnel management, caseload, and budgetary matters. It also requires a keen awareness of the court’s ultimate product—‘Fair and Equal Justice Under Law.’ This is not a balancing act. A court administrator’s ultimate goal is to make it happen within an efficient and economical system.³ Below is a discussion of Section 9-17-3, which sets forth the parameters for achieving it.

Perform all nonjudicial tasks of the court (Section 9-17-3(a)): Court administrators do not perform judicial tasks, such as setting bail, issuing warrants, or ruling on motions. ‘Nonjudicial tasks of the court’ are essentially those duties necessary to the efficient

²Mary Libby Payne, *The Mississippi Judiciary Commission Revisited: Judicial Administration: An Idea Whose Time Has Come*, 14 Miss. C. L. Rev. 413, 436 (1994); *see also* Henley, *supra* note 1, at 28 (“Like schools, banks, police departments, and hospitals—all once relatively small, localized, and perhaps idiosyncratic to the point of quaintness—courts are now larger and more centralized, requiring full-time managers. Administrators of courts . . . today rely on emerging management techniques and adhere to nationally accepted professional and organizational standards. The county courthouse, like the bank on the corner, is no longer a strictly local enterprise.”).

³*See* James Duke Cameron et al., *The Chief Justice and the Court Administrator: The Evolving Relationship*, 113 F. D. R. 439, 454 (1987) (“The all-pervading and over-riding objective of the judicial process is JUSTICE. There is no profit motive, and efficiency itself must be subordinated if it interferes with justice and the constitutional guarantees of due process.”).

administration of the court in conducting its business. Such includes the duties set forth in Section 9-17-3(b) through (f), as well as other statutorily assigned tasks.

Maintain all statistical reports (Section 9-17-3(b)): Court administrators are responsible for maintaining statistical reports. Otherwise, the Chief administrative judge and/or clerk would have to do it—which, of course, would distract them from other duties. Also, if the Administrative Director of Courts were to request information or statistical data pursuant to Section 9-21-19, such facilitates prompt compliance.

Serve as liaison with the general public and members of the bar (Section 9-17-3(c)): Mississippi’s Code of Judicial Conduct includes the following Canons: Canon 1, “A Judge Should Uphold the Integrity and Independence of the Judiciary”; Canon 2, “A Judge Should Avoid Impropriety and the Appearance of Impropriety in All His Activities”; Canon 3, “A Judge Should Perform the Duties of His Office Impartially and Diligently”; Canon 4, “A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice - A Judge Shall So Conduct the Judge’s Extrajudicial Activities as to Minimize the Risk of Conflict with Judicial Obligations”; Canon 5, “A Judge or Judicial Candidate Shall Refrain From Inappropriate Political Activity.” Court administrators serving as liaison with the general public and members of the bar shields against ex parte communications and other improper contacts. Another aspect might include press relations.

Coordinate and assist in the duties of the clerks of the courts of the district related to the judicial duties of the clerks (Section 9-17-3(d)): Court administrators “coordinate and assist” as to the “judicial duties of the clerks”—e.g., the docket, collections, and jury selection process. Also, the Administrative Director of Courts can issue directives pursuant to Section 9-21-13(1) relating to such duties. This authority is “to facilitate cooperation and so that the overall administration of justice may be accomplished with efficiency in all courts of the state.”

Provide general administrative support for all judges and chancellors of the district (Section 9-17-3(e)): Judges and chancellors are foremost jurists. They have been elected or appointed to hear cases. Tending to various administrative matters detracts from this most important function.⁴ Setting administrative policy is one thing. Applying it is another. Court administrators, in providing general administrative support, see it through.⁵ Such, though, requires proficient management skills.

⁴See Henley, *supra* note 1, at 30 (“Court administrators and their staff allow judges to focus their time and attention on adjudicatory activities, rather than administrative responsibilities . . .”).

⁵See Cameron et al., *supra* note 3, at 464 (“One administrator [commented]: “Administrators get in trouble when they forget they are hired to assist the policymakers; when the administrator believes that he is the policymaker or that his views are superior to such persons, he no longer can perform the job he was hired to do.””).

Perform other duties assigned by the judges (Section 9-17-3(f)): This is a catchall provision that allows judges to assign other duties pertaining to administrative concerns.

For example,

- Prepare annual or monthly reports;
- Publish and monitor administrative policies;
- Inventory and allocate supplies;
- Calendar Continuing Judicial Education and speaking engagements;
- Supplement legal reference materials;
- Arrange for courtroom security; and
- Oversee compliance to AOC studies or projects.

§ 9-17-5 Court administration special fund:

(1) In each county where a court administrator has been appointed pursuant to this chapter, a special fund in the county treasury is hereby established to be known as the "court administration fund."

(2)(a) The judges and chancellors may apply their expense allowance in section 9-1-36, Mississippi Code of 1972, to the court administration fund.

(b) The board of supervisors of any county within a judicial district having a court administrator is authorized to pay its pro rata cost of the salary and furnish an equipped office for the court administrator and his staff from county funds. The board of supervisors is further authorized to accept grants, gifts, donations or federal funds for the benefit of the office of the court administrator.

(c) The board of supervisors of any county within a judicial district having a court administrator is authorized, in its discretion, to charge, in addition to all other costs required by law, an amount not to exceed two dollars (\$2.00) for each complaint filed in the chancery, circuit and county courts of such county. Any money collected pursuant to this subsection shall be paid into the court administrator fund.

(d) Money paid into the court administration fund under this chapter shall be applied to the office of the court administrator for the purpose of funding that office.

(3) All expenditures made from the court administration fund shall be upon written requisition of the court administrator approved by a judge or chancellor to the county or counties of the district designated by him, in proportion to the business of his office in the county.

§ 19-9-96 Funding operation of youth court division:

The board of supervisors of any county may, in its discretion, set aside, appropriate and expend moneys from the general fund to be used for funding of the operation of the youth court division other than a municipal youth court division. Such funds shall be expended for no other purpose than:

(a) Payment of the salaries of the referees, court administrators, youth court prosecutor when court appointed, youth court public defender, court reporters other than regular chancery court or county court reporters, clinical psychologists and other professional personnel, secretaries and other clerical or other court-appointed personnel, detention home employees, shelter home employees, halfway house employees and youth counsellors;

(b) Travel and training expenses;

(c) The operation of a youth court and related facilities, detention facilities, shelter home facilities, group homes and halfway houses;

(d) Volunteer programs or other court-authorized programs;

(e) Providing the youth court referee with a current set of the Mississippi Code of 1972 if a set has not been provided.

302 CERTIFICATION AND CONTINUING EDUCATION

§ 9-1-36(4) Court administrators to be certified:

(4) The Administrative Office of Courts shall develop and promulgate minimum qualifications for the certification of court administrators. Any court administrator appointed on or after October 1, 1996, shall be required to be certified by the Administrative Office of Courts.

Rules and regulations for certification and continuing education:

RULE 1. SCOPE AND EXEMPTIONS:

The Rules concerning Continuing Education (CE) shall apply to every Administrator of any designation of the Circuit, Chancery, County, and Youth Courts of the State of Mississippi. The Rules concerning Court Administrator Certification, pursuant to Miss. Code Ann. § 9-1-36(4), shall apply to Circuit and Chancery Court Administrators appointed on or after October 1, 1996. All Court Administrators in the Circuit, Chancery, County and Youth Courts, irrespective of date of hire, are strongly encouraged to be certified through the program described, as developed by the Mississippi Administrative Office of Courts (“AOC”).

RULE 2. CONTINUING EDUCATION REQUIREMENT:

Each Court Administrator, Deputy Court Administrator, or Assistant Court Administrator of a Circuit, Chancery, County or Youth Court in the State of Mississippi shall attend a minimum of twelve (12) actual hours of AOC-approved Continuing Education at the Spring and Fall Court Administrators Conference (or AOC-approved substitute), each calendar year beginning January 1, 2001, provided the funding for the named Conferences is available through the Mississippi Judicial College or other source and the courses are offered.

Regulations

2.1 The number of hours required means that the Administrator must actually attend twelve (12) instructional hours of AOC-approved CE per year with no credit given for introductory remarks, meal breaks, or business meetings.

2.2 An instructional hour will in all events be an hour containing at least fifty (50) minutes of instruction time.

2.3 Administrators who have a physical disability which makes attendance at CE programs inordinately difficult may file a request with the AOC for a permanent substitute program in lieu of attendance and shall therein set out Continuing Education plans tailored to their specific interests and physical ability. The AOC shall review and approve or disapprove such plans on an individual basis and without delay, after submitting the request to the Mississippi Court Administrators Association's Education Committee for its input.

2.4 Other requests for substituted compliance, partial waivers, or other exemptions for hardship or extenuating circumstances may be granted by the AOC upon written application of the Administrator and may likewise be reviewed by the AOC, after submission to the Mississippi Court Administrators Association's Education Committee for its recommendation.

2.5 A Court Administrator may receive credit for a maximum of six (6) hours per year of attendance at an AOC-approved program other than the Spring and Fall Court Administrators Conferences, as defined by and with prior approval of the AOC.

2.6 Credit will be given only for Continuing Education activities approved by the AOC. Such approval for substitute seminars should be sought and granted prior to the occurrence of the activity but may be given retroactively. Should a Court Administrator be required to miss a mandatory seminar, the Court Administrator shall, in writing, inform the AOC of the reasons for non-attendance within ten (10) working days after the conclusion of the seminar, unless excused by the AOC.

RULE 3. CERTIFICATION:

All Circuit and Chancery Court Administrators hired in their present position from and after October 1, 1996 are required to be certified according to the Rules set forth in this section. The program for certification shall be incorporated into the Spring and Fall Court Administrator Conferences, or any other AOC-approved seminars, with all topics and topical content on the program agenda to be developed by the Mississippi Court Administrators Association's Education Committee, with the approval of the AOC.

