

*****JULY 2018*****
UPDATES
TO THE
HANDBOOK
FOR THE
MISSISSIPPI
CIRCUIT COURT
CLERKS

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Handbook for

Mississippi

Circuit Court

Clerks

2018



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FOREWORD

The *Handbook for Mississippi Circuit Court Clerks* is drafted in such a way as to easily facilitate the addition of new material, changes in the law, and make corrections as needed.

To search for a word, phrase, or particular chapter within the *Handbook* document, please press down the “Ctrl/Control” button and then press the “F” button, and a “Find” box will open. Simply type the word, phrase, or particular chapter’s name, such as “marriage” or “Chapter 16,” in the blank and press “Enter.” Click “Next” to move through the document. To return to the front of the *Handbook* to conduct another search, please press the “Home” button.

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CHAPTER 3

CIRCUIT COURT ASSESSMENTS & FEES

Circuit Clerk Fees

§ 25-7-1 Restrictions on demands for fees:

It shall be lawful for the Clerk of the Supreme Court, the clerks of the circuit and chancery courts, the clerks of the justice court, masters and commissioners in chancery, sheriffs, constables, justice court judges, notaries public, and other officers and persons named in this chapter to demand, receive, and take the several fees hereinafter mentioned and allowed for any business by them respectively done by virtue of their several offices, and no more.

See § 11-53-79 Table of fees to be posted conspicuously.

§ 25-7-13 Circuit court clerks; fees:

(1) The clerks of the circuit court shall charge the following fees:

- | | | |
|-----|--|---------|
| (a) | Docketing, filing, marking and registering each complaint, petition and indictment | \$85.00 |
|-----|--|---------|

The fee set forth in this paragraph shall be the total fee for all services performed by the clerk up to and including entry of judgment with respect to each complaint, petition or indictment, including all answers, claims, orders, continuances and other papers filed therein, issuing each writ, summons, subpoena or other such instruments, swearing witnesses, taking and recording bonds and pleas, and recording judgments, orders, fiats and certificates; the fee shall be payable upon filing and shall accrue to the clerk at the time of collection. The clerk or his successor in office shall perform all duties set forth above without additional compensation or fee.

- | | |
|-----|---|
| (b) | Docketing and filing each motion to renew judgment, notice of renewal of judgment, suggestion for a writ of garnishment, suggestion for a writ of |
|-----|---|

	execution and judgment debtor actions and issuing all process, filing and recording orders or other papers and swearing witnesses	\$35.00
(c)	For every civil case filed, an additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14	\$10.00
(d)	For every civil case filed, an additional fee to be deposited to the credit of the Judicial System Operation Fund established in Section 9-21-45	\$ 40.00
(2)	Except as provided in subsection (1) of this section, the clerks of the circuit court shall charge the following fees:	
(a)	Filing and marking each order or other paper and recording and indexing same	\$2.00
(b)	Issuing each writ, summons, subpoena, citation, capias and other such instruments	\$1.00
(c)	Administering an oath and taking bond	\$2.00
(d)	Certifying copies of filed documents, for each complete document	\$1.00
(e)	Recording orders, fiats, licenses, certificates, oaths and bonds:	
	First page	\$2.00
	Each additional page	\$1.00
(f)	Furnishing copies of any papers of record or on file and entering marginal notations on documents of record:	
	If performed by the clerk or his employee, per page	\$1.00
	If performed by any other person, per page	\$.25
(g)	Judgment roll entry	\$5.00

- (h) Taxing cost and certificate \$1.00
- (i) For taking and recording application for marriage license, for filing and recording consent of parents when required by law, for filing and recording medical certificate, filing and recording proof of age, recording and issuing license, recording and filing returns \$20.00
- The clerk shall deposit Fourteen Dollars (\$14.00) of each fee collected for a marriage license in the Victims of Domestic Violence Fund established in Section 93-21-117, on a monthly basis.
- (j) For certified copy of marriage license and search of record, the same fee charged by the Bureau of Vital Statistics of the State Board of Health.
- (k) For public service not particularly provided for, the circuit court may allow the clerk, per annum, to be paid by the county on presentation of the circuit court's order, the following amount \$5,000.00
- However, in the counties having two (2) judicial districts, such above allowance shall be made for each judicial district.
- (l) For drawing jurors and issuing venire, to be paid by the county \$5.00
- (m) For each day's attendance upon the circuit court term, for himself and necessary deputies allowed by the court, each to be paid by the county \$50.00

In response to your specific questions, we are of the opinion that, in accordance with Section 25-7-13 (2)(m), the clerk is entitled to be paid once for himself or

a deputy for each day of the term then in session and the court may authorize additional deputies for the term then in session. **Re: Circuit Clerk's Fees, Opinion No. 2002-0045 (Miss. A. G. Mar. 1, 2002).**

- | | | |
|-----|---|--------------------------------------|
| (n) | Summons, each juror to be paid by the county upon the allowance of the court | \$1.00 |
| (o) | For issuing each grand jury subpoena, to be paid by the county on allowance by the court, not to exceed Twenty-five Dollars (\$25.00) in any one (1) term of court | \$1.00 |
| (p) | For each civil filing, to be deposited into the Civil Legal Assistance Fund | \$5.00 |
| (3) | On order of the court, clerks and deputies may be allowed five (5) extra days for attendance upon the court to get up records. | \$400.00
per judicial
district |
| (4) | The clerk's fees in state cases where the state fails in the prosecution, or in cases of felony where the defendant is convicted and the cost cannot be made out of his estate, in an amount not to exceed Four Hundred Dollars (\$400.00), shall be paid out of the county treasury on approval of the circuit court, and the allowance thereof by the board of supervisors of the county. | |

In counties having two (2) judicial districts, such allowance shall be made in each judicial district; however, the maximum thereof shall not exceed Eight Hundred Dollars (\$800.00).

Clerks in the circuit court, in cases where appeals are taken in criminal cases and no appeal bond is filed, shall be allowed by the board of supervisors of the county after approval of their accounts by the circuit court,

in addition to the above fees, for making such transcript
the rate of Two Dollars \$2.00/per page

(5) The clerk of the circuit court may retain
as his commission on all money coming into his hands,
by law or order of the court, a sum to be fixed by the court
not exceeding one-half of one percent on all such sums. ½ of 1%

(6) For making final records required by law,
including, but not limited to, circuit and county
court minutes, and furnishing transcripts of records,
the circuit clerk shall charge Two Dollars \$2.00/per page

The same fees shall be allowed to all officers
for making and certifying copies of records or
papers which they are authorized to copy and certify.

(7) The circuit clerk shall prepare an itemized statement
of fees for services performed, cost incurred, or
for furnishing copies of any papers of record or
on file, and shall submit the statement to the parties
or, if represented, to their attorneys within sixty (60) days.
A bill for same shall accompany the statement.

Expungement Filing Fee

§ 99-19-72 Petition for expungement; filing fees:

A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby levied on each
petition to expunge an offense under Section 99-19-71 to be collected by the
circuit clerk and distributed as follows:

- (a) One Hundred Dollars (\$100.00) to be deposited into the Judicial
System Operation Fund;
- (b) Forty Dollars (\$40.00) to be deposited into the District Attorneys
Operation Fund; and
- (c) Ten Dollars (\$10.00) to be retained by the circuit clerk collecting the
fee for administration purposes.

Grand Jury Fee

§ 25-7-15 Allowances for deputy circuit court clerks:

(2) The boards of supervisors of every county shall pay to the circuit clerk the sum of Seven Hundred Dollars (\$700.00) for each session of the grand jury for preparing the grand jury docket, subpoenas, calendar and related services.

Commitment to Penitentiary Fee

§ 99-19-45 Commitment to penitentiary; duties of clerks of circuit court; fees:

The clerks of the circuit court of the counties in the State of Mississippi shall furnish the Mississippi Department of Corrections, within five (5) days after adjournment of court, a commitment paper showing the name, sex, race and social security number of the person convicted and the crime committed, along with certified copies of the sentencing order and indictment, as well as any subsequent order entered by the court in such cause.

The clerks shall also furnish the Department of Corrections, within five (5) days after adjournment of such court, a certified copy of the probation order of an individual who is placed on probation under the supervision of the Division of Community Corrections of the department. Such order shall provide the name of the person placed on probation, the crime, term of sentence, date of sentence, period of probation, sex, race and a brief history of the crime committed.

As compensation for such services they shall receive the sum of Fifty Cents (50¢) for each transcript, and the sum shall be paid out of the treasury of the county, with the approval of the board of supervisors, on the filing of a bill for such service.

Other Important Fee Statutes

§ 25-7-3 Supreme Court Clerk.

The Clerk of the Supreme Court shall charge the following fees:

- (a) General docket fee, for filing the record on appeal
in a civil or criminal case \$200.00
- (b) Miscellaneous docket fee \$50.00
-

§ 25-7-14 Public entities; payment of fees:

Neither the state, nor any county, city, town, or village, nor any state board, nor any state, county, city, town, or village officer, in his official character, may be required to prepay the cost of filing a document or an instrument with, or obtaining a copy of any filed document or instrument obtained from, the office of the chancery or circuit clerk. If the cost for filing a document or an instrument or obtaining a copy of a document or instrument is not paid at the time of filing or obtaining a copy of the document or instrument, then the clerk shall furnish an itemized statement and payment shall be paid in the same manner as other claims are paid by the governing body or official having authority to pay claims against the governing body.

§ 25-7-17 Circuit court clerks; restrictions:

The clerk of the circuit court of any county in Mississippi in which is located a municipality with a population of seventy-five hundred or more, according to the last federal census, may be allowed an amount not exceeding five hundred dollars for any one year to be paid out of the municipal treasury of said municipality on the filing of an itemized account of fees in each special case appealed from any city, where said case is disposed of by nolle prosequi, passed to files, or verdict of not guilty. Said fee bills shall be approved by the city attorney for payment and shall be presented to the municipal council or board of aldermen of said municipality for allowance, in the discretion of said council or board. This section shall not apply to counties wherein is located a municipality of less than ten thousand and more than seventy-five hundred population, in which said county there has been created and maintained a county court under chapter 9, title 9, of the Mississippi Code of 1972.

§ 25-7-19 Sheriffs' fees:

(1) The sheriffs of the various counties of the State of Mississippi shall charge the

following fees:

(a) A uniform total fee in all criminal and civil cases for the service or attempted service of any process, summons, warrant, writ or other notice as may be required by law or the court, each \$35.00

§ 25-7-29 Notaries public.

