

STATE OF MISSISSIPPI

OFFICE OF THE STATE AUDITOR

STACEY PICKERING
AUDITOR



JUSTICE COURT CLERKS' CONFERENCE

MARRIOTT JACKSON, MISSISSIPPI

REPORT FROM THE AUDITOR

May 5, 2011

Presented By: Ronald Robinson, CPA
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I. PROGRAM INFORMATION

OBJECTIVES: The objective of this program is to educate participants about their legal responsibilities and personal liability as justice court officers when exercising duties related to managing public funds and property. Emphasis will be placed upon accounting for and substantiating activities.

HOURS: Presentation time will include approximately one hour direct presentation and three hours of interactive discussion.

FIELD OF STUDY:
Accounting and Auditing

INSTRUCTOR: The instructor is the primary author of the presented written material.

PROGRAM MATERIAL:
The written material represents requirements of the State Auditor's Office as the agency authorized by state law to prescribe accounting and auditing procedures. All program material is reviewed by the Department of Technical Assistance, State Auditor's Office. See program cover page for telephone number, address and additional information.

INSTRUCTIONAL METHOD:
This program will be presented orally and supported by detailed written material to coincide with presentation.

EVALUATION: Through out the program the instructor will recap presented material; and participates will be given opportunity to ask questions, comment and evaluate understanding. Participates may also contact the State Auditor's Office (Technical Assistance) to ask additional questions, further comment on, and offer additional evaluate the program.

II. LEGAL REFERENCES AND INTERNET SITES

A. LEGAL REFERENCES

**SECTION REFERENCES ARE TO
THE MISSISSIPPI CODE ANNOTATED**

**A. G. REFERENCES ARE TO
ATTORNEY GENERAL'S OPINIONS**

B. INTERNET WORLD WIDE WEB SITES

LEGISLATIVE BILLS: <http://billstatus.ls.state.ms.us>

MISSISSIPPI CODE: http://www.sos.state.ms.us/ed_pubs/MSCode/

ATTORNEY GENERAL OPINIONS: <http://government.westlaw.com/msag/>

ETHICS COMMISSION OPINIONS:
<http://www.ethics.state.ms.us/ethics/ethics.nsf/AdvisoryOpinions?OpenForm>

D.F.A. TRAVEL REGS:
<http://www.dfa.state.ms.us/Offices/PurTrav/TravConInfo.htm>

STATE AUDITOR'S OFFICE: <http://www.osa.ms.gov/>

ARCHIVES RECORDS: <http://www.mdah.state.ms.us/recman/index.php>

STATE RETIREMENT SYSTEM: <http://www.pers.state.ms.us/>

STATE OF MISSISSIPPI: <http://www.mississippi.gov/>

III PRESS RELEASE

CONTACT: **Lisa H. Shoemaker (601) 576-2645 or (601) 613-8518**
Laney Grantham (601) 576-2641

DATE: February 17, 2011

XXXX Court Clerk Arrested for Extortion, State Auditor Takes Control of XXXXX County XXXX Clerk's Office

(Jackson, Miss.) - State Auditor Stacey Pickering took control of the XXXXXXXXX Court Clerk's Office today following an investigation that led to the arrest of XXXX Court Clerk XXXXXX for extortion. NAME, AGE, of HOMETOWN, is charged with extortion for collecting unauthorized fees, Mississippi Code 97-11-33. The State Auditor officially closed the XXXX Court Clerk's Office in XXXX in order for auditors and special agents to determine the cash on hand.

"Clerk XXXX was arrested earlier today at her home and charged with one count of extortion," said State Auditor Stacey Pickering. "This **covert operation** in XXXX County is one of several undercover operations **being conducted** by the State Auditor's Office across Mississippi **where we have received allegations of public employees taking bribes to fix traffic citations**. Our special agents do an excellent job on behalf of the taxpayers of Mississippi to ensure that public employees and elected officials are held to the highest level of accountability."

The State Auditor's Office alleges that Name collected money in exchange for the improper disposal of traffic citations and that these funds were not properly deposited into the XXXX Court of XXXX, and the tickets were not forwarded to the Department of Public Safety for entry on driving history records.

Name was booked at the XXXX Country Sheriff's Office on February 17. Her bond was set at \$5000.

"This arrest is just the first step of what is an ongoing investigation into possible embezzlement of public funds from the XXXXX Court," said Pickering.