Regulations

3.1 All AOC Court Administrators, Circuit and Chancery, hired on or after October 1, 1996, shall be required to be certified, within four (4) years of the institution of this program, or, if hired at a later date, within four (4) years after the date of hire. County and Youth Court Administrators, and Circuit and Chancery Court Administrators hired before October 1, 1996, will be eligible to be certified and are strongly encouraged to do so.

3.2 The Certification Program will span four (4) consecutive Spring and Fall Conference programs, over a span of two (2) years, with the certification issued upon the successful completion of the twenty-four (24) hours required by the AOC. Participants in the Certification Program will be tested at the conclusion of the seminar, with a passing score necessary in order to receive certification credit for the hours provided at the meeting.

3.3 Topics and participants eligible for credit for certification must be approved by the AOC. Upon completion of the initial certification, Administrators will receive renewal on an annual basis, subject to completing the annual Continuing Education requirements set out in Rule 2.

3.4 Specifics of the Certification Program may be set by the AOC, insomuch as the policies do not conflict with these rules.

RULE 4. NONCOMPLIANCE SANCTIONS:

4.1 As soon as practicable after January 1 of each year, commencing January 1, 2001, the Mississippi Judicial College shall forward to the AOC the name of each Administrator who is required to comply and has not complied with Rules 1 and 2 of the Mississippi Rules for Certification and Continuing Education of Mississippi Court Administrators. Compliance with Rule 3 will be tracked by the AOC. Within a reasonable time after the receipt by the AOC of the names, the AOC shall send a Notice of Noncompliance to the Administrator, asking the Administrator to respond within thirty (30) days, informing the AOC why the Administrator should not be reported to the Supreme Court for sanction. A copy of said notice shall be mailed to the Administrator's supervising judge(s). In response to the Notice of Noncompliance, such Administrator shall furnish the AOC with an affidavit that contains the following information, and any other information which may be considered relevant:

(a) An indication that the administrator has complied with the requirement prior to expiration of the thirty (30) day period, or

(b) A recitation of an excuse for failure to comply with the requirements because of hardship or other good cause.

4.2 Within a reasonable time after the expiration of the time allowed to respond to the Notice of Noncompliance, the AOC shall notify the Supreme Court of Mississippi of each Administrator who fails to file an affidavit or files an affidavit which does not set forth a valid reason for noncompliance, and the AOC may recommend appropriate sanctions to the Mississippi Supreme Court, with said recommendations possibly including a reprimand, or other such actions deemed appropriate by the Supreme Court, including, but not limited to, dismissal and/or financial withholding in the case of Circuit and Chancery Court Administrators. The Supreme Court shall then issue a Notice to Show Cause for the Court Administrator to file a response, under oath, outlining any reasons that the recommended sanction should not be imposed. The Supreme Court shall then consider the recommendation of the AOC and any filed response by the Court Administrator, and shall forthwith adjudicate the issue and, if applicable, impose sanctions.

4.3 At any time after the Notice of Noncompliance to the Supreme Court is filed and prior to the Notice to Show Cause being issued by the Supreme Court, an Administrator may file with the AOC an affidavit indicating compliance with the Rules for Certification and Continuing Court Education for Mississippi Court Administrators, and if satisfactory to the AOC, it shall forthwith notify the Supreme Court that the Court Administrator has fulfilled the requirements of these Rules and Regulations.

303 *CONSTITUTION AND BYLAWS OF THE MISSISSIPPI COURT ADMINISTRATORS ASSOCIATION*

Accessible on the Mississippi Court Administrators Association website at:

<https://www.mscaa.org/constitution-and-bylaws-1>

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CHAPTER 4

THE BUDGET PROCESS

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Summarize
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ORDER APPOINTING AND SETTING SALARY FOR COURT ADMINISTRATOR

WORKSHEETS OF "EXPENDITURE BUDGET"

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400 WHAT IS A BUDGET?

A budget is a reliable estimate of office expenses for the upcoming fiscal year. A properly prepared budget should also show the reasonableness of those expenses. Expressing the budget in accounting terms facilitates comparisons of preceding years.

401 SOURCES OF FUNDING

§ 9-17-5 Special fund:

(1) In each county where a court administrator has been appointed pursuant to this chapter, a special fund in the county treasury is hereby established to be known as the "court administration fund."

(2)(a) The judges and chancellors may apply their expense allowance in Section 9-1-36, Mississippi Code of 1972, to the court administration fund.

(b) The board of supervisors of any county within a judicial district having a court administrator is authorized to pay its pro rata cost of the salary and furnish an equipped office for the court administrator and his staff from county funds. The board of supervisors is further authorized to accept grants, gifts, donations or federal funds for the benefit of the office of the court administrator.

(c) The board of supervisors of any county within a judicial district having a court administrator is authorized, in its discretion, to charge, in addition to all other costs required by law, an amount not to exceed two dollars (\$2.00) for each complaint filed in the chancery, circuit and county courts of such county. Any money collected pursuant to this subsection shall be paid into the court administrator fund.

(d) Money paid into the court administration fund under this chapter shall be applied to the office of the court administrator for the purpose of funding that office.

(3) All expenditures made from the court administration fund shall be upon written requisition of the court administrator approved by a judge or chancellor to the county or counties of the district designated by him, in proportion to the business of his office in the county.

§ 9-1-36 Office operating allowance:

(1) Each circuit judge and chancellor shall receive an office operating allowance for the expenses of operating the office of the judge, including retaining a law clerk, legal research, stenographic help, stationery, stamps, furniture, office equipment, telephone, office rent and other items and expenditures necessary and incident to maintaining the office of judge. The allowance shall be paid only to the extent of actual expenses incurred by the judge as itemized and certified by the judge to the Supreme Court in the amounts set forth in this subsection; however, the judge may expend sums in excess thereof from

the compensation otherwise provided for his office. No part of this expense or allowance shall be used to pay an official court reporter for services rendered to said court.

(a) Until July 1, 2008, the office operating allowance under this subsection shall be not less than Four Thousand Dollars (\$4,000.00) nor more than Nine Thousand Dollars (\$9,000.00) per annum.

(b) From and after July 1, 2008, the office operating allowance under this subsection shall be Nine Thousand Dollars (\$9,000.00) per annum.

(2) In addition to the amounts provided for in subsection (1), there is hereby created a separate office allowance fund for the purpose of providing support staff to judges. This fund shall be managed by the Administrative Office of Courts.

(3) Each judge who desires to employ support staff after July 1, 1994, shall make application to the Administrative Office of Courts by submitting to the Administrative Office of Courts a proposed personnel plan setting forth what support staff is deemed necessary. The plan may be submitted by a single judge or by any combination of judges desiring to share support staff. In the process of the preparation of the plan, the judges, at their request, may receive advice, suggestions, recommendations and other assistance from the Administrative Office of Courts. The Administrative Office of Courts must approve the positions, job descriptions and salaries before the positions may be filled. The Administrative Office of Courts shall not approve any plan which does not first require the expenditure of the funds in the support staff fund for compensation of any of the support staff before expenditure is authorized of county funds for that purpose. Upon approval by the Administrative Office of Courts, the judge or judges may appoint the employees to the position or positions, and each employee so appointed will work at the will and pleasure of the judge or judges who appointed him but will be employees of the Administrative Office of Courts. Upon approval by the Administrative Office of Courts, the appointment of any support staff shall be evidenced by the entry of an order on the minutes of the court. When support staff is appointed jointly by two (2) or more judges, the order setting forth any appointment shall be entered on the minutes of each participating court.

(4) The Administrative Office of Courts shall develop and promulgate minimum qualifications for the certification of court administrators. Any court administrator appointed on or after October 1, 1996, shall be required to be certified by the Administrative Office of Courts.

(5) Support staff shall receive compensation pursuant to personnel policies established by the Administrative Office of Courts; however:

(a) From and after July 1, 1994, the Administrative Office of Courts shall allocate from the support staff fund an amount of Forty Thousand Dollars (\$40,000.00) per

fiscal year per judge for whom support staff is approved for the funding of support staff assigned to a judge or judges; and

(b) From and after July 1, 2008, the Administrative Office of Courts shall allocate from the support staff fund an amount of Forty Thousand Dollars (\$40,000.00), in addition to the amount provided in paragraph (a). Of the amount provided in this paragraph (b), each judge shall utilize an amount sufficient to ensure that judge has access to the services of a law clerk, whether hired by the judge separately or in concert with another judge. Any excess funds remaining upon satisfaction of this requirement may be used for any other support staff as defined in this section. Any employment pursuant to this subsection shall be subject to the provisions of Section 25-1-53.

The Administrative Office of Courts may approve expenditure from the fund for additional equipment for support staff appointed pursuant to this section in any year in which the allocation per judge is sufficient to meet the equipment expense after provision for the compensation of the support staff.

(6) For the purposes of this section, the following terms shall have the meaning ascribed herein unless the context clearly requires otherwise:

(a) "Judges" means circuit judges and chancellors, or any combination thereof;

(b) "Support staff" means court administrators, law clerks, legal research assistants or secretaries, or any combination thereof, but shall not mean school attendance officers;

(c) "Compensation" means the gross salary plus all amounts paid for benefits or otherwise as a result of employment or as required by employment; provided, however, that only salary earned for services rendered shall be reported and credited for Public Employees' Retirement System purposes. Amounts paid for benefits or otherwise, including reimbursement for travel expenses, shall not be reported or credited for retirement purposes;

(d) "Law clerk" means a clerk hired to assist a judge or judges who has a law degree or who is a full-time law student who is making satisfactory progress at an accredited law school.