Notaries public may charge a fee in an amount of not less than Two Dollars (\$2.00) nor more than Five Dollars (\$5.00) for services rendered. . . .

§ 25-7-45 Administration and certification of oaths:

For administering and certifying an oath or affidavit \$.25

§ 25-7-47 Witnesses:

Witnesses in the county, circuit, chancery, and justice courts shall receive the same pay per day as is set by the board of supervisors under Section 25-7-61 for service as a juror plus mileage as authorized under Section 25-3-41 for each mile going to and returning from the courthouse to their homes by the nearest route, and such tolls and ferriages as they may actually be obliged to pay; but a charge shall not be made for mileage except that traveled in this state. Witnesses in all other cases shall receive the same compensation as they receive before the circuit court. . . .

§ 41-57-48 Statistical Record of Marriage:

(5) The circuit clerk shall receive a recording fee of one dollar (\$1.00) for each marriage record prepared and forwarded by him to the State Board of Health. This fee shall be collected from the applicants for the license together with, and in addition to, the fee for the license and shall be deposited in the county treasury. The recording fees shall be paid to the circuit clerk out of the county treasury once each six (6) months on order of the board of supervisors, upon certification by the office of vital records registration of the number of marriage records filed.

§ 45-1-29 Crime laboratory; utilization of combined resources; Division of Support Services established:

(3) The Commissioner of Public Safety shall establish and the Division of Support Services of the Department of Public Safety shall collect for services rendered proper fees commensurate with the services rendered by the crime laboratory. Those fees shall be deposited into a special fund in the State Treasury to the credit

of the crime laboratory and expended in accordance with applicable rules and regulations of the Department of Finance and Administration. Those fees may be used for any authorized expenditure of the crime laboratory except expenditures for salaries, wages and fringe benefits.

§ 93-21-117 Victims of Domestic Violence Fund:

(1) There is hereby created in the State Treasury a special fund to be known as the “Victims of Domestic Violence Fund.” The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

- (a) Monies appropriated by the Legislature;
- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies received from the federal government;
- (e) Donations to the Victims of Domestic Violence Fund;
- (f) Assessments collected pursuant to Section 83-39-31; and
- (g) Monies received from such other sources as may be provided by law.

(2) The circuit clerks of the state shall deposit in the fund on a monthly basis the additional fee charged and collected for marriage licenses under the provisions of Section 25-7-13, Mississippi Code of 1972.

(3) All other monies received by the state from every source for the support of the program for victims of domestic violence, established by Sections 93-21-101 through 93-21-113, shall be deposited in the “Victims of Domestic Violence Fund.” The monies in the fund shall be used by the State Department of Health solely for funding and administering domestic violence shelters under the provisions of Sections 93-21-101 through 93-21-113, in such amounts as the Legislature may appropriate to the department for the program for victims of domestic violence established by Sections 93-21-101 through 93-21-113. Not more than ten percent (10%) of the monies in the “Victims of Domestic Violence Fund” shall be appropriated to the State Department of Health for the administration of domestic violence shelters. . . .

State Assessments in Civil Cases

Court Education Cost Assessment

§ 37-26-3 Court education and training costs; civil matters:

(1) In addition to any other fees or costs now or as may hereafter be provided by law, there is hereby charged in all civil cases in the chancery, circuit, county, justice and municipal courts of this state a court education and training cost in the amount of Two Dollars (\$2.00), except in justice court cases where the amount sued for is less than Fifteen Dollars (\$15.00). Such cost shall be collected by the clerk or judicial officer from the party bringing the civil action at the time of filing and taxed as costs.

(2) From and after July 1, 2017, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the State Fiscal Officer.

(3) From and after July 1, 2017, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

Court Constituents Cost Assessment

§ 37-26-9 Collection of costs; depositing funds; use of monies:

(1) It shall be the duty of the clerk of any court to promptly collect the costs imposed pursuant to the provisions of Section 37-26-3. In all cases the clerk shall monthly deposit all such costs so collected with the State Treasurer either directly or by other appropriate procedures. All such deposits shall be clearly marked for the State Court Education Fund and the State Prosecutor Education Fund. Upon receipt of such deposits, the State Treasurer shall credit seventy-five percent (75%) of any amounts so deposited to the State Court Education Fund created pursuant to subsection (2) of this section, and shall credit the remaining twenty-five percent (25%) of any amounts so deposited to the State Prosecutor Education Fund created pursuant to subsection (3) of this section.

(2) Such assessments as are collected under Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "State Court Education Fund." Monies deposited in such fund shall be expended by the Board of Trustees of State Institutions of Higher Learning as authorized and appropriated by the Legislature to defray the cost of providing: (i) education and training for the courts of Mississippi and related personnel; (ii) technical assistance for the courts of Mississippi and related personnel; and (iii) current and accurate information for the Mississippi Legislature pertaining to the needs of the courts of Mississippi and

related personnel.

(3) Such assessments as are collected under Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "State Prosecutor Education Fund." Monies deposited in such fund shall be expended by the Attorney General of the State of Mississippi as authorized and appropriated by the Legislature to defray the cost of providing: (i) education and training for district attorneys, county prosecuting attorneys and municipal prosecuting attorneys; (ii) technical assistance for district attorneys, county prosecuting attorneys and municipal prosecuting attorneys; and (iii) current and accurate information for the Mississippi Legislature pertaining to the needs of district attorneys, county prosecuting attorneys and municipal prosecuting attorneys.

(4) A supplemental fund is hereby created in the State Treasury and designated the State Court Constituents Fund. Monies deposited in such fund shall be for the education and training of judges and related court personnel other than those specified in Section 37-26-1(b). In addition to any other fees or costs now or as may hereafter be provided by law, there is hereby charged in all civil cases in the chancery, circuit, county, justice and municipal courts of this state a supplemental court education and training cost in the amount of Fifty Cents (50¢), except in justice court cases where the amount sued for is less than Fifteen Dollars (\$15.00); and in all criminal cases in the circuit, county, justice and municipal courts of this state, except in cases where the fine is less than Ten Dollars (\$10.00). Such costs shall be charged and collected as provided by Sections 37-26-3 and 37-26-5. After the transfer to the State Prosecutor Education Fund of twenty-five percent (25%) of the money provided for in subsection (1) of this section, there shall then be transferred into the State Court Education Fund the money on deposit in the State Court Constituents Fund.

(5) A special fund is created in the State Treasury and designated the "State Court Security Systems Fund." Monies deposited in such fund shall be expended for general courtroom security as well as the maintenance and operation of security surveillance and detection devices for the courtrooms of each court of the State of Mississippi specified in Section 37-26-1(2). The Administrative Office of Courts shall conduct a study to assess and determine the security needs of the courts and is authorized to expend monies in the fund for the purposes of the fund as authorized and appropriated by the Legislature.

(6) From and after July 1, 2017, the expenses of the State Court Education Fund, the State Prosecutors Education Fund, the State Court Constituents Fund and the State Court Security Systems Fund shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the State Fiscal Officer.

(7) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

State Assessments & Fees in Criminal Cases

Standard State Assessments

§ 99-19-73 Standard State monetary assessment for certain violations, misdemeanors and felonies; suspension or reduction of assessment prohibited; collection and deposit of assessments; refunds:

(1) Traffic violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation in Title 63, Mississippi Code of 1972, except offenses relating to the Mississippi Implied Consent Law (Section 63-11-1 et seq.) and offenses relating to vehicular parking or registration:

FUND	AMOUNT
State Court Education Fund	
State Prosecutor Education Fund	
Vulnerable Persons Training, Investigation & Prosecution Trust Fund	
Child Support Prosecution Trust Fund	
Driver Training Penalty Assessment Fund	
Law Enforcement Officers Training Fund	
Spinal Cord and Head Injury Trust Fund	
Emergency Medical Services Operating Fund	
Mississippi Leadership Council on Aging Fund	
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	
State Prosecutor Compensation Fund	
Crisis Intervention Mental Health Fund	
Drug Court Fund	
Judicial Performance Fund	
Capital Defense Counsel Fund	
Indigent Appeals Fund	
Capital Post-Conviction Counsel Fund	
Victims of Domestic Violence Fund	
Public Defenders Education Fund	
Domestic Violence Training Fund	
Attorney General's Cyber Crime Unit	
Children's Safe Center Fund	
DuBard School for Language Disorders Fund	
Children's Advocacy Centers Fund	
Judicial System Operation Fund	
GENERAL FUND	\$90.50

(2) Implied Consent Law violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or any other penalty for any violation of the Mississippi Implied Consent Law (Section 63-11-1 et seq.):

FUND	AMOUNT
Crime Victims' Compensation Fund	
State Court Education Fund	
State Prosecutor Education Fund	
Vulnerable Persons Training, Investigation & Prosecution Trust Fund	
Child Support Prosecution Trust Fund	
Driver Training Penalty Assessment Fund	
Law Enforcement Officers Training Fund	
Emergency Medical Services Operating Fund	
Mississippi Alcohol Safety Education Program Fund	
Federal-State Alcohol Program Fund	
Mississippi Forensics Laboratory Implied Consent Law Fund	
Spinal Cord and Head Injury Trust Fund	
Capital Defense Counsel Fund	
Indigent Appeals Fund	
Capital Post-Conviction Counsel Fund	
Victims of Domestic Violence Fund	
Law Enforcement Officers and Fire Fighters Death Benefits Fund	
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	
State Prosecutor Compensation Fund	
Crisis Intervention Mental Health Fund	
Drug Court Fund	
Statewide Victim's Information Notification System Fund	
Public Defenders Education Fund	
Domestic Violence Training Fund	
Attorney General's Cyber Crime Unit	
GENERAL FUND	\$243.50

(3) Game and Fish Law violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation of the game and fish statutes or regulations of this state:

FUND	AMOUNT
State Court Education Fund	
State Prosecutor Education Fund	
Vulnerable Persons Training, Investigation & Prosecution Trust Fund	
Law Enforcement Officers Training Fund	
Hunter Education and Training Program Fund	
Law Enforcement Officers and Fire Fighters Death Benefits Fund	
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	
State Prosecutor Compensation Fund	
Crisis Intervention Mental Health Fund	
Drug Court Fund	
Capital Defense Counsel Fund	
Indigent Appeals Fund	
Capital Post-Conviction Counsel Fund	
Victims of Domestic Violence Fund	
Public Defenders Education Fund	
Domestic Violence Training Fund	
Attorney General's Cyber Crime Unit	
GENERAL FUND	\$89.00

(4) [Deleted]

See § 97-15-29 Littering with substance likely to ignite grass; fines and penalties:

(7) There shall be imposed and collected an assessment of Fifty Dollars (\$50.00) on each violation of this section. The assessment shall be deposited into the Law Enforcement Officers Monument Fund created in Section 39-5-71. After the monument is constructed, the assessment shall not be deposited into the fund. The assessment shall then be deposited with the Postsecondary Education Financial Assistance Board to be used for the scholarship program for children of deceased or disabled law enforcement officers and firemen as provided by Section 37-106-39.