Elected as Mississippi's State Auditor in 2007, Stacey Pickering has recovered more than \$3.9 million in embezzled, misspent or misappropriated funds. He is a seventh generation Mississippian from Jones County. Auditor Pickering currently serves on the Domestic Working Group for the Office of the Comptroller General of the United States. He also serves on the Financial Management and Intergovernmental Affairs and Performance Audit Committees for the National Association of State Auditors, Comptrollers and Treasurers and is a member of the National State Auditors Association. Prior to serving as State Auditor, Pickering served as a State Senator from 2004-2007 representing Jones County and is credited for co-authorizing legislation allowing Mississippi to end lawsuit abuse. Throughout his political career, Pickering has made tremendous strides in creating more accountability and transparency in government and continues to promote fiscal responsibility and the need for more efficiency and productivity in government. For more information on Stacey Pickering, visit www.osa.state.ms.us/auditors-bio.htm.

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Photos of today's arrest, can be found by visiting <http://www2.osa.ms.gov/forum/showthread.php?t=584>.

Lisa H. Shoemaker, APR
Office of State Auditor Stacey Pickering
601.613.8518 (cell)

IV. SELECTED NEW LEGISLATION 2011

HOW TO TRACK NEW LEGISLATION ON THE INTERNET.

GO TO: <http://billstatus.ls.state.ms.us/> SELECT "All Measures (NOT DEAD)"

CAUTION: FOLLOW UP ON THESE BILLS MAY BE REQUIRED.

THESE ARE FIRST EMPRESSIONS OF SELECTED NEW LEGISLATION. SOME BILLS ARE STILL PENDING THE GOVERNOR'S SIGNATURE. CONTINUING ANALYSIS OF THE BILLS MAY RESULT IN DIFFERENT INTERPRETATIONS AND/OR ADDITIONAL IMPLICATIONS.

MORE DETAILED COMMENTS ARE PROVIDED FOR BILLS CONSIDERED MOST RELAVENT TO YOUR INTEREST.

CITY & COUNTY - DONATIONS TO COURT APPOINTED SPECIAL ADVOCATES

House Bill 193, effective 7/1/11 created a new law for municipalities and revised Section 19-5-93 (t) for counties to authorize them to expend up to an amount equal to ¼ mill each for the support by donation to any chapter of the "Court Appointed Special Advocates.

COUNTY – DONATIONS TO NATIONAL VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTER

House Bill 193, effective 7/1/11 revised Section 19-5-93 (u) to authorize counties to expend up to an amount equal to ¼ mill for support by donation to the National Voluntary Organizations Active in Disaster (NVOAD).

DOMESTIC VIOLENCE AND GPS WITH BOND

House Bill 196 creates new law, effective 7/1/11 to provide for conditions for bond that may be imposed upon a defendant. These conditions include Global Position Monitoring Device. The defendant must pay the costs or cover the costs through community service or establishing that he/she is indigent.

COUNTY – PRIVATE PROPERTY CONDUIT CLEANING

House Bill 204, effective 7/1/11 revised Section 19-5-92.1 to add cleaning and clearing conduits to the counties' authority to clean and clear water courses.

DRUG COURT PARTICIPATION DECISION

House Bill 224, effective 7/1/11 revised Section 9-23-15 to provide the Court with jurisdiction has final determination whether a person may participation in drug court.

PENALTY FOR ADULTS ALLOWING MINORS TO DRINK AT RESIDENCE

House Bill 504, effective 7/1/11 creates new law and revises Section 67-3-70 to impose penalties on adults who allow minors to consume alcohol in their premises (with exceptions). [Same as Senate Bill 2597.]

506 Prosecutors & Public Defenders – May carry concealed weapons
Superseded by House Bill 881 (to add Coroners)

552 Crime – Impersonation someone on the internet, etc.

561 Crime – Kidnap vulnerable person

562 Crime – vulnerable person abuse third offense a felony

606 Driver’s License – Issue for eight years option

705 Car Tag – Saints –Passed, effective 2/14/11

CITY & COUNTY COURTS – UNIFORM ASSESSMENT INCREASE

House Bill 708, **effective 7/2/11** revised Section 99-19-73 to increase state assessments on certain criminal convictions. This is an increase in funding for the state’s Vulnerable Persons Fund (\$1.00, \$ 1.50 for GF) and Cyber Crime Unit Fund (\$1.50). [Detailed procedures for this change will be placed on the State Auditor’s web site for municipal courts and justice courts after programs are presented to court clerks over the coming months.]