(7) Title to all tangible property, excepting stamps, stationery and minor expendable office supplies, procured with funds authorized by this section, shall be and forever remain in the State of Mississippi to be used by the circuit judge or chancellor during the term of his office and thereafter by his successors.

(8) Any circuit judge or chancellor who did not have a primary office provided by the county on March 1, 1988, shall be allowed an additional Four Thousand Dollars

(\$4,000.00) per annum to defray the actual expenses incurred by the judge or chancellor in maintaining an office; however, any circuit judge or chancellor who had a primary office provided by the county on March 1, 1988, and who vacated the office space after that date for a legitimate reason, as determined by the Department of Finance and Administration, shall be allowed the additional office expense allowance provided under this subsection. The county in which a circuit judge or chancellor sits is authorized to provide funds from any available source to assist in defraying the actual expenses to maintain an office.

(9) The Supreme Court, through the Administrative Office of Courts, shall submit to the Department of Finance and Administration the itemized and certified expenses for office operating allowances that are directed to the court pursuant to this section.

(10) The Supreme Court, through the Administrative Office of Courts, shall have the power to adopt rules and regulations regarding the administration of the office operating allowance authorized pursuant to this section.

402 PREPARING THE BUDGET

General steps in planning a budget:

Preparing a budget requires planning out the upcoming year's operations and estimating the expenses necessary to make it happen. The following steps are guidance to this process.

1. Research future needs.
2. Complete worksheets.
3. Summarize.
4. Present budgetary results.

Research future needs:

Keep an updated file of routine expenses and labor costs to consult in preparing the annual budget. Such should include any memoranda, notes, or suggestions necessary to the administration of the court. Input of judges, chancellors, and clerks is important. Also, know when the budget is due to avoid the pressures of a sudden deadline. Normally this date is between mid-May and late June. Always submit your budgets on time.

Complete worksheets:

Worksheets structured in an accounting format effectively relate estimated expenses. Such also facilitates comparisons of the current budget to those of previous years, especially any significant increases of a particular budgetary item. Included below are

sample worksheets. Salaries include not only your salary and benefits but also those of any other employee (whether an AOC employee or not) necessary to your office. The budget includes both gross salary and benefits. For information on benefits, contact the AOC as to AOC employees and the county payroll officer as to strictly county employees. Contractual services include maintenance agreements, post office box rent, and leased office equipment. Consumable supplies and materials would include office supplies, postage, copying, telephone, and computer repair. Capital outlay would include expensive capital assets such as computer equipment, a telephone system, and copier. Not every year will require a capital outlay entry. But realize that equipment does break down from time to time. In such cases, any unused portions of the judge's or chancellor's staff allocation funds could be used for replacement purchases.

Summarize:

Transfer to the summary page only the totals generated in the supporting worksheets. Some software programs allow the convenience of generating percentages or other statistical data.

Present budgetary results:

You are now ready to present your budget to the judge or chancellor. Be ready to answer questions regarding any significant increases of budgetary items. Bring supporting documentation, too. Many judges like to discuss the budget with the board of supervisors prior to approval. If so, clarify your position. Maybe even suggest accompanying the judge to the meeting. Be prepared to defend the budget and, if necessary for approval, to revise it. Lastly, ascertain the amount in your operating account just preceding the end of the fiscal year. Have the judge enter an order transferring those funds to next year's budget. This will provide a cushion for any unexpected office expenses. Otherwise these are simply transferred to the county's general fund.

ORDER APPOINTING AND SETTING SALARY FOR SUPPORT STAFF

IT IS ORDERED that _____ is appointed AOC _____ for the
Name of Employee Position Title
_____ of the _____ Court District, effective _____.
Judge(s)/Chancellor(s) District # Circuit/Chancery Hire Date

Pursuant to Section 9-1-36 of the Mississippi Code Annotated, the annual salary of
_____ is hereby set at _____, plus benefits, which salary is to be funded by
Name of Employee Annual Salary

the allocation of funds from the court support staff fund(s) of the _____ of the
Judge(s)/Chancellor(s)
District.

NAME OF JUDGE

PERCENTAGE OF SALARY

PLEASE INDICATE SPECIFIC PERCENTAGES TO BE PAID FROM
EACH JUDGE OR JUDGES' SUPPORT STAFF FUNDS HERE.

ORDERED AND ADJUDGED this the ____ day of _____, 20____.

NAME OF JUDGE(S)/CHANCELLOR(S)

ALL JUDGES CONTRIBUTING TO SALARY MUST SIGN THE ORDER.

ORDER APPOINTING AND SETTING SALARY FOR COURT ADMINISTRATOR

There having come on for consideration the matter of the appointment of the _____
Circuit or Chancery

Court Administrator, it is hereby ordered by the undersigned _____ of the
Judge/Judges

_____ Court District that, pursuant to Section 9-17-1 of the Miss. Code Annotated,
District# Circuit/Chancery

_____ is hereby appointed Court Administrator for the District. It is further
Name of Administrator

ordered that the salary for said Court Administrator is hereby set at \$_____ per year, plus
Amount of Salary

benefits, effective _____. Said salary shall remain in effect until further order of this Court.
Hire Date

Pursuant to Section 9-1-36 of the Mississippi Code Annotated, the salary of said
Court Administrator shall be funded on a monthly basis first by application from the funds remaining
in the judge or judges court support staff fund(s) as follows:

_____	_____
Name of Judge	Percentage
_____	_____
Name of Judge	Percentage
_____	_____
Name of Judge	Percentage

and then from the county or counties of the District in the percentages set forth below.

PLEASE STATE PAYMENT FROM SPECIFIC COUNTIES IN PERCENTAGES (NOT DOLLAR AMOUNTS) HERE

ORDERED AND ADJUDGED this the _____ day of _____, 20_____.

CHANCELLOR/JUDGE

CHANCELLOR/JUDGE

(All Judges Contributing to Salary Must Sign)

Expenditure Budget
Departmental Summary
For the Fiscal Year Ending _____, 20____

Department: _____

	Requested	Approved
Total Personal Services	\$	\$
Total Contractual Services	\$	\$
Total Consumable Supplies and Materials	\$	\$
Total Capital Outlay	\$	\$
Total Estimated Expenditures	\$	\$

Department: Court Administration

A. Salaries by Position	Actual Expenditures Fiscal Year Ending _____	Estimated Expenditures for Fiscal Year Ending _____	Requested Amount
1.	\$	\$	\$
2.	\$	\$	\$
3.	\$	\$	\$
4.	\$	\$	\$
5.	\$	\$	\$
6.	\$	\$	\$
7.	\$	\$	\$
8.	\$	\$	\$
TOTAL	\$	\$	\$

B. Employer Costs	Actual Expenditures Fiscal Year Ending _____	Estimated Expenditures for Fiscal Year Ending _____	Requested Amount
1. FICA	\$	\$	\$
2. Retirement	\$	\$	\$
3. Group Insurance	\$	\$	\$
4. Unemployment Insurance	\$	\$	\$
5. Worker's Compensation	\$	\$	\$
6. Other	\$	\$	\$
TOTAL	\$	\$	\$

C. Travel	Actual Expenditures Fiscal Year Ending _____	Estimated Expenditures for Fiscal Year Ending _____	Requested Amount
	\$	\$	\$

D. Summary	Actual Expenditures Fiscal Year Ending _____	Estimated Expenditures for Fiscal Year Ending _____	Requested Amount
1. Total Salaries	\$	\$	\$
2. Total Employer Costs	\$	\$	\$
3. Total Travel	\$	\$	\$
TOTAL PERSONAL SERVICES	\$	\$	\$

Department: Court Administration

CONTRACTUAL SERVICE EXPENSE	Actual Expenditures Fiscal Year Ending _____	Estimated Expenditures for Fiscal Year Ending _____	Requested Amount
1.	\$	\$	\$
2.	\$	\$	\$
3.	\$	\$	\$
4.	\$	\$	\$
5.	\$	\$	\$
6.	\$	\$	\$
7.	\$	\$	\$
8.	\$	\$	\$
9.	\$	\$	\$
10.	\$	\$	\$
11.	\$	\$	\$
12.	\$	\$	\$
13.	\$	\$	\$
14.	\$	\$	\$
15.	\$	\$	\$
16.	\$	\$	\$
17.	\$	\$	\$
18.	\$	\$	\$
19.	\$	\$	\$
20.	\$	\$	\$
21.	\$	\$	\$
22.	\$	\$	\$
23.	\$	\$	\$
24.	\$	\$	\$
25.	\$	\$	\$
26.	\$	\$	\$
TOTAL CONTRACTUAL SERVICES	\$	\$	\$

Department: Court Administration

OFFICE SUPPLIES AND MATERIALS	Actual Expenditures Fiscal Year Ending _____	Estimated Expenditures for Fiscal Year Ending _____	Requested Amount
1.	\$	\$	\$
2.	\$	\$	\$
3.	\$	\$	\$
4.	\$	\$	\$
5.	\$	\$	\$
6.	\$	\$	\$
7.	\$	\$	\$
8.	\$	\$	\$
9.	\$	\$	\$
10.	\$	\$	\$
11.	\$	\$	\$
12.	\$	\$	\$
13.	\$	\$	\$
14.	\$	\$	\$
15.	\$	\$	\$
16.	\$	\$	\$
17.	\$	\$	\$
18.	\$	\$	\$
19.	\$	\$	\$
20.	\$	\$	\$
21.	\$	\$	\$
22.	\$	\$	\$
23.	\$	\$	\$
24.	\$	\$	\$
25.	\$	\$	\$
26.	\$	\$	\$
TOTAL CONSUMABLE SUPPLIES AND MATERIALS	\$	\$	\$

Department: Court Administration

COST OF ASSETS PURCHASED	Actual Expenditures Fiscal Year Ending _____	Estimated Expenditures for Fiscal Year Ending _____	Requested Amount
1.	\$	\$	\$
2.	\$	\$	\$
3.	\$	\$	\$
4.	\$	\$	\$
5.	\$	\$	\$
6.	\$	\$	\$
7.	\$	\$	\$
8.	\$	\$	\$
9.	\$	\$	\$
10.	\$	\$	\$
11.	\$	\$	\$
12.	\$	\$	\$
13.	\$	\$	\$
14.	\$	\$	\$
15.	\$	\$	\$
16.	\$	\$	\$
17.	\$	\$	\$
18.	\$	\$	\$
19.	\$	\$	\$
20.	\$	\$	\$
21.	\$	\$	\$
22.	\$	\$	\$
23.	\$	\$	\$
24.	\$	\$	\$
25.	\$	\$	\$
26.	\$	\$	\$
TOTAL CAPITAL OUTLAY	\$	\$	\$

CHAPTER 5

LAWS PROHIBITING DISCRIMINATORY PRACTICES

500 INTRODUCTION

501 FEDERAL LAWS

502 WEBSITES

Mississippi's Official State Website

U.S. Equal Employment Opportunity Commission (EEOC)

Mississippi State Personnel Board (SPB)

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500 INTRODUCTION

Court administrators must safeguard against discriminatory practices in violation of federal and state laws. This chapter is intended to familiarize you with some of these laws.