(5) Speeding, reckless and careless driving violations. In addition to any assessment imposed under subsection (1) or (2) of this section, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for driving a vehicle on a road or highway:

- | | |
|--|---------|
| (a) At a speed that exceeds the posted speed limit by at least ten (10) miles per hour but not more than twenty (20) miles per hour | \$10.00 |
| (b) At a speed that exceeds the posted speed limit by at least twenty (20) miles per hour but not more than thirty (30) miles per hour | \$20.00 |
| (c) At a speed that exceeds the posted speed limit by thirty (30) miles per hour or more | \$30.00 |
| (d) In violation of Section 63-3-1201, which is the offense of reckless driving | \$10.00 |
| (e) In violation of Section 63-3-1213, which is the offense of careless driving | \$10.00 |

All assessments collected under this subsection shall be deposited into the State General Fund.

(6) Other Misdemeanors. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any misdemeanor violation not specified in subsection (1), (2), or (3) of this section, except offenses relating to vehicular parking or registration:

FUND	AMOUNT
Crime Victims' Compensation Fund	
State Court Education Fund	
State Prosecutor Education Fund	
Vulnerable Persons Training, Investigation & Prosecution Trust Fund	
Child Support Prosecution Trust Fund	
Law Enforcement Officers Training Fund	
Capital Defense Counsel Fund	
Indigent Appeals Fund	
Capital Post-Conviction Counsel Fund	
Victims of Domestic Violence Fund	
State Crime Stoppers Fund	
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	
State Prosecutor Compensation Fund	
Crisis Intervention Mental Health Fund	
Drug Court Fund	
Judicial Performance Fund	
Statewide Victim's Information and Notification System Fund	
Public Defenders Education Fund	
Domestic Violence Training Fund	
Attorney General's Cyber Crime Unit	
Information Exchange Network Fund	
Motorcycle Officer Training Fund	
Civil Legal Assistance Fund	
Justice Court Collections Fund	
Municipal Court Collections Fund	
GENERAL FUND	\$121.75

(7) Other Felonies. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any felony violation not specified in subsection (1), (2) or (3) of this section:

FUND	AMOUNT
Crime Victims' Compensation Fund	
State Court Education Fund	
State Prosecutor Education Fund	
Vulnerable Persons Training, Investigation & Prosecution Trust Fund	
Child Support Prosecution Trust Fund	
Law Enforcement Officers Training Fund	
Capital Defense Counsel Fund	
Indigent Appeals Fund	
Capital Post-Conviction Counsel Fund	
Victims of Domestic Violence Fund	
Criminal Justice Fund	
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	
State Prosecutor Compensation Fund	
Crisis Intervention Mental Health Fund	
Drug Court Fund	
Statewide Victim's Information and Notification System Fund	
Public Defenders Education Fund	
Domestic Violence Training Fund	
Attorney General's Cyber Crime Unit	
Forensics Laboratory DNA Identification System Fund	
GENERAL FUND	\$280.50

(8) Additional assessments on certain violations:

(a) Railroad Crossing Violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation involving railroad crossings under Section 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013 or 77-9-249:

Operation Lifesaver Fund	\$25.00
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(b) Drug Violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation of Section 41-29-139:

Drug Evidence Disposition Fund	\$25.00
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(c) Motor vehicle liability insurance violations. In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation of Section 63-15-4(4) or Section 63-16-13(1):

Uninsured Motorist Identification Fund:	
First offense	\$200.00
Second offense	\$300.00
Third or subsequent offense	\$400.00

(9) If a fine or other penalty imposed is suspended, in whole or in part, such suspension shall not affect the state assessment under this section. No state assessment imposed under the provisions of this section may be suspended or reduced by the court.

(10) (a) After a determination by the court of the amount due, it shall be the duty of the clerk of the court to promptly collect all state assessments imposed under the provisions of this section. The state assessments imposed under the provisions of this section may not be paid by personal check.
(b) It shall be the duty of the chancery clerk of each county to deposit all state assessments collected in the circuit, county and justice courts in the county on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The chancery clerk shall make a monthly lump-sum deposit of the total state assessments collected in the

circuit, county and justice courts in the county under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the circuit, county and justice courts in the county during that month.

(c) It shall be the duty of the municipal clerk of each municipality to deposit all the state assessments collected in the municipal court in the municipality on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The municipal clerk shall make a monthly lump-sum deposit of the total state assessments collected in the municipal court in the municipality under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the municipal court in the municipality during that month.

(11) It shall be the duty of the Department of Finance and Administration to deposit on a monthly basis all state assessments into the State General Fund or proper special fund in the State Treasury. The Department of Finance and Administration shall issue regulations providing for the proper allocation of these funds.

(12) The State Auditor shall establish by regulation procedures for refunds of state assessments, including refunds associated with assessments imposed before July 1, 1990, and refunds after appeals in which the defendant's conviction is reversed. 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. All refunds of state assessments shall be made in accordance with the procedures established by the Auditor.

Court Constituents Cost Assessment

§ 37-26-9 Collection of costs; depositing funds; use of monies:

(4) A supplemental fund is hereby created in the State Treasury and designated the State Court Constituents Fund. Monies deposited in such fund shall be for the education and training of judges and related court personnel other than those specified in Section 37-26-1(b). In addition to any other fees or costs now or as may hereafter be provided by law, there is hereby charged in all civil cases in the chancery, circuit, county, justice and municipal courts of this state a supplemental court education and training cost in the amount of Fifty Cents (50¢), except in justice court cases where the amount sued for is less than Fifteen Dollars (\$15.00); and in all criminal cases in the circuit, county, justice and municipal courts of this state, except in cases where the fine is less than Ten Dollars (\$10.00). Such costs shall be charged and collected as provided by Sections 37-26-3 and 37-26-5. After the transfer to the State Prosecutor Education Fund of twenty-five percent (25%) of the money provided for in subsection (1) of this section, there shall then be transferred into the State Court Education Fund the money on deposit in the State Court Constituents Fund.

Children's Trust Fund Assessment

§ 99-19-75 Assessment on certain offenses against children, deposit:

In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected from each person upon whom a court imposes a fine or other penalty for any violation of Section 97-3-65, 97-5-1 et seq. or 97-3-7, Mississippi Code of 1972, when committed against a minor, an assessment of One Thousand Dollars (\$1,000.00) to be deposited into the Mississippi Children's Trust Fund created in Section 93-21-305, Mississippi Code of 1972, using the procedures described in Section 99-19-73, Mississippi Code of 1972.

Game & Fish License Assessment

§ 49-7-21 License form and content; electronic purchase; hunting or fishing without license:

(6) In addition to any other fines or penalties imposed under subsection (4) or (5) of this section, the person convicted shall be assessed by the court an administrative fee equal in amount to the cost of the hunting, trapping or fishing license fee that such person unlawfully failed to possess at the time of the violation, the amount of which license fee shall be entered upon the ticket or citation by the charging officer at the time the ticket or citation is issued. The clerk of the court in which the conviction takes place, promptly shall collect all administrative fees imposed under this subsection and deposit them monthly with the State Treasurer, in the same manner and in accordance with the same procedure, as nearly as practicable, as required for the collection, receipt and deposit of state assessments under Section 99-19-73. However, all administrative fees collected under the provisions of this subsection shall be credited by the State Treasurer to the account of the Department of Wildlife, Fisheries and Parks, and may be expended by the department upon appropriation by the Legislature. . . .

Title 63 Violation Surcharge Assessment

§ 63-9-31 Surcharge for motor vehicle violations; disposition:

(1) In addition to any other monetary penalties and other penalties imposed by law, any county . . . which participates in a wireless radio communications program approved by the applicable governing authorities may assess an additional surcharge in an amount not to exceed Ten Dollars (\$10.00) on each person upon whom a court imposes a fine or other penalty for each violation of Title 63, Mississippi Code of 1972, except offenses relating to vehicular parking or registration. On all citations issued by Mississippi Highway Safety Patrol officers, a surcharge in the amount of Ten Dollars (\$10.00) shall be collected by the court and deposited as provided in subsection (2) of this section. . . .

State Fees

Appearance Bond Fee

§ 83-39-31 Fee on appearance bonds and recognizances; additional assessment on bail bonds to be deposited into Victims of Domestic Violence Fund:

Cash Bail Bond

(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.

Recognizance Bond

(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.

Whether the twenty dollar appearance bond fee, required by Section 83-39-31(2) of the Mississippi Code, should be collected by the clerk of the court for a defendant who deposited his/her driver's license in lieu of bail and then enters a guilty or nolo contendere by paying the fine to the clerk, without appearing in court for final adjudication? In response to your question, the clerk of the court should collect the twenty dollar appearance fee when a defendant deposits his/her driver's license in lieu of bail and then enters a guilty or nolo contendere plea by paying the fine to the clerk as set forth in Section 83-39-31(2). **Re: Appearance Bond Fees, Opinion No. 2006-00412 (Miss. A.G. Sept. 5, 2006).**

Appeal Bond

(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.

Is an official taking bond for an appeal to the State Supreme Court of a felony conviction in Circuit Court required by Section 83-39-31[(3)], to collect an appearance bond fee? Section 83-39-31[(3)] of the Mississippi Code of 1972 imposes the fee upon each defendant convicted of a criminal offense who appeals his conviction and posts a bond conditioned upon his appearance. Subsection [(3)] of 83-39-31, unlike the other subsections, does not require that the bond be conditioned upon appearance at trial. It is our opinion that the bond fee demanded by subsection [(3)] is applicable to an appearance bond posted by a criminal defendant appealing a conviction from circuit court to the state supreme court. **Re: Appearance Bond Fee for Appeal, Opinion No. 93-0439 (Miss. A.G. Aug. 5, 1993).**

Cases Where Fee is Not Imposed

(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.