STATE UNIFORM ASSESSMENTS:

Traffic Violations	(Code TV)	- increased from	\$ 77.50 to \$ 80.00
Implied Consent Violations	(Code IC)	- increased from	\$ 232.50 to \$ 235.00
Game and Fish Violations	(Code GF)	- increased from	\$ 77.00 to \$ 80.00
Other Misdemeanors Violations	(Code OM)	- increased from	\$ 95.00 to \$ 97.50
Other Felonies Violations	(Code OF)	- increased from	\$ 269.50 to \$ 272.00
Railroad Crossing Violations	(Code RCV)	- no change in amount due	

for violation . Additional railroad related statutes were added to the list of violations that require collection of the \$ 25.00 state assessment. Now includes Sections 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013, and 77-9-249.

CITY & COUNTY – TRADEMARK VIOLATION FORFEITURES

House Bill 784, effective 7/1/11 created new laws and revised laws to provide for seizure and forfeiture procedures of property used or derived from violation of trademark laws.

COUNTY COURTS - JUDGMENT RENEWALS

House Bill 810, effective 7/1/11 revised Section 15-1-43 to provide a judgment or decree may only be renewed if the existing judgment has not expired. The notice of renewal must also certify the judgment remains valid and has not been satisfied or barred.

CITY & COUNTY – RESPONSIBILITY FOR CEMETARYS

House Bill 822, effective 7/1/11 revised Section 21-43-38 to require the city or county to appoint a cemetery maintenance committee to oversee any perpetual care cemetery declared by the court to be in receivership. The committee may raise money from private sources for the care of the cemetery.

STATE DEPT. PUBLIC SAFETY

House Bill 847, effective 3/30/11 revised Sections 63-1-21, 35, 37 & 47 to revise driver’s license fees and procedures; including authority to pay with credit/debit cards.

H.B. 859 PERS – Disability option change

CORONERS, PROSECUTORS AND PUBLIC DEFENDERS – CARRY GUNS

House Bill 881, effective 7/1/11 creates new laws and revised Section 97-37-7 to authorize “all prosecutors”, coroners and public defenders to carry guns. Training is required. Authority to purchase gun from county, etc. is authorized upon PERS retirement. Special provision subject to DPS rules for licensed persons to be trained to carrying a gun in a courthouse and specified places.

SCHOOLS – EXTREME WEATHER CLOSURE AUTHORITY AND STATE SUPPORT

House Bill 1156, effective 2/24/11 created new law and revised laws to allow school calendars to be altered and school closures when resulting from weather conditions (State Board of Education approved - states of emergency). State support during this time is limited to ten days.

CITY & COUNTY – GOLD BUYING BUSINESSES

House Bill 1195, effective 7/1/11 creates new law to define and require persons operating a business (permanent building for a year or more) to acquire a “Local Privilege License” (Sec. 27-17-9). A copy of the privilege license must be forwarded to the local law enforcement agency.

**1216 Vehicle Towing – not without property or vehicle owner or lien holder permission
Title procedures for scrapped motor vehicles.**

STATE, CITY, & COUNTY – UNIFORM TRAFFIC TICKETS

House Bill 1355, effective 7/1/11 Traffic Tickets: transfers regulatory authority from the State Auditor to the Department of Public Safety. [State Auditor’s interest expired in 1984 when the Justice Court Clerk System was created; eliminating judges collecting money.]

SB 2032 Sex Offender – Registration procedures, court giving notice to DPS of certain convictions, (notice of schools, shelters, etc. use)

CITY & COUNTY – COURT ASSESSMENT TO RECOVER MISS. BUREAU OF NARCOTICS INVESTIGATIVE COSTS

Senate Bill 2050, effective 7/1/11 revised Section 99-19-77 to add the Miss. Bureau of Narcotics (MBN) to the list of law enforcement agencies whose costs of investigation may be assessed against a defendant. Assessment collection must be used to support the MBN, not to supplant its existing budget.

**S.B. 2192 Timber Loads – Lights required at night
if load extends > 4 feet off bed or trailer**

2196 ATVs – Training certificate, helmet if under 16 years; on public property

OPEN MEETINGS AND RECORDS

Senate Bill 2289, effective 7/1/11:

- (1) Revised Section 25-41-15 to allow the Ethics Commission to impose a civil fine **upon any member(s)** of a public body a fine of \$ 500 (first offense) and \$ 1000 (second or subsequent offense) plus costs for violating open meeting laws.
- (2) Revised Section 25-61-15 to allow a \$ 100 fine plus costs **per violation upon any person** denying a person access to a public record.