501 FEDERAL LAWS

Federal laws prohibiting discriminatory practices include but are not limited to:

- **Civil Rights Act (42 U.S.C. § 2000e et seq.)**

Case law:

Clark County School District v. Breeden, 532 U.S. 268, 270-71 (2001) (“Workplace conduct is not measured in isolation; instead, “whether an environment is sufficiently hostile or abusive” must be judged “by ‘looking at all the circumstances,’ including the ‘frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.’”).

Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 66-72 (1986) (“[A] plaintiff may establish a violation of Title VII by proving discrimination based on sex has created a hostile or abusive work environment. . . . [W]e reject petitioner's view that the mere existence of a grievance procedure and a policy against discrimination, coupled with respondent's failure to invoke that procedure, must insulate petitioner from liability. While those facts are plainly relevant, the situation before us demonstrates why they are not necessarily dispositive. ”).

Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 259 (1981) (“Title VII . . . does not demand that an employer give preferential treatment to minorities or women. . . . Rather, the employer has discretion to chose among equally qualified candidates, provided the decision is not based upon unlawful criteria.”).

McDonnell Douglas Corporation v. Green, 411 U.S. 792, 800-02 (1973) (“The language of Title VII makes plain the purpose of Congress to assure equality of employment opportunities and to eliminate those discriminatory practices and devices which have fostered racially stratified job environments to the disadvantage of minority citizens. . . . The complainant in a Title VII trial must carry the initial burden under the statute of establishing a prima facie case of racial discrimination. This may be done by showing i) that he belongs to a racial minority; ii) that he applied and was qualified for a job for which the employer was seeking applicants; iii) that, despite his qualifications, he was rejected; and iv) that, after his rejection, the position remained open and the employer continued to seek applicants from persons of complainant’s qualifications.”).

Hill v. Mississippi State Employment Service, 918 F.2d 1233, 1239 (5th Cir. 1990) (“An employer's mere affirmations of good faith in individual selections add no factual assistance and cannot adequately rebut a prima facie showing of racial discrimination.”).

Parikh v. United Artists Theatre Circuit, Inc., 934 F. Supp. 760, 764 (S.D. Miss. 1996) (“To establish a prima facie case of employment discrimination, an aggrieved party must show that he or she (1) was discharged, (2) was qualified for the position, (3) is a member of a protected class, and (4) was replaced by someone outside the protected class. . . . Once a prima facie case has been established, the defendant bears the burden of producing a legitimate, non-discriminatory reason for the plaintiff’s discharge. . . . [If the prima facie case is rebutted], to be successful, a plaintiff must produce evidence from which a fact finder could infer that defendant’s articulated reasons for plaintiff’s termination are not merely pretextual, but also a pretext for the prohibited discrimination.”).

Gulf Coast Research Laboratory v. Amaraneni, 722 So.2d 530, 535 (Miss. 1998) (“Both parties in this appeal acknowledge that the standard from McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) is applicable in a suit under § 1983. The federal judiciary has acknowledged that the required elements of prima facie proof necessary for a plaintiff charging a racially hostile work environment under both Title VII and § 1983 are the same.”).

- **Americans with Disabilities Act (ADA) (42 U.S.C. 12101 et seq.)**

See also 29 C.F.R. § 1630 “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act.”

Case law:

United States v. Georgia, 546 U.S. 151, 154 (2006) (“In enacting the ADA, Congress “invoke[d] the sweep of congressional authority, including the power to enforce the fourteenth amendment. . . .” 42 U.S.C. § 12101(b)(4). Moreover, the Act provides that “[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in [a] Federal or State court of competent jurisdiction for a violation of this chapter.” § 12202. We have accepted this latter statement as an unequivocal expression of Congress's intent to abrogate state sovereign immunity.”).

Tennessee v. Lane, 541 U.S. 509, 516-517 (2004). “[ADA] forbids discrimination against persons with disabilities in three major areas of public life: employment, which is covered by Title I of the statute; public services, programs, and activities, which are the subject of Title II; and public accommodations, which are covered by Title III.”).

Board of Trustees of the University of Alabama v. Garrett, 531 U.S. 356, 357 (2001) (“Because Eleventh Amendment immunity does not extend to local governmental units such as cities and counties, see Lincoln County v. Luning, 133 U.S. 529, 530, 10 S.Ct. 363, 33 L.Ed. 766, the Court rejects respondents' contention that the inquiry as to unconstitutional discrimination should extend to such units as well as to States.”).

United States v. Mississippi Department of Public Safety, 321 F. 3d 495, 499 (5th Cir. 2003) (“The United States is not barred by the Eleventh Amendment from suing a state to enforce federal law and obtain relief authorized by the ADA.”).

McNally v. Choctaw Maid Farms, 12 F. Supp. 2d 539, 542 (S.D. Miss. 1998) (“The ADA was enacted in 1990 to ensure that disabled individuals are treated equally to non-disabled persons and “to remove barriers which prevent qualified individuals with disabilities from enjoying the same employment opportunities that are available to persons without disabilities.””).

Thomas v. Mississippi State Dep’t of Health, 934 F. Supp. 768, 771 (S.D. Miss. 1996) (“A plaintiff may establish a claim of disability discrimination under the ADA by presenting either direct evidence of discrimination or indirect evidence of discrimination by the method of proof established for Title VII actions in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973). [I]n the absence of direct evidence a plaintiff can state a prima facie case by showing that (1) he suffers from a disability; (2) he is qualified for the job; (3) he was subject to an adverse employment action; and (4) he was replaced by a non-disabled person or was treated less favorably than non-disabled employees.”).

Brady v. Walmart Stores, Inc., 43 F. Supp. 2d 652, 656 (S.D. Miss. 1998) (“When one can perform the normal activities of daily living, despite an alleged impairment, then the person is not substantially limited in that major life activity.”).

Thomas v. Mississippi State Dep’t of Health, 934 F. Supp. 768, 773 (S.D. Miss. 1996) (“An employer can hold an individual who abuses drugs or alcohol to the same standard of job performance as that of people who do not abuse drugs and alcohol.”).

- **Age Discrimination in Employment Act (ADEA) (29 U.S.C. §§ 621 et seq.)**

Case law:

McLaurin v. Spell, 2003 WL 22242840 (N.D. Miss.) (“Under the ADEA, a plaintiff may state a prima facie case by showing (1) he was discharged; (2) he was qualified for the position; (3) he was within the protected class; and (4) he was (i) replaced by someone outside the protected class, (ii) replaced by someone younger, or (iii) otherwise discharged because of his age.”).

Cash Distributing Co., Inc. v. Neely, 947 So.2d 286, 299 (Miss. 2007) (“We overrule Columbus Paper insofar as it requires an ADEA plaintiff to rebut each and every nondiscriminatory reason for an adverse employment decision proffered by the employer.”).

Columbus Paper & Chemical, Inc. v. Chamberlin, 687 So. 2d 1143, 1149 (Miss. 1996) (“To prove a violation of the ADEA, the plaintiff must prove intentional discrimination. If the plaintiff does not have direct proof of age-based animus the plaintiff can create a rebuttable presumption of discrimination by establishing a prima facie case.”).

- **The Equal Pay Act of 1963 (EPA) (29 U.S.C. § 206(d))**

Case law:

Woodson v. Mississippi Space Services/Computer Sciences Corp., 2007 WL 2012809 (S.D.Miss.) (“The Equal Pay Act, 29 U.S.C. § 206(d)(1) applies only to claims of discrimination based on gender. Claims based on unequal pay due to racial motivations are properly brought under Title VII.”).

Hofmister v. Mississippi State Dept. of Health, 53 F. Supp. 2d 884, 889 (S.D. Miss. 1999) (“To establish a prima facie case under the EPA, the plaintiffs must show: (1), that the MDH is subject to the Act; (2), that they, the plaintiffs, performed work in a position requiring equal skill, effort, and responsibility under similar working conditions; and (3), that they were paid less than the employee of the opposite sex providing the basis of comparison.”).

- **Family and Medical Leave Act (FMLA) (29 U.S.C. §§ 2601 et seq.)**

Case law:

Nevada Department of Human Services v. Hibbs, 538 U.S. 721, 724 (2003) (“The Family and Medical Leave Act of 1993 (FMLA or Act) entitles eligible employees to take up to 12 weeks of unpaid leave annually for any of several reasons, including the onset of a “serious health condition” in an employee’s spouse, child, or parent. The Act creates a private right of action to seek both equitable relief and money damages “against any employer (including a public agency) in any Federal or State court of competent jurisdiction . . . should that employer “interfer with, restrain, or deny the exercise of” FMLA rights . . .”).