Under section 83-39-31, the clerk must keep a list of the bonds posted and the cases wherein the State has failed to obtain a conviction, in which cases the fees paid are subject to refund. **Re: A clerk is not required to prepare a list of names for the benefit of a bail bondman, Opinion No. 95-0074 (Miss. A.G. Feb. 16, 1995).**

(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.

Driving Suspension Reduction Fee

§ 63-1-71 Suspension for certain convictions:

(3) The county court or circuit court having jurisdiction, on petition, may reduce the suspension of driving privileges under this section if the denial of which would constitute a hardship on the offender. When the petition is filed, such person shall pay to the circuit clerk of the court where the petition is filed a fee of Twenty Dollars (\$20.00) for each year, or portion thereof, of license revocation or suspension remaining under the original sentence, which shall be deposited into the State General Fund to the credit of a special fund hereby created in the State Treasury to be used for alcohol or drug abuse treatment and education, upon appropriation by the Legislature. This fee shall be in addition to any other court costs or fees required for the filing of petitions.

Traffic Safety Violator Course Fee

§ 63-9-11 Criminal liability; first time violators:

(3)(i) The additional fee of \$10.00 imposed under this subsection (3) shall be forwarded by the court clerk to the State Treasurer for deposit into a special fund created in the State Treasury. Monies in the special fund may be expended by the Department of Public Safety, upon legislative appropriation, to defray the costs incurred by the department in maintaining the nonpublic record of persons who are eligible for participation under the provisions of this subsection (3).

Interlock Device Fund Fee

§ 63-11-31 Vehicle impoundment, immobilization and ignition locks

Effective until June 30, 2020:

(2)(a) The cost of installation and operation of an ignition-interlock device shall be borne by the person to whom an interlock-restricted driver's license is issued, and the costs of court-ordered drug testing shall be borne by the person so ordered, unless the person is determined by the court to be indigent.

(b) (i) A person convicted under Section 63-11-30 shall be assessed by the court, in addition to the criminal fines, penalties and assessments provided by law for violations of Section 63-11-30, a fee of Fifty Dollars (\$50.00), to be deposited in the Interlock Device Fund in the State Treasury unless the person is determined by the court to be indigent.

(ii) A person nonadjudicated under Section 63-11-30 shall be assessed by the court, in addition to the criminal fines, penalties and assessments provided by law for violations of Section 63-11-30, a fee of Two Hundred Fifty Dollars (\$250.00) to be deposited in the Interlock Device Fund in the State Treasury unless the person is determined by the court to be indigent.

Criminal Justice Fund Fee

§ 97-19-67 Bad checks; penalties; restitution:

(4) Upon conviction of any person for a violation of Section 97-19-55, when the prosecution of such person was commenced by the filing of a complaint with the court by the district attorney under the provisions of Section 97-19-79, the court shall, in addition to any other fine, fee, cost or penalty which may be imposed under this section or as otherwise provided by law, and in addition to any order as the court may enter under subsection (3) of this section requiring the offender to pay restitution under Sections 99-37-1 through 99-37-23, impose a fee in the amount up to eighty-five percent (85%) of the face amount of the check, draft, order, electronically converted check, or electronic commercial debit for which the offender was convicted of drawing, making, issuing, uttering, delivering or authorizing in violation of Section 97-19-55.

(5) It shall be the duty of the clerk or judicial officer of the court collecting the fees imposed under subsection (4) of this section to monthly deposit all such fees so collected with the State Treasurer, either directly or by other appropriate procedures, for deposit in the special fund of the State Treasury created under Section 99-19-32, known as the "Criminal Justice Fund."

[T]his office has interpreted this statute to mean that when the prosecution of a person for violation of section 97-19-55 is commenced by the filing of a complaint by the district attorney's office), the court must impose a fee up to 85% of the face value of the check. However, if the prosecution of a person for bad check violation was not commenced by the filing of a complaint by the district attorney, then the court should not impose the fee. **Re: Bad Checks/85% Fee, Opinion No. 95-0388 (Miss. A. G. Aug. 2, 1995).**

County Assessments & Taxes

Jury Tax

§ 9-7-133 Imposition and collection of jury tax:

A jury tax of three dollars is imposed on each original suit in the circuit court in which a plea is filed, and on every issue therein tried separately by a jury, and a tax of two dollars on each case transferred or appealed thereto, to constitute a fund for the payment of jurors, and to be collected by the clerk or sheriff as costs. The clerk shall be liable on his official bond for any failure to charge, receive, or issue execution for the jury tax; and the sheriff shall likewise be liable for a failure to collect or to pay the same to the county treasurer; and they may be fined as for a contempt therefor not more than one hundred dollars.

Court Administrator Assessment (Optional)

§ 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.

Court Reporter's Tax

§ 9-13-21 Tax fee of court reporter:

In each suit, cause or matter where (1) a plea or answer is filed, and (2) in probate or any other cause or matter wherein the court reporter actually serves, a court reporter's tax fee of ten dollars (\$10.00) shall be collected as costs, and paid into the treasury of the county in which the case is tried, as the jury tax is collected by law and paid in the circuit court.

County Law Library Assessment (Optional)

§ 19-7-31 Law libraries, establishment and maintenance:

The board of supervisors of any such county, in its discretion, may levy, by way of resolution, additional court costs not exceeding Two Dollars and Fifty Cents (\$2.50) per case for each case, both civil and criminal, filed in the chancery, circuit and county courts or any of these in the county, and may levy, by way of resolution, additional court costs not exceeding One Dollar and Fifty Cents (\$1.50) per case for each case, both civil and criminal, filed in the justice courts of the county, for the support of the library authorized in the county. If the additional court costs authorized in this section are levied, the clerk or judge of those courts shall collect those costs for all cases filed in his court and forward same to the chancery clerk, who shall deposit the same in a special account in a county depository for support and maintenance of the library, and the chancery clerk shall be accountable for those funds. However, no such levy shall be made against any cause of action the purpose of which is to commit any person with mental illness, alcoholic or narcotic addict to any institution for custodial or medical care, and no such tax shall be collected under this subsection on any cause of action that the proper clerk handling same deems to be in its very nature charitable and in which cause the clerk has not collected his own legal fees.

Department of Archives and History Fee (Optional)

§ 25-60-5 Filing fee:

(1) Except as provided in subsection (2) of this section, any county or municipal official or employee who accepts documents for filing as public records shall, in addition to any other fee provided elsewhere by law, collect a fee of One Dollar (\$1.00) for each document so filed. In municipalities and counties that collect Three Hundred Dollars (\$300.00) or more per month from the filing fee, the official or employee collecting the fee shall, on or before the last day of each month, deposit the avails of Fifty Cents (50¢) of the fee into the general fund of the county or

municipality, as appropriate, and remit the remainder to the State Treasurer who shall deposit it to the credit of a statewide local government records management fund which is hereby created in the State Treasury. In municipalities and counties that collect less than Three Hundred Dollars (\$300.00) per month from the filing fee, the avails of Fifty Cents (50¢) of the fee shall be remitted to the State Treasurer on a quarterly basis for deposit as provided in the previous sentence. Any monies remaining in the fund at the end of a fiscal year shall not lapse into the General Fund of the State Treasury. Counties and municipalities shall expend monies derived from the fee hereinabove imposed solely to support proper management of their official records in accordance with records management standards established by the Department of Archives and History. Monies in the Local Government Records Management Fund shall be expended by the Department of Archives and History, pursuant to legislative appropriation, to support the Local Government Records Office of the department and to support a local records management grant program as funds permit.

(2) The fee provided in subsection (1) of this section shall not be collected in any county until the board of supervisors, by resolution spread upon its minutes, determines that it will collect the fee.

(3) Each municipality and participating county may collect the filing fee provided for in this section on filings in any court subject to their respective jurisdiction.

County Prosecuting Attorney Tax

§ 25-3-9 County prosecuting attorneys; compensation:

In all cases of conviction there shall be taxed against the convicted defendant, as an item of cost, the sum of Three Dollars (\$3.00), which shall be turned in to the county treasury as a part of the general county funds; however, the Three Dollars (\$3.00) shall not be taxed in any case in which it is not the specific duty of the county attorney to appear and prosecute.

CHAPTER 4

**PAYMENT & COLLECTION OF COURT COSTS,
FINES, ASSESSMENTS & RESTITUTION**

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CHAPTER 4

PAYMENT & COLLECTION OF COURT COSTS,
FINES, ASSESSMENTS & RESTITUTION

Clerk Issues Executions for Fines

§ 99-19-65 Collection of fines and penalties:

The clerk of the circuit court shall, immediately after the adjournment of every term, issue execution according to the nature of the case, for all fines, penalties and forfeitures assessed by the court, or which shall have accrued to the state or to the county, and remaining due and unpaid. Said clerk shall, within thirty days after such adjournment, transmit a list of said executions to the clerk of the board of supervisors of the county, noting the names of the defendants, the amounts, and the sheriff or other officer to whom the same was delivered; and, at the same time he shall transmit to said clerk a statement of the returns made by the sheriff or other officer on execution for fines, penalties, and forfeitures returnable to the last term of the court. Any circuit court clerk who shall fail to issue such executions, or to transmit the lists thereof as required, shall forfeit and pay the sum of two hundred dollars for every such offense, to be recovered by the state or county, on motion against him and his sureties by the district attorney, before the circuit court. The clerk of the board of supervisors shall notify the district attorney of such default.

§ 99-19-20 Fines; payment; indigent defendants:

(1) Except as otherwise provided under Section 1 of this act,¹ when any court sentences a defendant to pay a fine, the court may order

(a) that the fine be paid immediately, or

(b) that the fine be paid in installments to the clerk of the court or to the judge, if there be no clerk, or

An alternative available to the trial judge is the establishment of a realistic installment plan for the payment of the fine [pursuant to] § 99-19-20(1)(b). *Cassibry v. State*, 453 So. 2d 1298, 1299 (Miss. 1984).

(c) that payment of the fine be a condition of probation, or

(d) that the defendant be required to work on public property for public benefit under the direction of the sheriff for a specific number of hours, or

Section 99-19-20(1)(d) authorizes the trial judge to require that [a criminal defendant] perform public service. *Cassibry v. State*, 453 So. 2d 1298, 1299 (Miss. 1984).

(e) any combination of the above. . . .