S.B. 2439 PERS – New provisions if employed after 7/1/11, etc.

2363 Courts – Allow labor/material lien in “county court” if claim over \$ 200

PURCHASE LAWS – BAD CONTRACTOR LIST, NO REVERSE AUCTION CONSTRUCTION, LANDMARK PREQUALIFIED BIDDERS

Senate Bill 2368, effective 7/1/11 revised Section 31-11-3 to authorize the Dept. of Finance and Administration to maintain a list of suspended or disbarred contractors. Section 31-7-13 (c)(i)(2) was revised to prohibit the use of reverse auctions for construction contracts. Section 31-7-13 (d)(iv) was revised to provide for prequalified bidders on landmarks designated by the Dept. of Archives and History.

- S.B. 2372 School – Use of buses to transport citizens, in district military base air shows**
- 2388 School – School to School reimbursement of detention costs**
- 2408 Corporate Charters – Life of charter**
- 2413 Blue Alert – DPS alert procedures if officer is killed or seriously injured**

PERS – CHANCERY & CIRCUIT CLERK CONTRIBUTION PROCEDURES

Senate Bill 2437, effective 7/1/11 creates a new Section 25-11-106.1 to require chancery and circuit clerks in office 1/1/11 to pay the employee contribution of their earnings from the county; and the employer and employee contributions for earnings from fees. The county BOS may (each term) authorize the county to pay the employer contribution on the fees.

The clerks must annually file a report to PERS of earning records and make complete payment of required contributions. Failure of a clerk to pay PERS could result in their payments from the county being diverted to PERS or losing credit in the retirement system.

- S.B. 2439 PERS – Change benefits if employed after 7/1/11**
- 2472 Crime – Passing School Bus; procedures, penalties, use of wireless equipment**
- 2496 Elections – Must use 75 % of available voting machines**

SCHOOL AD VALOREM TAX INCREASE NOTICE

Senate Bill 2547, effective 4/6/11 revised Section 27-39-207 to make clear the requirement that a school district hold a budget hearing for an ad valorem tax increase is only required if an actual increase is proposed in the schools request from its levying authority.

S.B. 2596 Elections – Increase penalty for failure to file “Statement of Economic Interest”

2597 Crime – Adult allowing minor to drink at residence (same as H. B. 504)

2615 Crime – Injury or death of fetus

2708 Court Reports – Certification Requirements & penalty

COURTS – BAIL BOND PROCEDURES

Senate Bill 2806, effective 7/1/11:

Section 99-5-25 was revised to extend the time a surety may recover a forfeited bond from 12 months to 18 months;

Section 83-39-25 was revised to clarify bondsman fees for court approved electronic monitoring or drug testing are not considered part of a bondsman’s premium, commission or fees (limited).

Section 83-39-27 was revised to prohibit a bondsman from paying a fee (etc.) to a person who is not an agent.

Section 21-23-8 (city court) was revised to conform bond procedures for municipal courts to be similar to county courts; and to clarify that bonds are forfeited to the municipality.

Other statutes were changed for office location (in state) and training purposes.

2810 Crime – New drugs and precursors

2734 UNIFORM ASSESSMENTS 7/1/11 – Delete repeal date 6/30/11

2821 Crime – Animal abuse violation procedures

COUNTY MAY BURY POULTRY IF EMERGENCY MASS DEATH

Senate Bill 2838, effective 7/1/11 revised Section 19-5-15 to authorize the Board of Supervisors to bury poultry that died in a concentrated feeding operation containing at least 10,000 head per house. A board order, permission of the owner, liability waiver of the owner, and burying on the owner’s property is required.