Bryant v. Mississippi State University, 329 F. Supp.2d 818, 827 (N.D. Miss. 2004) (“In sum, the Court finds that there is no evidence of a pattern of gender discrimination in granting personal medical leave to employees by either public or private employers. Subsection (D), the self-care provision, of the FMLA did not effectuate a valid abrogation of the State’s immunity.”).

502 WEB SITES

Below are web sites that address federal and state laws prohibiting discrimination:

Mississippi’s Official State Website: www.ms.gov.

U.S. Equal Employment Opportunity Commission (EEOC): www.eeoc.gov.

Mississippi State Personnel Board (SPB): www.mspb.ms.gov/

CHAPTER 6

CASEFLOW MANAGEMENT

600 INTRODUCTION

601 DOCKET PROCEDURES

602 THE CALENDAR

603 WHAT IS GOOD CASEFLOW MANAGEMENT?

604 FEATURES OF EFFECTIVE CASEFLOW MANAGEMENT

General considerations

Clearing out the backlog of cases

Early court intervention

Differentiated Case Management

Realistic schedules and meaningful pretrial court events

Credible trial dates

Management of trials

Management of court events after initial disposition

Leadership, commitment, and communication

Policies of specific goals and expectations

Reports

605 CASEFLOW ISSUES ON PARTICULAR TYPES OF CASES

606 MEDIA COVERAGE CONSIDERATIONS

Mississippi Rules for Electronic and Photographic Coverage

Media coverage considerations for justice and municipal courts

607 INTERPRETERS

General considerations

Interpreters for limited English proficiency (LEP) individuals

Interpreters for deaf persons

Websites

608 MISSISSIPPI ELECTRONIC COURTS

609 PUBLIC RECORDS ACCESS

***ADMINISTRATIVE ORDER: TIME STANDARDS IN THE CHANCERY,
CIRCUIT AND COUNTY COURTS***

600 INTRODUCTION

Case management is essential to an orderly system of justice. Features of successful courts include: the judge asserting a leadership role; clearly defined policies and goals; effective monitoring of cases; good communications; and staff involvement.

601 DOCKET PROCEDURES

The Mississippi Rules of Court and the Mississippi Code provide docket procedures for each of our courts. These procedures include the duties of the clerk in keeping and calling the docket. The particular docket procedure for a given case depends on what it is about and which court is hearing it. Civil actions, criminal proceedings, and equity matters all have different docket procedures. Any proposed case management program must conform to these provisions. See “Dockets and Docketing” in General Index of the Mississippi Code.

602 THE CALENDAR

The court’s calendar lists the agenda for the upcoming court term. Such might include dates and times for motions, pretrial conferences, trials, and sentencing. It is also used to chart the direction and progress of the court. Types of calendar systems include individual, master, team, and hybrid.⁶

603 WHAT IS GOOD CASEFLOW MANAGEMENT?

We’ve all heard the adage: “If it ain’t broke, don’t fix it.” A lot depends on how one defines “ain’t broke”. One commentator remarked: “If the court is not “hanging by its fingertips,” there is no impetus for change.”⁷ Ignoring warning indicators can needlessly result in a backlog of cases and ineffective use of court personnel and resources.

Good caseflow management is setting and implementing administrative policies that ensure a just and reasonably prompt disposition of all cases before the court.

Setting administrative policies: The judge, not the court administrator, sets policies. The court administrator, though, presents monthly and annual reports influential to policy-making

⁶See David C. Steelman et al., *Caseflow Management: The Heart of Court Management in the New Millineum*, 111-118 (National Center for State Courts) (discusses each of these calendar systems).

⁷Joan E. Jacoby, *Expedited Drug Case Management Programs: Some Lessons in Case Management Reform*, 17 Just. Sys. J. 19, 30 (1994) (citing Edward C. Ratledge, University of Delaware, (EDMC evaluator)).

decisions. Such reports usually relate: caseload management statistics; budgetary matters; personnel concerns; schedules; community resources; and public relations.

Implementing administrative court policies: Accomplishing this task requires the cooperation of all participants— including judges.⁸ Interpersonal management skills are essential.

A just disposition: “[T]he analogy between courts and modern business is not apt in every respect.”⁹ One difference is the unique product of courts— “Fair and Equal Justice Under Law”. As one commentator has noted: “The tendency of some administrators to believe that most decisions can be put into a time clock— so much time for a divorce, so much for an opinion, so much to sentence a person— is an anathema to a judge.”¹⁰ Expediting justice has its perils.¹¹ Some modern practices for increasing productivity are simply inappropriate to courts. Justice is not a widget.¹²

Reasonably prompt: Mississippi courts are committed to the “timeliness and efficiency” of court hearings.¹³ Timeliness, standing alone, is a somewhat technical concept of Constitutional and statutory restrictions, e.g., speedy trial, limitations of actions, etc. On the other hand, “timeliness and efficiency” invokes something more akin to public confidence and trust— i.e., the “reasonably prompt” disposition of cases. Irrespective of the terminology, the expectation is there. What is “reasonably prompt” goes to the nature and complexity of each particular case.

⁸See Jacoby, *supra* note 2, at 35 (“The court assisted in the program by establishing a no-continuance policy and educating the local legal culture of the court’s expectations with respect to continuances, discovery, and plea negotiations.”).

⁹James Duke Cameron, et al., *The Chief Justice and the Court Administrator: The Evolving Relationship*, 113 F. D. R. 439, 454 (1987).

¹⁰*Id.* at 452.

¹¹See *id.* at 456 (“There appears to be built-in opposition between the demands of administrative efficiency and the purpose of the system itself. . . . [T]he purpose of a judiciary is to do justice; the purpose of administration is to be efficient. Due process can be inefficient, and efficiency can be unjust.”).

¹²See *id.* at 453 (citing Charles D. Edelstein who stated: “Justice takes time, careful deliberation and individual attention. Mass production of judicial decisions permits neither individual justice in individual cases nor overall justice in all cases.”).

¹³See Chief Justice Lenore L. Prather, *A Century of Judicial History*, 69 Miss. L.J. 1013, 1046 (2000) (“In January 1998, all sections of the Mississippi Judiciary— supreme court, court of appeals, chancery, circuit, county, justice, youth, and municipal justices/judges committed to these standards: (1) Access to the court system for all people; (2) timeliness and efficiency of court hearings; (3) fairness, equality, and integrity of decisions; (4) independence of the judiciary, but accountability for resources; and (5) increasing public trust and confidence in the judiciary.”).

Of all cases before the court: Caseflow management should strive for complete resolution of all cases before the court according to a scheduled time frame.¹⁴ Sometimes cases linger within the system due to simple ignorance or neglect.¹⁵ One approach to avoid this problem is case status clarification. This allows the court to close cases or exclude others as “active pending cases” if certain criteria is met.¹⁶

604 FEATURES OF EFFECTIVE CASEFLOW MANAGEMENT¹⁷

General considerations:

Features of effective courtflow management include:

- early court intervention and continuous court control over cases;
- differentiated case management (DCM);
- realistic schedules and meaningful pretrial court events;
- credible trial dates;
- management of trials; and
- management of court events after initial disposition.

Other key aspects include: leadership; commitment to a shared vision; communications; and a learning environment. Underlying it all are policies of specific goals and expectations.

Clearing out the backlog of cases:

Each of the following techniques when properly utilized has proven successful in reducing congested dockets: Backlog Reduction Programs; Differentiated Case Management (DCM); Expedited Drug Case Management (EDCM); and Delay Reduction Programs.¹⁸

¹⁴See Symposium, *Reports on Caseflow Management Programs and Partial Follow-up*, 24-MAR Vt. B.J. & L. Dig. 43, 43 (1998) (“Good case flow management means there are few if any cases that are prepared for trial that are actually waiting to be heard.”).

¹⁵M. Janice Michels, *Management Note: Transition to Court Management of Cases from Filing to Disposition*, 16 Just. Sys. J. 89, 97 (1992) (“Often, the problems with case disposition status were the result of lack of attorney understanding about what actions resolved or closed a case in the eyes of the court.”).

¹⁶See *id.* at 91.

¹⁷See Steelman et al., *supra* note 1, Chapter I. This is an excellent resource for state court administrators. It is the primary source of information for the discussion below.

¹⁸For a discussion of each respectively: Michels, *supra* note 10 (Backlog Reduction); Jacoby, *supra* note 2 (DCM and EDCM); and M. Janice Michels, *Case Management Techniques Work*, 18 Just. Sys. J. 75 (1995) (Delay Reduction Programs).

Early court intervention:

“In practice, early court control means only that the commencement of a case triggers a monitoring process. In this process, the clerk records the initial filing of a case and enters the case into a system under which it will be reviewed at a fixed time to determine whether the next anticipated event has occurred in keeping with time standards for interim stages in the case’s progress. This process can and should be part of the court’s automated case-management information system.”¹⁹

Checklist:

- ✓ Case information sheet.
- ✓ Schedule hearing or conference dates.
- ✓ Case management orders to govern progress of case.
- ✓ “Computerized citation preparation by law enforcement officers, automated case information systems, and optical scanning and image processing for traffic citations are means by which technology has critically aided case processing for traffic cases.”²⁰

Differentiated Case Management:

Differentiated Case Management (DCM) is sorting cases into selected track assignments. E.g., Expedited track (Requires little or no involvement of judges) → Standard track (Requires some conferences or hearings) → Complex track (Requires special attention). “There is no magic number [of DCM tracks]; the number should reflect realistic distinctions in case-processing requirements.”²¹

Realistic schedules and meaningful pretrial court events:

Policies should be in place to ensure realistic schedules and meaningful pretrial dates.²² One way of achieving this is through periodic status conferences.²³ Such allows the court to: review case management orders; monitor discovery concerns; make referrals to alternative

¹⁹Steelman et al., *supra* note 1, at 3.