§ 99-37-5 Payment; order; enforcement:

(1) When a defendant is sentenced to pay a fine or costs or ordered to make restitution, the court may order payment to be made forthwith or within a specified period of time or in specified installments. If a defendant is sentenced to a term of imprisonment, an order of payment of a fine, costs or restitution shall not be enforceable during the period of imprisonment unless the court expressly finds that the defendant has assets to pay all or part of the amounts ordered at the time of sentencing.

(2) When a defendant sentenced to pay a fine or costs or ordered to make restitution is also placed on probation or imposition or execution of sentence is suspended, the court may make payment of the fine or costs or the making of restitution a condition of probation or suspension of sentence. Such offenders shall make restitution payments directly to the victim. As an alternative to a contempt proceeding under Sections 99-37-7 through 99-37-13, the intentional refusal to obey the restitution order or a failure by a defendant to make a good faith effort to make such restitution may be considered a violation of the defendant's probation and may be cause for revocation of his probation or suspension of sentence.

Mississippi Rule of Criminal Procedure 26.6 states in part:

Method of Payment; To Whom. Unless the court expressly directs otherwise:

(1) the payment of a fine, restitution, and/or court costs shall be made to the clerk of court; and

(2) monies received from the defendant shall be applied as follows:

(A) first, to pay any and all court costs (as designated by statute) assessed against the defendant;

(B) second, to pay any restitution the defendant has been ordered to make; and

(C) third, to pay any fines imposed against the defendant.

The clerk shall, as promptly as practicable, forward restitution payments to the victim.

Ways to Collect Court Costs, Fines, Assessments & Restitution

Contempt Proceedings

§ 99-19-20 Sentence; imposition of fine; payment; imprisonment for nonpayment; indigent defendants:

(2) Except as otherwise provided under Section 1 of this act, the defendant may be imprisoned until the fine is paid if the defendant is financially able to pay a fine and the court so finds, subject to the limitations provided under this section. The defendant shall not be imprisoned if the defendant is financially unable to pay a fine and so states to the court in writing, under oath, after sentence is pronounced, and the court so finds, except if the defendant is financially unable to pay a fine and such defendant failed or refused to comply with a prior sentence as specified in subsection (1) of this section, the defendant may be imprisoned.

[I]t is established . . . that an indigent may not be incarcerated because he is financially unable to comply with an otherwise lawfully imposed sentence of a fine. So long as [the defendant] is "financially unable to pay a fine" and the trial court so finds, he may not be imprisoned. *Cassibry v. State*, 453 So. 2d 1298, 1299 (Miss. 1984).

This subsection shall be limited as follows:

- (a) In no event shall such period of imprisonment exceed one (1) day for each One Hundred Dollars (\$100.00) of the fine.
- (b) If a sentence of imprisonment, as well as a fine, were imposed, the aggregate of such term for nonpayment of a fine and the original sentence of imprisonment shall not exceed the maximum authorized term of imprisonment.
- (c) It shall be in the discretion of the judge to determine the rate of the credit to be earned for work performed under subsection (1)(d), but the rate shall be no lower than the rate of the highest current federal minimum wage.

Section 99-19-20(2)(c) provides that [a defendant] would receive credit against his fine for any such public service work "at the rate of the highest current federal minimum wage." *Cassibry v. State*, 453 So. 2d 1298, 1299 (Miss. 1984).

(3) Periods of confinement imposed for nonpayment of two (2) or more fines shall run consecutively unless specified by the court to run concurrently.

§ 99-37-7 Treatment of default in payment as contempt; judicial officer not liable for failure of defendant to pay fine or make restitution:

(1) Subject to the provisions of Section 1 of this act,1 when a defendant sentenced to pay a fine or to make restitution defaults in the payment thereof or of any installment, the court, on motion of the district attorney, or upon its own motion, may require him to show cause why his default should not be treated as contempt of court, and may issue a show cause citation or a warrant of arrest for his appearance.

(2) Subject to the provisions of Section 1 of this act, unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment, the court may find that his default constitutes contempt and may order him committed until the fine or the restitution, or a specified part thereof, is paid.

§ 99-37-9 Term of imprisonment for contempt:

The term of imprisonment for contempt for failure to make restitution shall be set forth in the commitment order, and shall not exceed one (1) day for each twenty-five dollars (\$25.00) of the restitution, or thirty (30) days if the order of the restitution was imposed upon conviction of a violation or misdemeanor, or one (1) year in any other case, whichever is the shorter period. A person committed for failure to make restitution shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.

§ 99-37-11 Relief from payment:

If it appears to the satisfaction of the court that the default in the payment of a fine or restitution is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the fine or order of restitution or the unpaid portion thereof in whole or in part.

It is the opinion of this office that section 99-37-11 can only be used to revoke a fine if the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment pursuant to section 99-37-7. There is no authority for such fines to be excused simply due to their age or the fact that the defendant left the state. **Re: Uncollectible Fines, Opinion No. 96-0197 (Miss. A. G. Apr. 12, 1996).**

Executions on Criminal Judgments

§ 9-7-171 General docket:

The clerk shall keep a general docket, in which he shall enter . . . a note of all judgments rendered therein, by reference to the minute book and page.

§ 99-19-65 Collection of fines, penalties, and list reported:

The clerk of the circuit court shall, immediately after the adjournment of every term, issue execution according to the nature of the case, for all fines, penalties and forfeitures assessed by the court, or which shall have accrued to the state or to the county, and remaining due and unpaid.

Section 99-19-65 requires that “the circuit clerk, without the necessity of additional court orders, shall issue execution according to the nature of the case.” **Re: Unpaid Fines (Miss. A. G. Mar. 26, 1980).**

Said clerk shall, within thirty days after such adjournment, transmit a list of said executions to the clerk of the board of supervisors of the county, noting
the names of the defendants,
the amounts, and
the sheriff or other officer to whom the same was delivered;

and, at the same time he shall transmit to said clerk a statement of the returns made by the sheriff or other officer on execution for fines, penalties, and forfeitures returnable to the last term of the court.

Any circuit court clerk who shall fail to issue such executions, or to transmit the lists thereof as required, shall forfeit and pay the sum of two hundred dollars for every such offense, to be recovered by the state or county, on motion against him and his sureties by the district attorney, before the circuit court. The clerk of the board of supervisors shall notify the district attorney of such default.

§ 9-7-181 Execution docket:

The clerk shall keep a docket, in which he shall enter every *capias pro finem* and all executions issued by him, specifying
the names of the parties,
the date,
the amount of the judgment or decree and of costs,
the name of the officer to whom it is delivered,
to what county directed,

the date when issued, and
the return-day thereof;
and, when the same is returned, shall, without delay, record the return at large on
the same page of the docket. . . .

§ 25-31-23 Duty as to fines:

The district attorney, at each term of the circuit court, shall carefully examine the minutes of the preceding terms and the execution docket, to see that executions have been issued for all fines, penalties, and forfeitures adjudged at such terms, and that the same have been properly proceeded on and returned, and what fines, penalties, and forfeitures have been collected; and he shall, at the close of every term, make out a statement of all fines, forfeitures, and penalties adjudged and made final at such term; and also of all fines, penalties, and forfeitures collected or received by the sheriff or other officer, stating each case and the amount, and shall deliver the same to the clerk of the board of supervisors of the county. He shall proceed against the officers and their sureties for any neglect of duty of which they may be guilty.

§ 99-37-13 Enforcement of judgment:

A default in the payment of a fine or costs or failure to make restitution or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine or restitution shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine or restitution has actually been collected.

Section 99-37-13 authorizes a criminal fine to be enrolled on the judgment rolls in the circuit clerk's office thereby creating a lien on all of the defendant's property in the county for that judgment amount. **Re: Enrolling Criminal Judgment from Justice Court, Opinion No. 95-0410 (Miss. A. G. July 19, 1995).**

§ 11-7-191 Lien of enrolled judgment:

A judgment so enrolled shall be a lien upon and bind all the property of the defendant within the county where so enrolled, from the rendition thereof, and shall have priority according to the order of such enrollment. . . . A judgment shall not be a lien on any property of the defendant thereto unless the same be enrolled.

It is our opinion that this section allows a criminal judgment sentencing a person to pay a fine, assessments, costs, bond fees or restitution, to be enrolled on the judgment roll. **Re: Judgment Roll (Miss. A. G. Feb. 26, 1992).**

Statute of Limitations on Civil Judgments to Collect Court Costs and Fines

§ 15-1-51 Actions against and in favor of the state:

Statutes of limitation in civil cases shall not run against the state, or any subdivision or municipal corporation thereof, except that any judgment or decree rendered in favor of the state, or any subdivision or municipal corporation thereof, shall not be a lien on the property of the defendant therein for a longer period than seven (7) years from the date of filing notice of the lien, unless an action is brought before the expiration of such time or unless the state or such subdivision or municipal corporation refiles notice of the lien. There shall be no limit upon the number of times that the state, or any subdivision or municipal corporation thereof, may refile such notices of lien. . . .

Is there a statute of limitations on civil judgments in favor of the State for court costs, fees and fines in criminal cases?

Section 99-19-65 requires the circuit clerk to issue executions on fines, penalties or forfeitures accruing to the county or state. The judgment of the court in a criminal case imposing a fine, assessments or costs is a judgment in favor of the county.

Section 15-1-51 controls the question you pose. . . . It is our opinion that there is no statute of limitations on recovery of fines, costs and assessments in favor of the state or county in a criminal case. However, the judgment of the court in favor of the state or county, duly enrolled in the judgment roll in the circuit clerk's office, creates a lien on the property of the defendant that lasts only seven years unless renewed as allowed by law. **Re: Civil Judgments/Statute of Limitations, Opinion No. 94-0450 (Miss. A. G. Aug. 24, 1994).**

Garnishment

§ 99-37-13 Enforcement of judgment:

A default in the payment of a fine or costs or failure to make restitution or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine or restitution shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine or restitution has actually been collected.

Section 99-37-13 states:

A default in the payment of a fine or costs or failure to make restitution or any installment thereof may be collected by any means authorized by law for the enforcement of judgment. . . .

It is our opinion that this section allows a criminal judgment sentencing a person to pay a fine, assessments, costs, bond fees or restitution, to be enrolled on the judgment roll. It also allows a criminal defendant's wages to be garnished after default in payment of the fine or other charge. **Re: Judgment Roll, Opinion No. 92-0131 (Miss. A. G. Feb. 26, 1992).**

It is the opinion of this office that [section 99-37-13] would authorize the use of garnishment to collect fines and costs. **Re: Use of Garnishments to Collect Fines (Miss. A. G. Dec. 30, 1985).**

Probation Revocation Hearings

§ 99-19-20 Sentence; imposition of fine; payment; imprisonment for nonpayment; indigent defendants:

(1) Except as otherwise provided under Section 1 of this act, when any court sentences a defendant to pay a fine, the court may order . . . that payment of the fine be a condition of probation. . . .