S.B. 2988 Crime – Railroad crossing; must stop for any vehicles on rail (not just trains)

VI. COURT ASSESSMENT PROCEDURES
JUSTICE COURTS
EFFECTIVE JULY 2, 2011 (House Bill 708)

1. STATE ASSESSMENTS IN CRIMINAL CASES

A. STATE UNIFORM ASSESSMENTS

- 1. Purpose:** These collections are sent to the state to fund various programs, such as mandatory training of court personnel.
- 2. When Due:** These collections are due only when the court imposes a monetary penalty or any other penalty on any of the following types of convictions, including ordinances. (not charged if warning notice only, such as curfew, leash, etc.)
- 3. Types of Violations And Assessment:**

(a) TRAFFIC VIOLATIONS SEC. 99-19-73 (1)

- (1) Includes:** Any violation in Title 63, Miss. Code
- (2) Excludes:** Parking or Registration ; Seat Belt (Sec.63-2-7) and Sec. 63-11-1 et seq. Implied Consent Violations
- H. B. 708 (3) Amount:** Eighty Dollars **\$ 80.00**
- Was \$ 77.50 (4) Settlement Code:** **T V**

(b) IMPLIED CONSENT LAW VIOLATIONS SEC. 99-19-73 (2)

- (1) Includes:** Any violation in Title 63-11-1 et seq.
- H. B. 708 (2) Amount:** Two Hundred Thirty five Dollars **\$ 235.00**
- Was \$ 232.50 (3) Settlement Code:** **I C**

(c) **GAME AND FISH LAW VIOLATIONS** **SEC.99-19-73 (3)**
 (1) **Includes:** Violation of the game and fish laws or regulations
H. B. 708 (2) **Amount:** **Eighty Dollars** **\$ 80.00**
Was \$ 77.00 (3) **Settlement Code:** **G F**

(d) **LITTER LAW VIOLATIONS** **SEC. 99-19-73 (4)**
 (1) **Includes:** Any violation of Section 97-15-29 or 97-15-30
 (2) **Excludes:** Any violation not under this section
 (3) **Amount:** **Twenty Five Dollars** **\$25.00**
 The \$ 50.00 ALA assessment must also be charged
The "Other Misdemeanor" assessment is collected.
 (4) **Settlement Code:** **S L**

(e) **TRAUMA TRAFFIC VIOLATIONS** **SEC. 99-19-73 (5)**
 (1) **Includes:** Any speeding law
 Sec. 63-3-1201 reckless driving
 Sec. 63-3-1213 careless driving
 (2) **Excludes:** Speeding less than 10 MPH
 (3) **Amount:** Speeding:
 Less than 10 MPH Zero
 10 MPH to 20 MPH Ten Dollars \$ 10.00
 20 MPH to 30 MPH Twenty Dollars \$ 20.00
 30 MPH or more Thirty Dollars \$ 30.00
 Reckless Driving Ten Dollars \$ 10.00
 Careless Driving Ten Dollars \$ 10.00
 (4) **Settlement Code:** **TT**

(f) **OTHER MISDEMEANORS** **SEC. 99-19-73 (6)**
 (1) **Includes:** All misdemeanor violations not covered elsewhere
 - ordinance violations
 - **(Litter Violation ALA in addition to this)**
 - tag violations A. G. 4/19/02
 (2) **Excludes:** (1) Traffic Violations see "a" above
 - {including "Trauma Traffic" see "e" above
 (2) Implied Consent Violations see "b" above
 (3) Game and Fish Law Violations see "c" above
 (4) Vehicular Parking and Registration
H. B. 708 (3) **Amount:** **Ninety Seven Dollars and Fifty Cents** **\$ 97.50**
Was \$ 95.00 (4) **Settlement Code:** **O M**

(g) **OTHER FELONIES** **SEC. 99-19-73 (7)**
 (1) **Includes:** All felony violations
 (2) **Excludes:** (a),(b), & (c) above [Sec. 99-19-73 (1)(2)&(3)]
H. B. 708 (3) **Amount:** **Two Hundred Seventy Two Dollars \$ 272.00**
 (was \$269.50) (4) **Settlement Code:** **O F**

B. STATE COURT CONSTITUENTS ASSESSMENT SEC. 37-26-9 (4)

1. **Purpose:** A state assessment to assist funding of court education
2. **Imposed When:** A criminal conviction and a fine of \$ 10.00 or more is imposed
3. **Amount Due:** **Fifty Cents \$.50**
4. **Settlement Code:** **C C**

C. CHILDREN'S TRUST FUND ASSESSMENT SEC. 99-19-75

1. **Purpose:** To fund child abuse prevention programs.
2. **Imposed When:** A defendant is convicted of a violation of Section 97-3-65, 97-3-65 et seq. or 97-3-7 against a minor; **and a fine or other penalty is imposed.**
3. **Amount Due:** **One Thousand Dollars \$ 1000.00**
4. **DFA Settlement Code:** **CTF**