²⁰*Id.* at 39.

²¹*Id.* at 5.

²²See Symposium, *supra* note 9, at 43 (“The consensus was that while scheduling orders help, the court should take a more active role . . . to track and move the case.”);

²³See *id.* at 43 (“[Readiness] is achieved by status conferences at critical points. A status conference should be set early, and each conference must be meaningful.”).

dispute resolution; discuss settlement possibilities; and assess DCM track assignments.²⁴ Discovery delays appear especially troublesome for some courts.²⁵

Credible trial dates:

To assure credible trial dates the court should take the following steps: (1) dispose of as many cases as possible before setting trial dates, (2) utilize realistic trial calendars, (3) adopt reasonable but firm policy regarding continuances, and (4) provide for “backup” judges. “The certainty of trial and implementation of a realistic setting policy can be enhanced if the court sets the actual trial date only after settlement possibilities have been exhausted and keeps trial calendars as small as possible to keep up with its pending cases.”²⁶

Checklist:

- ✓ Prompt rulings on pretrial motions, especially if dispositive.
- ✓ Guilty pleas at initial appearance or arraignment. Such is more likely if there is early appearance of defense counsel, early access to discovery, realistic charges, realistic plea offers, and plea cut off dates.
- ✓ Dismissal or default judgment if no responsive pleading by defendant.
- ✓ Utilize a “reasonable setting factor” which takes into account, among other considerations, the type and complexity of the case, the monetary amounts or criminal penalties, and the practice styles of the attorneys. “The “setting factor” should result in the setting of the smallest number of cases possible to ensure hearing of matters at or near the scheduled time and date, accommodation of cases that “fall out,” and case progress sufficient to ensure compliance with time standards.”²⁷

Management of trials:

Trial management involves the following steps: (1) preparation for trial, (2) scheduling to start trials on time and provision of adequate time for them, (3) management of jury selection, (4) maintenance of trial momentum, and (5) establishment and enforcement of time limits. Such applies (with the exception of (3)) to both jury and non-jury trials irrespective of locale. Rural courts, though, are usually more informal, flexible, and personal than urban courts.²⁸

²⁴See Michels, *supra* note 10, at 93 (1992) (sample orders of civil and domestic case schedules).

²⁵See Symposium, *supra* note 9, at 43 (“Everyone agreed that there is an epidemic of discovery delays. Many felt that discovery delays are caused by: (i) lack of meaningful penalties for delay; (ii) judges not enforcing discovery orders; (iii) failure to take deadlines seriously because the court will not likely be ready when the case is ready.”).

²⁶Steelman et al., *supra* note 1, at 29.

²⁷*Id.* at 9.

²⁸See Theodore J. Fetter, *Improving Court Operations in Rural Areas*, 31 Am. U. L. Rev. 255, 258 (1982); Steelman et al., *supra* note 1, at 21 (“The authors of the RJC study concluded that the “dominant driving force in rural court systems is comity.” “Attorneys accommodate each other to

Checklist:

- ✓ Hold trial management conference about two weeks before scheduled trial date. Such allows the resolution of issues that might otherwise interrupt or delay the trial proceedings. It also provides an opportunity to: establish time limits of voir dire, opening statements, and closing arguments; communicate expectations of the trial schedule; and go over the jury selection process.
- ✓ Establish trial policies that avoid interruptions and distractions. Such should address concerns of telephone messages, unanticipated matters, length of recesses, readiness of witnesses, and protocol regarding objections and exhibits. Instruct all court staff, bailiffs, and attorneys regarding these policies.
- ✓ Notorious trials require special attention as to media relations, juror needs, and security arrangements.

Management of court events after initial disposition:

Management of court events after initial disposition follows the same principles as pretrial management. An additional consideration is defining what constitutes final closure.

Checklist:

- ✓ Policies to ensure the collection of fines and fees.
- ✓ Policies to assist the collection of judgments.
- ✓ Managing violations of probation that involve new offenses.

Leadership, commitment, and communication:

Leadership: Key positions of leadership include the chief or presiding judge, state-level leadership (e.g. Administrative Office of Courts), and others within the legal community such as prosecutors, public defenders, and private attorneys. Other possibilities are a chief judge-court manager team or caseflow management committee. Whoever it is— “The leader in an effort to improve caseflow management is one who must motivate others to invest themselves in the proposed program. He or she might do this by 1) articulating a vision of how changes will improve the system, 2) showing how individual persons will benefit from them, and 3) showing ongoing commitment to the effective operation of the proposed program through dissemination of information on program progress and rewards to those who help the program achieve its goals. Finally, the advocate of the new program has to exercise leadership by

survive economically. Prosecutors are often unwilling to screen our weak cases because they do not want to offend law enforcement. Defense attorneys and part-time prosecutors often earn most of their income from civil practice, so that the ongoing relationship with the bar may be more important than the facts or outcome in a given case. Court managers often see their job as “keeping peace in the family.” And judges are often pressured to accommodate attorneys and court staff. “We all get along here” is the chorus sung in court after court.”’)

building a consensus and organizational support for it among the members of the court community who are essential to the program's success."²⁹

Commitment to a shared vision: Caseflow management policies should focus on ensuring a just and reasonably prompt disposition of all cases before the court. Such necessitates a firm commitment to case management policies, a resolve of continuous maintenance, court staff involvement, and community support. Also, if it is a truly "shared vision", allowance should be made for receiving outside suggestions or input.

Communications: There are several dimensions of communications: among judges; among court staff; state and local bar associations; court related agencies; local communities; and caseflow management committees. All of these persons or entities need to be aware of existing policies. Various ways of accomplishing this might include: keeping a book of administrative policies at the courthouse for public viewing; sending email or letter notices to local bar members; posting bulletins to a website; court initiated continuing education and training programs; and requiring newcomers to the court system to pick up a packet explaining policies. Another effective way to communicate policies, especially against an entrenched "local legal culture", is repeated rulings consistent with policies.

A learning environment: "Courts that are successful with caseflow management put a high value on education generally and provide specific training in their caseflow management improvement programs."³⁰ Clearly defined expectations of the various participants—judges, clerks, lawyers, social workers, and security—promotes courtroom efficiency. This might require explaining or demonstrating tasks related to new policies. It will likely require patience, too. Usually there is some resistance to change. People get comfortable in the status quo. Grumbling should quiet, though, as more become familiar with and recognize the benefits of the new policies.

Policies of specific goals and expectations:

It's a threefold question: "Where are we now?" "Where do we want to be?" "How do we get there?" The answers require the right information and accurate statistics.³¹ Collecting and maintaining it is integral to court management. Essential statistics include case filings, dispositions, and costs. Other statistics might relate to motions, juries, trials, and recidivism. All are helpful in measuring success.³² But, there are shortcomings. Statistics seldom reflect

²⁹Steelman et al., *supra* note 1, at 61.

³⁰*Id.* at 70.

³¹Information encompasses a wide swath of knowledge relating to a particular topic. Statistics, on the other hand, are numerical data. *See* The American Heritage College Dictionary (Third Edition).

³²*See* Steve Henley, *The Role of Court Administration in the Management, Independence, and Accountability of Courts*, 78-MAR Fla. B.J. 26, 32 (2004) ("Modern court systems face increasing demands to improve performance. In response, state court systems have implementing systems to monitor and improve performance, and to measure the fundamental elements of court performance: case

acceptance or contentment. A court's present efficiency could later translate to "burn out."³³ A high turnover rate creates a horrific clog to any system. Also, interpreting data sometimes requires expertise. Outside factors can skew results. Tread carefully. Rushing headlong into a pilot program could make an awful situation even worse.³⁴

Information checklist:

- ✓ Who within our legal community demonstrates leadership qualities that could help us accomplish our goals of improved caseload management?
- ✓ What community resources are available?³⁵
- ✓ Is there staff "burn out"?
- ✓ Does "comity" or the "local legal culture" present an obstacle to our goals?
- ✓ Is a caseload management committee a possibility?
- ✓ Is funding or resources a problem? (Budget is the "restrictor plate" of case management programs. Sometimes good ideas fail for lack of funds.)³⁶
- ✓ Which software is best suited to our court?³⁷
- ✓ How would our new policies affect the usual routine of court staff, prosecutors, public defenders, private attorneys, social workers, and bailiffs?³⁸

volume and timeliness of case processing.").

³³Symposium, *supra* note 9, at 43 ("Case flow management is about attitude. We need to put systems in place that promote a positive and cooperative attitude about case flow.").

³⁴See Jacoby, *supra* note 2, at 20 ("DCM/EDCM are problem oriented, grounded in the reality of case processing, and require substantial investments of administrative attention. Even though they are bold ventures into the area of court reform, their newness makes them subject to easy failure.").

³⁵Community resources are vital to meaningful sentencing. Courts should be familiar with all available community resources— including treatment centers, job and training services, volunteer programs, etc.

³⁶See Symposium, *supra* note 9, at 43 ("The courts need constituents. . . . When it comes to case flow management, you can't disregard the need for funding."); Donald J. Farole, Jr., et al., *Applying Problem Solving Principles in Mainstream Courts: Lessons For State Courts*, 26 *Just. Sys. J.* 57, 66 ("Limited resources were unquestionably thought to be the most significant barrier to practicing problem solving in conventional courts.").

³⁷See Steelman et al., *supra* note 1, at 99 ("A comprehensive automated case management system should have features supporting the following activities: indexing, docketing, notice preparation, court scheduling and calendar preparation, management and statistical report generation, and integration with the court's automated financial system.").