§ 99-37-5 Payment; order; enforcement:

(2) When a defendant sentenced to pay a fine or costs or ordered to make restitution is also placed on probation or imposition or execution of sentence is suspended, the court may make payment of the fine or costs or the making of restitution a condition of probation or suspension of sentence. Such offenders shall make restitution payments directly to the victim. As an alternative to a contempt proceeding under Sections 99-37-7 through 99-37-13, the intentional refusal to obey the restitution order or a failure by a defendant to make a good faith effort to make such restitution may be considered a violation of the

defendant's probation and may be cause for revocation of his probation or suspension of sentence.

Collection Agency

§ 19-3-41 **Jurisdiction and powers generally:**

(2) The board of supervisors of any county, in its discretion, may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the county including, but not limited to, past-due fees, fines and assessments, delinquent ad valorem taxes on personal property and delinquent ad valorem taxes on mobile homes that are entered as personal property on the mobile home rolls, collection fees associated with the disposal or collection of garbage, rubbish and solid waste, or with the district attorney of the circuit court district in which the county is located to collect any delinquent fees, fines and other assessments.

Section 19-3-41 would empower a county board of supervisors to contract with a private collection agency or attorney to collect outstanding fines. Section 99-19-20 does not forbid the use of a collection agency or an attorney to collect the delinquent fines. **Re: Private Company Collecting Fines, Opinion No. 93-0863 (Miss. A. G. Mar. 18, 1994).**

Any such contract may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the county and shall not be reduced by any collection costs or fees.

There shall be due to the county from any person whose delinquent payment is collected pursuant to a contract executed under this subsection an amount, in addition to the delinquent payment, of not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state. However, in the case of delinquent fees owed to the county for garbage or rubbish collection or disposal, only the amount of the delinquent fees, which may include an additional amount not to exceed up to One Dollar (\$1.00) or ten percent (10%) per month, whichever is greater, on the current monthly bill on the balance of delinquent monthly fees as prescribed under Sections 19-5-21 and 19-5-22, may be collected and no amount in addition to such delinquent fees may be collected if the board of supervisors of the county has notified the county tax collector under Section 19-5-22 for the purpose of prohibiting the issuance of a motor vehicle road and bridge privilege license tag to the person delinquent in the payment of such fees.

Any private attorney or private collection agent or agency contracting with the county under the provisions of this subsection shall give bond or other surety

payable to the county in such amount as the board of supervisors deems sufficient. Any private attorney with whom the county contracts under the provisions of this subsection must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the county contracts under the provisions of this subsection must meet all licensing requirements for doing business in the State of Mississippi.

Neither the county nor any officer or employee of the county shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the county has contracted under the provisions of this subsection.

The Mississippi Department of Audit shall establish rules and regulations for use by counties in contracting with persons or businesses under the provisions of this subsection.

- (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.

Mississippi Judicial Advisory Study Committee

§ 9-21-21 Study committee created:

[Repealed by 2018 HB 949.]

§ 9-21-23 Object of study committee:

[Repealed by 2018 HB 949.]

§ 9-21-31 Study committee duties and powers:

[Repealed by 2018 HB 949.]

§ 9-21-37 Committee authorized to employ support personnel:

[Repealed by 2018 HB 949.]

Use of Interpreters in All Courts

§ 9-21-71 Definitions:

The following words and phrases shall have the meanings ascribed to them unless the context clearly requires otherwise:

- (a) "Non-English speaker" means any party or witness who cannot readily understand or communicate in spoken English and who consequently cannot equally participate in or benefit from the proceedings unless an interpreter is available to assist the individual. The fact that a person for whom English is a second language knows some English does not prohibit that individual from being allowed to have an interpreter.
- (b) "Interpreter" means any person authorized by a court and competent to translate or interpret oral or written communication in a foreign language during court proceedings.
- (c) "Court proceedings" means a proceeding before any court of this state or a grand jury hearing.

§ 9-21-73 Program established:

- (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.

§ 9-21-75 Compensation:

The court may appoint either an interpreter who is paid or a volunteer interpreter.

§ 9-21-77 Oath, confidentiality and public comment:

(1) Prior to providing any service to a non-English speaking person, the interpreter shall subscribe to an oath that he or she shall interpret all communications in an accurate manner to the best of his or her skill and knowledge.

(2) The oath shall conform substantially to the following form:

INTERPRETER'S OATH

Do you solemnly swear or affirm that you will faithfully interpret from _____ (state the language) into English and from English into _____ (state the language) the proceedings before this court in an accurate manner to the best of your skill and knowledge?

(3) Interpreters shall not voluntarily disclose any admission or communication that is declared to be confidential or privileged under state law. Out-of-court disclosures made by a non-English speaker communicating through an interpreter shall be treated by the interpreter as confidential or privileged or both unless the court orders the interpreter to disclose such communications or the non-English speaker waives such confidentiality or privilege.

(4) Interpreters shall not publicly discuss, report or offer an opinion concerning a matter in which they are engaged, even when that information is not privileged or required by law to be confidential.

(5) The presence of an interpreter shall not affect the privileged nature of any discussion.

§ 9-21-79 Determination of need for an interpreter:

(1) An interpreter is needed and a court interpreter shall be appointed when the judge determines, after an examination of a party or witness, that:

- (a) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or
- (b) the witness cannot speak English so as to be understood directly by counsel, court and jury.

(2) The court should examine a party or witness on the record to determine whether an interpreter is needed if:

- (a) A party or counsel requests such an examination;
- (b) It appears to the court that the party or witness may not understand and speak English well enough to participate fully in the proceedings; or
- (c) If the party or witness requests an interpreter.

§ 9-21-81 Interpreter's fees and expenses:

(1) Any volunteer interpreter providing services under this act shall be paid reasonable expenses by the court.

(2) The expenses of providing an interpreter in any court proceeding may be assessed by the court as costs in the proceeding, or in the case of an indigent criminal defendant to be paid by the county.

Court Interpreter Credentialing Program

See <http://courts.ms.gov/aoc/aoc.html>

Mississippi Electronic Courts (MEC)

See <http://courts.ms.gov/mec/mec.html>

ADMINISTRATIVE OFFICE OF COURTS

FORMS

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ON THE

ADMINISTRATIVE OFFICE OF COURTS

WEB SITE AT:

<http://courts.ms.gov/forms/forms.html>

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§ 25-61-9 Records furnished by third parties:

(1) Records furnished to public bodies by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction under this chapter until notice to third parties has been given, but the records shall be released no later than twenty-one (21) days from the date the third parties are given notice by the public body unless the third parties have filed in chancery court a petition seeking a protective order on or before the expiration of the twenty-one-day time period. Any party seeking the protective order shall give notice to the party requesting the information in accordance with the Mississippi Rules of Civil Procedure.

(2) If any public record which is held to be exempt from disclosure pursuant to this chapter contains material which is not exempt pursuant to this chapter, the public body shall separate the exempt material and make the nonexempt material available for examination or copying, or both, as provided for in this chapter.

(3) Trade secrets and confidential commercial and financial information of a proprietary nature developed by a college, university or public hospital under contract with a firm, business, partnership, association, corporation, individual or other like entity shall not be subject to inspection, examination, copying or reproduction under this chapter.

(4) Misappropriation of a trade secret shall be governed by the provisions of the Mississippi Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

(5) A waste minimization plan and any updates developed by generators and facility operators under the Mississippi Comprehensive Multimedia Waste Minimization Act of 1990 shall be retained at the facility and shall not be subject to inspection, examination, copying or reproduction under this chapter.

(6) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in Section 75-26-3, and data processing software produced by a public body which is sensitive must not be subject to inspection, copying or reproduction under this chapter.

As used in this subsection, “sensitive” means only those portions of data processing software, including the specifications and documentation, used to:

(a) Collect, process, store, and retrieve information which is exempt under this chapter.

(b) Control and direct access authorizations and security measures for automated systems.

(c) Collect, process, store, and retrieve information, disclosure of which would require a significant intrusion into the business of the public body.

(7) For all procurement contracts awarded by state agencies, the provisions of the contract which contain the commodities purchased or the personal or professional services provided, the unit prices contained within the procurement contracts, the overall price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information under this section, and shall be available for examination, copying or reproduction as provided for in this chapter. . . .

§ 25-61-10 Use of sensitive software:

(1) Any public body that uses sensitive software, as defined in Section 25-61-9, or proprietary software must not thereby diminish the right of the public to inspect and copy a public record. A public body that uses sensitive software, as defined in Section 25-61-9, or proprietary software to store, manipulate, or retrieve a public record will not be deemed to have diminished the right of the public if it either:

(a) If legally obtainable, makes a copy of the software available to the public for application to the public records stored, manipulated, or retrieved by the software; or

(b) ensures that the software has the capacity to create an electronic copy of each public record stored, manipulated, or retrieved by the software in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(2) A public body shall provide a copy of the record in the format requested if the public body maintains the record in that format, and the public body may charge a fee which must be in accordance with Section 25-61-7.

(3) Before a public body acquires or makes a major modification to any information technology system, equipment, or software used to store, retrieve, or manipulate a public record, the public body shall adequately plan for the provision of public access and redaction of exempt or confidential information by the proposed system, equipment or software.

§ 27-3-77 Exemption from public access requirements:

Records in the possession of a public body, as defined by paragraph (a) of Section 25-61-3 which would disclose information about a person's individual tax payment or status, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

§ 27-3-80 Drug trafficking kingpin task force; investigation and prosecution of tax evasion; definitions:

(4) Any information received by the Attorney General, the Department of Revenue, the Bureau of Narcotics or other law enforcement agency shall be confidential except to the extent that disclosure is necessary to pursue tax evasion or other criminal tax charges or unless a proper judicial order is obtained. Information received under this section is exempt from the Mississippi Public Records Act of 1983.

§ 27-77-15 Confidentiality and disclosure of information:

(5) Information that is prohibited from being disclosed in subsection (1) of this section shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

§ 31-1-27 Appraisal records exempt from access:

Appraisal information in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, which concern the sale or purchase of real or personal property for public purposes prior to public announcement of the purchase or sale, where the release of such records would have a detrimental effect on such sale or purchase, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

§ 33-15-11 Powers of Governor:

(12) To collect information and data for assessment of vulnerabilities and capabilities within the borders of Mississippi as it pertains to the nation and state's security and homeland defense. This information shall be exempt from the Mississippi Public Records Act, Section 25-61-1 et seq.