NEW: H. B. 708

D. RAILROAD CROSSING VIOLATION ASSESSMENT Sec. 99-19-73 (8) (a)

1. **Purpose:** To fund the Operation Lifesaver Fund to Increase safety at railroad crossings.
2. **Imposed When:** A defendant is convicted of a violation of Section 77-9-249, 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, or 63-3-1013 and a fine or other penalty is imposed.
3. **Amount Due:** **Twenty Five Dollars \$ 25.00**
4. **DFA Settlement Code:** **RCV**

E. DRUG VIOLATION ASSESSMENT Sec. 99-19-73 (8) (b)

1. **Purpose:** To fund the Drug Evidence Disposition Fund to cover costs to MBN for acquisition, storage, destruction, etc. of evidence related to the Uniform Controlled Substances Act.
2. **Imposed When:** A defendant is convicted of a violation of Section 41-29-139
3. **Amount Due:** **Twenty Five Dollars \$ 25.00**
4. **DFA Settlement Code:** **DV**

F. ADDITIONAL LITTERING ASSESSMENT SEC. 97-15-29

1. **Purpose:** To fund Law Enforcement Officers Monument Fund and deceased officer's children's fund.
2. **Imposed When:** A defendant is convicted of a violation of Sec. 97-15-29.
3. **Amount Due:** **Fifty Dollars \$ 50.00**
(This is collected in addition to the State Uniform Assessments under codes OM and SL)
4. **DFA Settlement Code:** **ALA**

G. STATE APPEARANCE BOND FEE ASSESSMENT SEC. 83-39-31

1. **Purpose:** This assessment is sent to the state general fund
2. **Imposed When:**
 - (a) The defendant posted a bond *conditioned upon appearance at trial*.
[Bonds Include: cash bail bond, surety bail bond (from a bondsman, etc.), property bail bond, or a guaranteed arrest bond certificate]
 - (b) The defendant was released on his own recognizance, deposited his driver's license in lieu of bail, or was released after arrest on a written promise to appear, and was *required to appear* at trial.
 - (c) The defendant was released on an appeal bond, that was *conditioned for appearance*.
3. **Not Imposed When:**
 - (a) No bond was posted, *defendant was held in jail until trial*
 - (b) *Special circumstances apply*
 - (1) Traffic violation prepaid - Sec. 63-9-29
 - (2) Felony preliminary hearing, etc.- Not A Trial
 - (3) Multiple case - One Fee Per Bond
4. **When Collected:**
 - (a) **After Conviction** when a surety bail bond, property bail bond or guaranteed arrest bond certificate is posted with the court clerk.
 - (b) **After Conviction** when any type of bond (except cash bond) is taken by someone other than the court clerk, such as the sheriff.
 - (c) **In Advance**, when **Cash Bond** is taken. (Include Sheriff, A. G. 3-29-02)
5. **Amount:** Greater of **2 %** of bond or Twenty Dollars **\$ 20.00**
6. **Settlement Code:** **A B F**

H. STATE VICTIMS BOND FEE ASSESSMENT SEC. 83-39-31 (7)

1. Purpose: This assessment is sent to the state’s “Victims of Domestic Violence Fund”.

2. Imposed When:

The defendant posted a bond *conditioned upon appearance at trial*.
[Bonds Include: cash bail bond, surety bail bond (from a bondsman, etc.), property bail bond, or a guaranteed arrest bond certificate]

3. Not Imposed When:

- (a) No bond was posted, *defendant was held in jail until trial*
- (b) **The defendant was released on his own recognizance, deposited his driver’s license in lieu of bail, or was released after arrest on a written promise to appear, and was required to appear at trial.**
- (c) **The defendant was released on an appeal bond, that was conditioned for appearance.**
- (d) *Special circumstances apply*
 - (1) Traffic violation prepaid - Sec. 63-9-29
 - (2) Felony preliminary hearing, etc.- Not A Trial
 - (3) Multiple case - One Fee Per Bond

4. When Collected:

After Conviction when a surety bail bond, property bail bond or guaranteed arrest bond certificate is posted with the court clerk.
[No provision to collect cash bonds in advance]