³⁸See *id.* at 127 ("A unilateral effort by court leaders to introduce significant changes in the management of cases, without prior consultation with and accommodation of those who will be affected by such changes, will fail. Instead, judge leaders and court managers must work with court staff who must deal with myriad case-processing details each day, with public and private lawyers, with funding authorities, and with others in the court process to achieve success.").

- ✓ Which type of calendar is best suited for our court system— individual calendar, master calendar, team calendar, or a hybrid of these?
- ✓ How might we publish and promote these policies?

Statistics checklist:

- ✓ What statistics do we presently keep?
- ✓ What statistics do we need to keep to successfully monitor the progress of our court’s caseflow management policies?
- ✓ Are there other statistics we might want to keep for future use?
- ✓ Have we considered fundamental issues regarding data definitions? (E.g., What is a “case”? When is it “pending” or “disposed”?)
- ✓ Should we use code definitions?³⁹
- ✓ What is the incidence of pro se cases?
- ✓ How do our statistics compare to case-processing time standards? (E.g., AOC, ABA, etc.)
- ✓ Have we set realistic goals?

Reports:

Monthly or annual reports should accurately reflect all pertinent information and statistics. An orderly, consistent, and comprehensive system of collecting information and statistics is your best reporting tool. Select a style and format that facilitates the presentation of data, results, and suggestions. Be clear and concise. Graphs, tables, and pie charts are useful to summarize results. This is especially true when comparing case processing standards or preceding years. You might also consider citing articles or studies that deal with issues of present interest to your court. Lastly, evaluate the results and make suggestions for improvement. Recognize too that sometimes caseflow management techniques cannot do more without additional resources.⁴⁰

³⁹*See id.* at 70. (“Every court and clerk’s office should develop a court data manual to serve as a reference for all court staff. The manual should include a list of all codes used on the automated case management system and a definition of each code. After the manual is developed and disseminated, a committee should meet at least annually to consider revisions and updates as laws change or as staff identify problems with the current code.”).

⁴⁰*See id.* at 73. (“[S]aturation point” is [where courts] cannot absorb and process more cases without additional judicial or nonjudicial staff resources.”).

605 CASEFLOW ISSUES ON PARTICULAR TYPES OF CASES

Intervention courts are a new facet of our court system. Applying problem-solving principles in mainstream courts has its own distinct issues. Some of these are addressed in various studies and articles.⁴¹

Youth court cases: Youth courts have jurisdiction over cases of abuse and neglect, delinquency, children in need of supervision, and dependency as set forth by statute. Court policies should be structured to meet all the specified time restrictions. Children are a paramount concern.

Criminal cases: Criminal cases include felonies, misdemeanors, traffic offenses, and violations of municipal ordinances. Proceedings therein include: bail; motions; jury selection; sentencing; restitution; probation violations; and extradition. Some caseflow programs are premised on the assumption that “not all cases need to follow the same court-processing sequence from arraignment to disposition and sentencing.”⁴² Other programs focus on keeping strict participatory controls.⁴³

Civil actions: Civil actions present distinct difficulties to overcome.⁴⁴ As noted by one legal scholar: “Two broad factors complicate the issue. First, the peculiar qualities of individual cases complicate efforts to establish generalization about the “right” amount of disposition

⁴¹See Farole, Jr., et al., *supra* note 31; Barry Mahoney, *Drug Courts: What Have We Learned So Far?* 17 Just. Sys. J. 127, 127 (1994) (“If anything is clear from the research on drug courts, it is that problems of high volume and potentially protracted case processing can be addressed by court system leaders through good planning and program implementation.”); Robert C. Davis, et al., *Court Strategies to Cope with Rising Drug Case Loads*, 17 Just. Sys. J. 1, 1 (1994) (“This article examines data on the success of three innovative court programs, including a dedicated drug court, improved case management techniques, and a drug treatment orientation.”).

⁴²See Jacoby, *supra* note 2, at 20.

⁴³See Barbara E. Smith, et al., *Introduction to the Special Issue*, 17 Just. Sys. J. V. (1994) (“Faster processing times tended to be associated with courts that exhibited some, or all, of the following characteristics: “(a) strict case-processing standards were maintained; (b) court administrators effectively used management information and maintained tight control over the pace of litigation; (c) experienced prosecutors screened and “tracked” cases at the time of charging; (d) defense counsel were assigned early in the process; (e) criminal history, lab, and presentence reports were produced speedily; or (f) mechanisms existed for the speedy resolution of motion and acceptance of pleas”).

⁴⁴See Michael Heise, *Justice Delayed?: An Empirical Analysis of Civil Case Disposition Time*, 50 Case W. Res. L. Rev. 813, 814-15 (2000) (“Prolonged case disposition time frequently correlates with an increase in litigation costs and threatens evidentiary quality as memories fade, evidence spoils, and witnesses and litigants die. Delays in the resolution of civil disputes erode public confidence in the civil justice system, disappoint and frustrate those seeking compensation through the legal system, and generate benefits for those with the financial ability to withstand delays or otherwise benefit from them. Such factors, individually and collectively, undermine public faith and confidence in the ability of our civil justice system to operate efficiently and, more importantly, equitably.”).

time for any particular case, especially at the pre-trial and trial stage. The scope and complexity of factual and legal issues and the number of interested parties vary from case to case, sometimes considerably. . . . Second, even if something resembling a consensus did exist on appropriate case disposition times, until recently, relatively few data were available to assist research on the question. Consequently, few scholars have ventured into this intellectual thicket.”⁴⁵ The answer may lie somewhere in future studies of case types, party types, case characteristics, and locale.⁴⁶ Some caseflow management techniques are applicable to both criminal cases and civil actions.

Eminent domain proceedings: The Fifth Amendment of the U.S. Constitution and Article 3, Section 17 of the Mississippi Constitution provide protection against taking property for public use. In Mississippi, eminent domain proceedings are generally governed by statute—namely, Miss. Code Ann. Sections 11-27-1 through 11-27-91. *See* M.R.C.P. 81 (specifically limits the applicability of the M.R.C.P. with respect to eminent domain proceedings). However, the Mississippi Rules of Civil Procedure do govern in instances where controlling statutes are silent as to procedure. *See* Comment to M.R.C.P. 81. One example is discovery procedures. *See Brown v. Mississippi Transportation Commission*, 749 So. 2d 948, 957 (Miss. 1999) (“The discovery tools, rules and procedures available in other civil proceedings are available in eminent domain proceedings). Other Mississippi Rules of Court applicable to eminent domain proceedings include:

- Mississippi Rules of Circuit and County Court Practice, Rule 3.03 which provides in part: “Special Courts of Eminent Domain may employ the jury venire of either county or circuit court in the selection of petit jurors, or may direct the clerk of the court concerning the number of petit jurors needed to be summoned for jury duty.”
- Mississippi Rules of Evidence, Rule 601(c) which provides: “(c) Competency of Appraiser. When the court—as required by law—appoints a person to make an appraisal for the immediate possession of property in an eminent domain case: (1) the appraiser may not testify as a witness in the trial of the case; and (2) the appraiser's report is not admissible in evidence during the trial.”
- Mississippi Rules of Evidence, Rule 706(f) which provides: “(f) Certain Eminent Domain Cases. Subdivisions (a)-(d) do not apply to an appraiser whom a court appoints—as required by law—for an immediate possession claim in an eminent domain case.”
- Mississippi Rules of Evidence, Rule 1101(a) which provides: “(a) To Courts and Proceedings. These rules apply to all cases and proceedings in Mississippi courts, except as provided in subdivision (b).”

Jury selection procedures, though, are for the most part statutory. *See* Miss. Code Ann Sections 11-27-11 (operation), 11-27-13 (separate trials; right to jury), and 11-27-17 (jury oath); Comment to M.R.C.P. 38 which provides in part: “[Rule 38(a)] takes a neutral position and affirms the right to a trial by jury in cases where it was guaranteed before the Rule.”;

⁴⁵*Id.* at 815.

⁴⁶*See id.* at 824.

Comment to M.R.C.P. 48 which provides in part: “Rule 48 supercedes Mississippi case authority mandating twelve-person juries in county courts and repeals Miss. Code Ann. § 9-9-33 (1972) (juries in county court actions to consist of twelve persons), but has no application to county courts when convened as a special court of eminent domain.” Lastly, “quick take” procedures (i.e., those governing claims of immediate possession) are set forth in Section 11-27-81 through 11-27-91.

606 MEDIA COVERAGE CONSIDERATIONS

Mississippi Rules for Electronic and Photographic Coverage:

The Mississippi Rules for Electronic and Photographic Coverage may be accessed on the State Mississippi Judiciary website at <http://courts.ms.gov/>. (Open “Rules” and click “MS Rules of Court”).

MREPC 1 provides: “Electronic media coverage of judicial proceedings in Mississippi Courts shall be governed by the following rules. These rules apply to the Supreme Court, Court of Appeals, chancery courts, circuit courts, and county courts and may be cited as MREPC.”

Media coverage considerations for justice and municipal courts:

The Mississippi Rules for Electronic and Photographic Coverage of Judicial Proceedings do not apply to justice courts or municipal courts. But,

Rule 3 of the Rules of Justice Court provides:

Any attorney of record or self-represented litigant may record or have recorded any justice court proceeding by audiovisual-recording device or stenographically consistent with section 9-13-32 of the Mississippi Code. Any other use of cameras, recording devices, or broadcasting equipment shall be governed by Canon 3B(12) of the Mississippi Code of Judicial Conduct or other applicable rules.

Canon 3B(9) of the Code of Judicial Conduct provides:

A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This Section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

Canon 3B(12) of the Code of Judicial Conduct provides:

Except as may be authorized by rule or order of the Supreme Court, a judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judge may authorize:

- (a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;
- (b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;
- (c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:
 - (i) the means of recording will not distract participants or impair the dignity of the proceedings;
 - (ii) the parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproduction;
 - (iii) the reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and
 - (iv) the reproduction will be exhibited only for instructional purposes in educational institutions.