§ 37-11-51 Records exempt from public access:

(1) Test questions and answers in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, which are to be used in future academic examinations, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(2) Letters of recommendation in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, respecting admission to any educational agency or institution, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(3)(a) Except as provided in paragraph (b) of this subsection, documents, records, papers, data, protocols, information or materials in the possession of a community college or state institution of higher learning that are created, collected, developed, generated, ascertained or discovered during the course of academic research, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(b) The exemption under paragraph (a) of this subsection shall not apply to a public record that has been published, copyrighted, trademarked or patented.

(4) Unpublished manuscripts, preliminary analyses, drafts of scientific or academic papers, plans or proposals for future research and prepublication peer reviews in the possession of a community college or state institution of higher learning, or submitted and accepted for publication by publishers shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(5) Nothing in this section shall otherwise create a public record right over, or shall impede or infringe upon, the copyright in any work.

(6) School safety plan documents containing preventive services listed in Section 37-3-83 shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

§ 39-7-41 Records exempt from public access:

Records in the possession of the Mississippi Department of Archives and History or any other public body as defined in paragraph (a) of Section 25-61-3 which contain information about the location of any specific archaeological site and which in the opinion of any such agency possessing such records would, upon the disclosure thereof, create a substantial risk of damage or destruction to the historical value of such archaeological site or create a substantial risk of damage or destruction to private property rights, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

§ 41-9-68 Mississippi Public Records Act exemption:

(1) Except as otherwise provided in subsection (2) of this section, records maintained by public hospitals shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

TYPES OF APPEARANCE BAIL BONDS

An appearance bond is the type of bail bond used to release a defendant from custody but will also insure the defendant's presence at subsequent criminal proceedings and at trial.

Type of Bail Bond	Rule or Statute	Description
Licensed Bail Bond	§ 83-39-1 <i>et seq.</i>	<p>Court allows the defendant to enter into a contract with a limited surety agent or personal surety agent who, for a fee, will guarantee the defendant's appearance at trial.</p> <p>If the defendant does not appear in court, the agent is responsible for paying the full bail amount.</p>
Rule 8.01 Definitions and Requirements	MRCrP 8.1	<p>The accused must tender to the clerk of the circuit court ten percent (10%) of the amount of the bond as set, in cash, or \$250.00 in cash, whichever is greater.</p> <p>...</p>
Personal Surety Bail Bond	§ 83-39-31(1)	<p>Court allows the defendant or a third party to pledge personal or real property as security for the amount of bond.</p> <p>If the defendant does not appear in court, the property is forfeited to the court, and the defendant or the third party is liable.</p>

TYPES OF APPEARANCE BAIL BONDS

An appearance bond is the type of bail bond used to release a defendant from custody but will also insure the defendant's presence at subsequent criminal proceedings and at trial.

Type of Bail Bond	Rule or Statute	Description
Cash Bail Bond	§ 83-39-31(1) § 99-5-9	An amount of cash set by the court is deposited with the sheriff or other officer having custody of the defendant in lieu of a surety or property bail bond. The sheriff delivers the money to the county treasurer.
Recognizance Bail Bond	§ 83-39-31(2) § 99-5-11	Court allows the defendant to give his promise to appear at court in lieu of any other type of bond.
Insurance Bail Bond	§ 99-5-7	An insurance company can write a bond for a criminal defendant to appear at trial or other court proceeding.

(f) Parties Under Disability. In the case of parties under a disability of infancy or unsoundness of mind, the various periods of time for which provision is made in this rule and within which periods of time action must be taken shall not begin to run until the date on which the disability of any such party shall have been removed. However, in cases where the appellant infant or person of unsound mind was a plaintiff or complainant, and in cases where such a person was a party defendant and there had been appointed for him or her a guardian ad litem, appeals to the Supreme Court shall be taken in the manner prescribed in this rule within two years of the entry of the judgment or order which would cause to commence the running of the 30 day time period for all other appellants as provided in this rule.

(g) Extensions. The trial court may extend the time for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time otherwise prescribed by this rule. Any such motion which is filed before expiration of the prescribed time may be granted for good cause and may be ex parte unless the court otherwise requires. Notice of any such motion which is filed after expiration of the prescribed time shall be given to other parties, and the motion shall be granted only upon a showing of excusable neglect. No such extension shall exceed 30 days past such prescribed time or 10 days from the date of entry of the order granting the motion, whichever occurs later.

(h) Reopening Time for Appeal. The trial court, if it finds

(a) that a party entitled to notice of the entry of a judgment or order did not receive such notice from the clerk or any party within 21 days of its entry and

(b) that no party would be prejudiced, may, upon motion filed within 180 days of entry of the judgment or order or within 7 days of receipt of such notice, whichever is earlier, reopen the time for appeal for a period of 14 days from the date of entry of the order reopening the time for appeal.

(i) Taxpayer Appeals. If the board of supervisors of any county, or the mayor and board of aldermen of any city, town or village, or any other board, commission or other officer of any county, or municipality, or district, sued in an official capacity, fails to file a notice of appeal under Rule 4(a) within 20 days after the date of entry of an adverse judgment or order, or within 7 days after filing of a notice by another party pursuant to Rule 4(c), any taxpayer of the county, municipality or district shall have the right at the taxpayer's own expense to employ private counsel to prosecute the appeal in compliance with these rules. If the governmental entity files a notice of appeal, the appeal shall not be dismissed if any such taxpayer objects and prosecutes the appeal at the taxpayer's own expense.

Content of Record on Appeal

Mississippi Rule of Appellate Procedure 10, **Content of the Record on Appeal**, states in part:

(a) Content of the Record. The parties shall designate the content of the record pursuant to this rule, and the record shall consist of designated papers and exhibits filed in the trial court, the transcript of proceedings, if any, and in all cases a certified copy of the docket entries prepared by the clerk of the trial court. . . .

Clerk's Duty to Prepare the Record for Appeal

Mississippi Rule of Appellate Procedure 11, **Completion and Transmission of the Record**, provides:

(d) Duty of Trial Court Clerk to Prepare and Transmit Record.

(1) Clerk's Preparation of Record. Upon the appellant's compliance with subparagraph (b)(1) and service of the designation required by Rule 10(b)(1) the trial court clerk shall assemble the record as follows:

i. Clerk's Papers.

(a) Conventional. A certified copy of the docket entries prepared by the clerk of the trial court shall be followed by a legible photocopy of any papers filed with the clerk and designated by the parties and a cost bill for the preparation of the record indicating costs for the trial court clerk and court reporter and the Supreme Court filing fee. Within 30 days, the clerk shall assemble the papers in the order of filing, number each page consecutively at the bottom, and transmit a list of the papers correspondingly numbered and identified with reasonable definiteness. All jury instructions shall be placed in the record with court instructions first, instructions given to plaintiff second, instructions refused plaintiff third, instructions given to defendant fourth, and instructions refused defendant fifth. The trial court clerk shall separate the clerk's papers into volumes of no more than 150 pages for fastening. The clerk shall fasten the clerk's papers on the top and provide suitable covers for each volume. Each volume of clerk's papers shall be bound in a brown binder and the outside of each binder shall designate the page numbers of the pages contained in that volume.

(b) Electronic. Within 30 days, the clerk shall use the Mississippi Electronic Court (MEC) system to assemble the record as follows. The docket shall be followed by the papers designated by the parties and a cost bill for the preparation of the record indicating costs for the trial court clerk and court reporter. The clerk shall assemble the papers in the order of filing, except that jury instructions shall be assembled with court instructions first, instructions given to plaintiff second, instructions refused plaintiff third, instructions given to defendant fourth, and instructions refused defendant fifth. The Supreme Court filing fee shall be mailed to the Supreme Court.

ii. Transcript.

(a) Conventional. The original transcript is prepared by the court reporter pursuant to Rule 11(c). The clerk of the trial court shall not renumber the pages of the original transcript, nor make copies of the original transcript, nor handle the original transcript in any way other than to include in the table of contents of the Clerk's Papers the number of volumes contained in the original transcript and include the original transcript as part of the record to be transmitted to the Supreme Court. The court reporter is responsible for

preparing, certifying, and binding the transcript and is responsible for furnishing the transcript fully ready for transmission to the Supreme Court.

(b) Electronic. The original transcript is prepared by the court reporter pursuant to Rule 11(c). The court reporter shall either file the transcript electronically or deliver the transcript on an electronic disk to the clerk so that the clerk can then file the transcript electronically. The court reporter is responsible for preparing and certifying the transcript and for furnishing the transcript fully ready for transmission to the Supreme Court.

iii. Exhibits.

(a) Conventional. Within 30 days, a copy of exhibits designated by the parties shall be assembled in a flat file envelope or a box. If an exhibit is a photograph, the original shall be included and a photocopy retained by the trial court clerk. Video and audio tapes shall be included and a duplicate shall be retained by the trial court clerk. The clerk shall include with the exhibits forwarded to the Supreme Court a list of all exhibits designated by the parties, indicating thereon those retained by the trial court clerk and those submitted to the Supreme Court. Documents of unusual bulk or weight and physical exhibits other than documents, shall not be transmitted by the trial court clerk unless the clerk is directed to do so by a party or by the clerk of the Supreme Court. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits of unusual bulk or weight.

(b) Electronic. Within 30 days, exhibits designated by the parties shall be assembled as follows. If the document or photograph can be scanned, the trial court clerk shall scan the exhibit, convert the file to Adobe Portable Document Format (PDF), and retain the original unless a party or the clerk of the Supreme Court directs otherwise. If the document, photograph, or physical exhibit cannot be scanned, the trial court clerk should, if possible, photograph the exhibit; scan or convert the photograph to PDF; and retain the original unless a party or the clerk of the Supreme Court directs otherwise. The trial court clerk shall comply with subsection (d)(1)(iii)(a) if

- the exhibit can neither be scanned nor photographed;
- the PDF image is deficient so that the original is necessary; or
- the exhibit is a video or audio recording.

Following the time for attorney's examination and proposed correction under Rule 10(b)(5), the trial court clerk shall send all PDF exhibits to the Supreme Court using the Mississippi Electronic Court (MEC) system. When forwarding exhibits to the Supreme Court, the trial court clerk shall include a list of all designated exhibits, indicating those scanned, those photographed, those submitted conventionally, and those retained by the trial court clerk.