5. Amount: Ten Dollars **\$ 10.00**

6. Settlement Code: **V B F**

I. STATE GAME AND FISH LICENSE ASSESSMENT SEC. 49-7-21 (6)

- 1. Purpose:** A state assessment to assist funding of the Department of Wildlife, Fisheries and Parks.
- 2. Imposed When:** A defendant is convicted of hunting, fishing, etc. without the required state license under Sec. 49-7-21 (3)
[includes in state and out of state residents]
- 3. Amount Due:** The amount the license would have cost. To be noted on the ticket or citation by the charging officer.
- 4. Settlement Code:** *H V*

J. STATE CRIMINAL JUSTICE FUND ASSESSMENT SEC. 97-19-67 (4)

- 1. Purpose:** A state assessment to assist funding of the criminal justice system
- 2. Imposed When:** A criminal conviction for writing a bad check results from a complaint filed by the “District Attorney’s Bad Check Unit” as provided by Sec. 97-19-79.
- 3. Amount Due:** **Up to 85 %** of the face value of the bad check
- 4. Settlement Code:** *C J F*
- 5. Other Charges:** Sec. 97-19-79 allows the district attorney’s \$ 40.00 service charge to be added to court cost

K. HIGHWAY PATROL CITATION ASSESSMENT **Sec. 63-9-31**

1. **Purpose:** To fund wireless radio communications and automation of Highway Patrol Citations
2. **Imposed When:** A criminal conviction results from a citation issued by the Department of Public Safety
3. **Exceptions:** Not imposed on parking and registration convictions.
4. **Amount Due: Ten Dollars** **\$ 10.00**
5. **Settlement:** Collections must be settled to the Chancery Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning

L. ADULT DRIVERS TRAINING **SEC. 63-9-11**

1. **Purpose:** A fee to off set the cost for the Department of Public Safety to maintain a non-public record of persons who are eligible for the program.
2. **Imposed When:** A defendant qualifies and elects to proceed with the adult drivers training option in lieu of a conviction record.
3. **Amount due:** **Ten Dollars** **\$ 10.00**
4. **Settlement:** Collections must be settled to the Chancery Clerk for deposit with the Department of Finance and Administration.
5. **Settlement Code:** **ADT**

M. OTHER EXCEPTIONS TO ASSESSMENTS

1. NO state assessments for seatbelt convictions under Sec. 63-2-7 (local assessments must be collected, A. G. 2008-00360). (Assessments are charged for child restraint violations under Sec. 63-7-301)
2. NO assessments should be charged for MINORS defensive driving in lieu of conviction under Sec. 63-1-55.
3. Fine, cost and assessments ARE charged for **ADULT defensive driving** in lieu of conviction under Sec. 63-9-11.

2. STATE ASSESSMENTS IN CIVIL CASES

A. STATE COURT EDUCATION ASSESSMENT SEC. 37-26-3

1. **Purpose:** A state assessment to fund court education
2. **Imposed When:** Any time a civil case is filed for \$15.00 or more
3. **Amount Due:** On each case filed - Two Dollars \$ **2.00**
4. **Settlement Code:** *S C E F*

B. STATE COURT CONSTITUENTS ASSESSMENT SEC. 37-26-9 (4)

1. **Purpose:** A state assessment to assist funding of court education
2. **Imposed When:** Any time a civil case is filed for \$15.00 or more
3. **Amount Due:** On each case filed - Fifty Cents \$ **.50**
4. **Settlement Code:** *C C*

C. DOMESTIC VIOLENCE PROTECTIVE ORDER FORM FEE SEC. 93-21-7

1. **Purpose:** A fee to fund the cost to the Attorney General for providing protective order forms.
2. **Imposed When:** A protective order is issued prior to July 1, 2009.
3. **Amount Due:** On each order - One Dollar \$ **1.00**
4. **Settlement Code:** **POF**

[This fee was deleted. Funding for the Attorney General's Domestic Violence Division is now provided by the state distributing a share of uniform assessment collections to that purpose (there is no new separate uniform assessment for this purpose).]