See also M.R.Cr.P. 1.8 (Interactive Audiovisual Devices) and 1.10 (Recordation of Proceedings where Official Court Reporter not Provided); Miss. Code Ann. § 9-13-32 (Official court reporter not provided; recording of proceeding).

607 INTERPRETERS

General considerations:

Caseflow management requires implementing procedures and policies that ensure the availability of qualified interpreters for non-English speaking and deaf persons. Such is essential toward achieving a just and reasonably prompt disposition of all cases before the court.⁴⁷ It is not enough to simply find someone who happens to be bilingual to act as an interpreter. Instead, special training is critical. An interpreter should understand legal procedures and be trained in memory and communication skills.⁴⁸ Additionally, court personnel should be alerted to schedule more time than usual when an interpreter is required.⁴⁹

*Checklist to facilitate communication in an interpreted proceeding:*⁵⁰

- ✓ Advise everyone in the courtroom of the presence and role of the interpreter.
- ✓ Instruct all participants to speak loudly and clearly.
- ✓ Allow only one person to speak at a time.
- ✓ Allow the interpreter to converse briefly with the non-English speaker to ensure understanding of accents, dialect, or pronunciation differences.
- ✓ Instruct the speaker to interrupt or raise a hand if something is not understood.
- ✓ Allow the interpreter to view court files prior to the proceedings to become familiar with names, parties, and technical vocabulary.
- ✓ Speak directly to the party or witness, not the interpreter.
- ✓ Direct the interpreter to interpret in the first person in order for the record to be accurate.
- ✓ Advise the interpreter to notify the court when breaks are needed.

⁴⁷See Dianne Molvig, *Overcoming Language Barriers in Court*, 74 Wis. Law. 10, February 2001 (discussing the importance of qualified interpreters in maintaining the integrity of proceedings).

⁴⁸See Molvig, *supra* note 42, at 13 (“Court interpreters must be able to listen and translate back and forth easily, accurately, and quickly in the midst of court proceedings. Qualified interpreters learn how to execute this complex task through memory skills training. Court interpreters also must understand legal terminology and procedures, and be able to convey concepts for which no word may exist in the non-English language. . . . A careless translation can convey an entirely incorrect meaning.”).

⁴⁹Angela McCaffery, *Don’t Get Lost in Translation: Teaching Law Students to Work with Language Interpreters*, 6 Clinical L. Rev. 347, 387 (Spring 2000).

⁵⁰Julia Bussade, Director of Portuguese and Spanish, Modern Languages Department of the University of Mississippi, Remarks at the Mississippi Court Administrators Spring Conference (April 25, 2008).

Interpreters for limited English proficiency (LEP) individuals:

Rules and statutory provisions pertaining to appointing interpreters for limited English proficiency individuals are listed below:

Rule 604 of the Mississippi Rules of Evidence (Interpreters).

Rule 43(f) of the Mississippi Rules of Civil Procedure (Taking of Testimony).

§ 99-17-7 (Interpreters).

§ 9-21-71 (Definitions).

§ 9-21-73 (Program established).

§ 9-21-75 (Compensation).

§ 9-21-77 (Oath, confidentiality and public comment).

§ 9-21-79 (Determination of need for an interpreter).

§ 9-21-81 (Interpreter's fees and expenses).

The Administrative Office of Courts has developed the Mississippi Court Interpreter Credentialing Program to ensure equal access to justice for limited English proficiency individuals. Information on the program is on the State of Mississippi Judiciary Website at: <http://courts.ms.gov> (Open "AOC" then click "Court Interpreter").

Rule 1 of the Rules on Standards for Court Interpreters provides:

These rules shall apply to all courts in Mississippi, including without limitation, municipal court, justice court, youth court, county court, circuit court, chancery court, and grand jury proceedings.

Interpreters for the hearing impaired are not covered by these rules. See Miss. Code Ann. §§ 13-1-301 to 13-1-315 regarding guidelines for interpreters for the hearing impaired.

Interpreters for deaf persons:

Rules and statutory provisions pertaining to appointing interpreters for deaf persons are listed below:

Rule 604 of the Mississippi Rules of Evidence (Interpreters).

Rule 43(f) of the Mississippi Rules of Civil Procedure (Taking of Testimony).

§ 13-1-301 (Definitions).

§ 13-1-303 (Statements of deaf person).

§ 13-1-305 (Determination of need for interpreter).

§ 13-1-307 (Interpreter's duties).

§ 13-1-311 (Listing of qualified interpreters).

§ 13-1-313 (Oath of true interpretation).

§ 13-1-315 (Interpreter's fees).

These rules and statutory provisions may be accessed at: <http://courts.ms.gov> (Open "Rules" or "MS Code").

Websites

- The Office of Deaf and Hard of Hearing at <http://www.odhh.org/index.php>
- Federal Interagency Working Group on Limited English Proficiency at www.lep.gov
- National Association of Judiciary Interpreters and Translators at www.najit.org
- National Center for State Courts at <http://www.ncsc.org/>

608 MISSISSIPPI ELECTRONIC COURTS

Information on Mississippi Electronic Courts may be accessed at: <http://courts.ms.gov> (Open “Mississippi Electronic Court (MEC)”). Topics include:

- General information on MEC/PAMEC;
- Forms and filing events; and
- Registration and training for MEC.

609 PUBLIC RECORDS ACCESS

Administrative order:

The Mississippi Supreme Court adopted by Administrative Order on August 27, 2008 a “Statement of Policy Regarding Openness and Availability of Public Records.” This administrative order can be accessed on the State of Mississippi Judiciary website at https://courts.ms.gov/publicrecords_policy.pdf

IN THE SUPREME COURT OF MISSISSIPPI

2001-AD-00001

**IN RE: TIME STANDARDS FOR TRIAL COURTS
ADMINISTRATIVE ORDER**

Now before the Court, en banc, are proposed time standards for the chancery, circuit and county courts of Mississippi. By order issued June 14, 2001, the Court adopted, for comment, time standards which were then disseminated for comment to the judiciary, the bar, and the public at large. Having given careful consideration to those standards and the comments submitted, the Court authorized the submission of the modified and amended proposed time standards to the Conferences of Judges of the Chancery, Circuit and County Courts of the state. The Conferences have since endorsed the standards as modified and amended, and those modified and amended standards are now before the Court. The Court finds that such standards as set forth in Exhibit "A" hereto will promote the fair and efficient administration of justice, and that they should be adopted.

IT IS THEREFORE ORDERED, that Time Standards in the Chancery, Circuit and County Courts of Mississippi as set forth in Exhibit "A" hereto be and are hereby adopted. These standards shall be effective from and after January 1, 2002.

SO ORDERED, this the 15th day of November, 2001.

/s/ Edwin Lloyd Pittman

EDWIN LLOYD PITTMAN, CHIEF JUSTICE,
FOR THE COURT

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EXHIBIT "A"

TIME STANDARDS IN THE CHANCERY, CIRCUIT AND COUNTY COURTS OF MISSISSIPPI

PURPOSE AND PREAMBLE

The fair and efficient administration of justice requires that controversies, civil and criminal, receive the timely attention of the courts. This requires that the judicial system achieve a disposition of cases as expeditiously as is consistent with care, fairness and sound decisions. It is the responsibility of the judiciary to manage the dockets of the courts.

These time standards represent aspirational goals against which to measure the actual movement of cases in the trial courts. They should not be treated as rules of court which limit the discretion of the trial courts to schedule individual cases and proceedings within individual cases. They do not supercede time periods applicable to specific cases under court rules or statute. Each case is unique and the judges of the courts must, within the bounds of the rules of court and statutes, exercise sound judgment in such a manner as to provide the parties with a fair opportunity to be heard and to allow the court to achieve a reasoned disposition. However, our justice system has grown to the point that only by observing and comparing the flow of matters in all the trial courts can we determine the special needs of each court and allocate resources to the best end.

There are many factors that determine the movement of the business of the courts, some which are within the control of the judges presiding, and some which are not. Depending on case loads, types of cases, the number of judges in a district, population, commercial activity, staffing and support, it can be expected that the parties in one county or district may find that their cases proceed more rapidly or more slowly than in other districts or counties.

To use these benchmarks alone as a measure of the quality of a court or its judges would be to misunderstand and misapply them. Their purpose is to provide each judge and the judiciary as a whole with tools for the improvement of procedures and the allocation of resources.

Estates and will probate proceedings, guardianships, conservatorships, commitment proceedings, petitions for name change, petitions for registration of foreign judgments and uncontested adoptions are not covered by these standards.

CRIMINAL*

Felony	270 days from arraignment
Misdemeanor (originating in circuit or county court)	120 days from filing
Misdemeanor (appeals to circuit or county court)	180 days from notice of appeal

Preliminary hearing	30 days from arrest or initial appearance
Post trial motions	30 days from filing of post trial motion
Sentencing	90 days from verdict or ruling on post trial motions

CIVIL*

General civil	18 months from filing of complaint
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DOMESTIC RELATIONS*

Contested	1 year from filing of complaint
Uncontested	180 days from filing of complaint

JUVENILE *

Detention/shelter hearings	48 hours after taking into temporary custody exclusive of weekends and statutory state holidays
Adjudicatory hearing (if in detention)	21 days from first detention hearing
Adjudicatory hearing (if in shelter)	30 days after taken into custody
Adjudicatory hearing (not detained, not in shelter, not in protective custody)	90 days from filing of petition
Disposition hearing	14 days following adjudicatory hearing

* Except for individual cases in which the court determines by written order that exceptional circumstances exist and for which a continuing review should occur.