(e) Retention of Duplicate Record in Trial Court for Use in Preparing Appellate

Papers. The trial court shall retain, pending further order of the Supreme Court, its original docket entries, the original papers held with the clerk, a copy of the list of papers required by Rule 11(d)(1)(I), the original exhibits, other than photographs, a photocopy of photographic exhibits, a copy of video and audio tape exhibits, a duplicate of the reporter's transcript, and table of contents. Attorneys preparing appellate papers may use these retained documents. In cases where the circuit or chancery court has functioned as an appellate court for review of an on-the-record adjudication by an administrative agency or inferior tribunal and the circuit or chancery court clerk determines that a copy of the proceedings of such adjudication is retained in the administrative agency or inferior tribunal, the circuit or chancery court clerk need not copy the record of such proceedings, but must retain the original of the papers and documents attendant to the proceedings in that court while transmitting to the Supreme Court the original of the agency or inferior tribunal record (including transcript, papers, documents, and exhibits), along with a copy of the record of the circuit or chancery court proceedings.

Rule 10 of the Mississippi Rules of Appellate Procedure governs the content of the record on appeal and provides that “the record shall consist of designated papers and exhibits.” Rule 11 of the Mississippi Rules of Appellate Procedure establishes certain deadlines within which the clerk is to compile and transmit the appellate record and also requiring the clerk to retain a duplicate record in the trial court. . . . This Court's case file, Lyons's sworn motion to compel, the transcript of the circuit court hearing, and the circuit court's findings of fact reveal that on January 4, 2011, Lyons filed a designation of the record with the circuit clerk. Various documents, including the briefs filed in the appeal from the county court to the circuit court, were specifically listed in the designation of the record. The circuit clerk failed timely to assemble the appellate record pursuant to Rule 11(d)(1) of the Mississippi Rules of Appellate Procedure, and the circuit clerk failed to seek an extension of that deadline. The circuit clerk did not notify the parties that the record was complete until March 2, 2011. On March 7, 2011, Lyons examined the documents that the circuit clerk offered as the appellate record. However, the circuit clerk incorrectly had provided the entire case file to Lyons, instead of the actual record that had been prepared for transmittal to the Supreme Court. On March 9, 2011, the Lyons firm filed a Rule 10(b)(5) certificate certifying that it had examined the appellate record and that the appellate record was complete. Once Lyons had filed its Rule 10(b)(5) certificate, the circuit clerk improperly excluded a number of documents from the appellate record, even though those documents had been properly designated. The circuit clerk failed timely to transmit the complete record to the Supreme Court pursuant to Rule 11(d)(2) of the Mississippi Rules of Appellate Procedure, and the circuit clerk did not seek an extension of the applicable deadline. The circuit clerk transmitted what she purported to be the appellate record, and it was marked filed by the Clerk of the Supreme Court on April 6, 2011. . . . Based on the pleadings, the testimony before the circuit court, and the circuit court's findings, frequent systemic errors are occurring in the circuit clerk's office. These errors are directly caused by the circuit clerk's failure properly to train the employees in her office. The circuit clerk, not litigants, must bear the costs of these errors. . . . The Court remands this matter to the . . . Circuit [court] calculation, imposition, and collection of appropriate sanctions from the circuit clerk. ***T. Jackson Lyons & Associates, P.A. v. Precious T. Martin, Sr. & Associates, PLLC***, 83 So. 3d 1284, 1286-89 (Miss. 2012).

_____ Certificate setting forth the fact that the appellant deposited the estimated cost of preparing the appeal

_____ Copy of the certificate served upon all other parties

_____ Copy of the certificate served upon the court reporter

_____ Copy of the certificate served upon the supreme court clerk

DUTY OF REPORTER TO PREPARE AND FILE TRANSCRIPT - *Rule 11(c)*.

Court reporter shall file with the clerk of the trial court:

_____ Appellant's certificate of compliance endorsed by the court reporter and including the date which the court reporter expects to have the transcript completed

_____ Copy for all parties

_____ Copy for the supreme court clerk

_____ Original and 1 copy of the trial transcript

_____ Electronically formatted media/medium

_____ Clerk pays the court reporter for actual fees earned in preparing the transcript

DUTY OF CLERK TO PREPARE AND TRANSMIT RECORD - *Rule 11(d)*.

Clerk shall assemble the record in the following order after the appellant's compliance with Rule 11(b)(1) and Rule 10(b)(1):

_____ Clerk's Papers (within 30 days) - *Rule 11(d)(1)(i) & (2)*.

_____ Conventional

_____ Electronic

_____ Table of contents

_____ Certified copy of the docket entries

_____ Copies of designated papers in the order of filing and numbered consecutively at the bottom of each page

Jury instructions shall be included in the court's papers in the following order:

_____ Court instructions

_____ Instructions granted to plaintiff

_____ Instructions refused to plaintiff

_____ Instructions granted to defendant

_____ Instructions refused to defendant

_____ Detailed, itemized cost bill

Note: Each item should be separately listed to include the number of pages for each item, the cost per page for each item, and the total charge for each

item. The lower court clerk shall include a single charge for the court reporter's transcript, which is separately itemized, and not duplicated in any other charge for the clerk's papers or for any other item. The lower court shall not charge for duplicate copies of items included in the record. The rules of court allow only a single charge for each page of the record based upon the count of pages submitted on appeal.

_____ Clerk's certificate of compliance with Rule 11, certified and seal affixed

Note: The clerk's papers shall be on pages 8 ½ x 11 inches in size, separated into volumes of up to 150 pages, and bound at the top in a brown binder. However, if there is a legal-size attachment(s) to a pleading or other court papers, the attachment should not be reduced. A legal-size page may be folded at the bottom. Contact the supreme court clerk's office if there will be more than 15 legal-size pages in the clerk's papers. The pages contained in each volume of the clerk's papers shall be listed on the outside of each binder and list in the table of contents each volume with corresponding page numbers for each volume of the record.

_____ Original transcript as prepared by the court reporter - *Rule 11(d)(1)(ii)*.

_____ Conventional

_____ Electronic

_____ Exhibits (within 30 days) - *Rule 11(d)(1)(iii)*.

_____ Conventional

_____ Electronic

_____ Copy of all designated exhibits in a flat-file envelope or box

_____ Original photographs, if any; photocopy kept by clerk

_____ Original audio/video tapes, if any; duplicate kept by clerk

_____ List of all exhibits designated by the parties, including those retained by clerk and those submitted to the supreme court clerk

Note: Physical exhibits and exhibits of unusual bulk other than documents are retained by the trial clerk unless designated by the party or requested by the supreme court clerk.

Note: Do not reduce an original exhibit which is on legal-size paper. A legal-size page may be folded at the bottom.

_____ Clerk keeps: - *Rule 11(e)*.

_____ Original docket entries

_____ Original papers held by the clerk

_____ Copy of the list of papers required by Rule 11(d)(1)(i)

_____ Original exhibits, other than photographs

- _____ Photocopy/ies of photographs
- _____ Copy of audio/video tape exhibits
- _____ Duplicate of the court reporter's transcript
- _____ Copy of table of contents

CIRCUIT/CHANCERY COURT AS APPELLATE COURT/COMMISSION APPEALS

When circuit/chancery court functioned as an appellate court for review of an on-the-record adjudication by an administrative agency or inferior tribunal and that agency or tribunal retains a copy of the proceedings, the clerk does not need a copy of those proceedings.

Clerk transmits to the supreme court clerk: - *Rule 11(e)*.

- _____ Copy of the papers and documents of the proceedings in the circuit or chancery court
- _____ Original record of the agency or inferior tribunal
 - _____ Transcript
 - _____ Papers and documents
 - _____ Exhibits

Note: Clerk does not retain a copy of the administrative agency or inferior tribunal record.

Clerk shall serve notice of the completion of the transcript to: - *Rule 11(d)(2)*.

- _____ Appellant/counsel
- _____ Appellee/counsel
- _____ Supreme court clerk

ATTORNEY'S EXAMINATION AND PROPOSED CORRECTIONS - *Rule 10(b)(5)*.

- _____ Appellant examines the record for 14 days
- _____ Appellant returns the record to the clerk within 14 days with
 - _____ Written proposed corrections, if any
 - _____ Certificate of examination
 - _____ Certificate of service that record has been returned to the clerk
- _____ Appellee examines the record for 14 days
- _____ Appellee returns the record to the clerk within 14 days with
 - _____ Written proposed corrections, if any
 - _____ Certificate of examination
 - _____ Certificate of service that record has been returned to the clerk
- _____ If parties agree in writing to proposed corrections, they are deemed made by stipulation
- _____ If parties do not agree on the proposed corrections, the clerk shall deliver the record with

the proposed corrections to the trial court - *Rule 10(b)(5)*.

CORRECTION OR MODIFICATION OF THE RECORD - *Rule 10(e)*.

_____ Trial court determines which corrections, if any, are proper and issues an order under Rule 10(e) - *Rule 10(b)(5)*.

_____ Clerk serves all parties and their attorneys with a copy of the court's order within 5 days - *Rule 10(b)(5)*.

_____ Party may request a hearing within 5 days of service

_____ Trial court conducts a hearing, if requested

_____ Trial court issues order directing the clerk and/or court reporter to make the appropriate corrections, if any

_____ Record returned to the clerk and/or court reporter to make the appropriate corrections within 7 days - *Rule 10(b)(5)*.

_____ Clerk verifies appropriate corrections have been made - *Rule 10(b)(5)*.

Note: This rule allows for a supplemental record to be filed, if needed, by court order.

TRANSMISSION OF THE RECORD TO THE SUPREME COURT CLERK - *Rule 11(d)(2)*.

_____ Clerk delivers the record to the supreme court clerk after all corrections have been made, if any, and/or a supplemental record has been filed, if any.

PROCEDURE FOLLOWING DECISION LETTER FROM SUPREME COURT

_____ Clerk notifies the supreme court clerk's office whether the exhibits on file with the supreme court clerk are originals or duplicates. Any originals will be returned with a charge for postage costs. Duplicates will be destroyed.

EXECUTION OF CRIMINAL JUDGMENT - *Rule 39(b)*.

_____ Clerk shall notify the supreme court clerk in writing of the status of the execution of the criminal judgment within 30 days of receipt of the mandate.