3. LOCAL AND OTHER ASSESSMENTS

A. COUNTY LAW LIBRARY ASSESSMENT (optional) SEC. 19-7-31

1. **Purpose:** To fund the county law library
2. **Imposed When:** The Board of Supervisors *may* impose this assessment to defray the cost of operating the county law library.
3. **Amount Due:** Up to \$ **1.50** for each criminal conviction and civil case
4. **Disposition:** Settled to the Chancery Clerk for deposit into the Law Library Fund

B. CRIME STOPPERS ASSESSMENT (optional) SEC. 45-39-17

1. **Purpose** To fund local crime stopper programs
2. **Imposed When:** The Board of Supervisors (by ordinance) *may* impose this assessment to fund local crime stopper programs.
3. **Exceptions:** Not imposed on parking and registration convictions.
4. **Amount Due:** Up to \$ **2.00** for each criminal conviction
5. **Disposition:** Settled to the Chancery Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning

C. LOCAL CITATION ASSESSMENT

Sec. 63-9-31

1. **Purpose:** An assessment to assist funding of wireless radio communications
2. **Imposed When:** The Board of Supervisors may impose this assessment on criminal convictions resulting from a citations issued by the county law enforcement officers (sheriff, constable, etc.)
3. **Amount Due:** **Up To \$ 10.00**
4. **Settlement:** Collections must be settled to the Chancery Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning

D. OTHER LOCAL SPECIAL ASSESSMENTS

There are *no other statutory or special assessments*. Other assessments may be imposed only by local and private legislation.

4. **STATE IMPOSED FINES**

COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE FINE

- A. Imposed By:** Section 63-15-4
- B. Imposed when:** A person is convicted of operating a motor vehicle without an insurance card.
- C. Amount Due**
1. \$ 500.00 if no insurance is obtained by court or payment date.
 2. \$ 100.00 if insurance is obtained by court or payment date.
 3. Judge may suspend any portion of the fine.
(See A. G. Opinion Robert W. Lawrence - 2/9/01)
- D. Settlement Requirement:**
1. **State Share:** **One Half (50 %)** of the fine collected must be settled to the state.
 - (a) **County Share:** **One Half (50 %)** of the fine collected must be settled to the county. The money is settled as with other general fine collections. To the General Fund of the county.
 - (b) **DFA Settlement Code:** **MVL**

[**Note:** Care should be taken to report to the Department of Public Safety on the Commissioner's Copy of the Traffic Ticket all cases where the defendant does not show "proof of insurance". Section 63-15-4 (4) requires suspension of the drivers license for one year or until the owner of the vehicle shows proof of liability insurance.]

5. REGULATION OVERVIEW GOVERNING ASSESSMENTS

A. **APPLYING ASSESSMENTS** - There is *no authority to suspend* assessments

B. **COLLECTION OF ASSESSMENTS**

1. **Who Collects:** The *justice court clerk* Sec. 9-11-19

2. **How Collected:**

(a) *Cash*

(b) *Check* from a Miss. resident paying a Title 63 Ch. 3, 5, or 7 traffic violation (required by Sec. 63-9-12)

(1) Clerk not responsible for this bad check if reasonable collection effort is made, such as suspending drivers license

(c) *Other check, money order, etc.*

(1) Clerk is responsible for bad collections, accepted at personal risk. (Suggest do not deliver receipt or process until clear)

(2) If bad check received, Sec. 97-19-57 explains the procedure for notification to the defendant that a check has been dishonored and authorizes a \$ 40.00 service charge

(d) *Working assessments off* may be authorized by the court, Sec. 47-1-47 & Sec. 99-19-20 (A.G. Priscilla Daniel 10/3/90). The county does not reimburse the state for the loss. (The county also does not pay the constable for his loss A. G. Opinion Sue Gann, 9/11/91)

3. **PARTIAL COLLECTIONS**

(a) Partial payments are classified as assessments based on judge's "order of collection policy" (A. G. 9/25/86). However, Section 25-7-27 (2) requires constables be paid from first collections.

(b) Partial collections must be settled monthly.
Do Not Hold Until Totally Collected.

C. ACCOUNTING FOR ASSESSMENTS

1. **Receipts** - must use prescribed written or computer generated (Sec. 75-12-13) form, Sec. 9-11-21
2. **Settlement Reports** - bank deposits must be made (daily) Sec. 25-1-72
3. **Account Funds**
 - (a) Criminal assessments must be accounted for within the "Criminal Account" and civil assessments must be accounted for within the "Civil Account".
 - (b) Cash Bond Appearance Bond Fees collected in advance must be held in the "Clearing Account" along with the bond until a determination of guilty, not guilty, dismissed, or nolle prosequi.
 - (c) The Chancery Clerk must maintain a "State Assessment Clearing Fund" to account for settled funds.
4. **Accounting Records** - must be prepared by the Justice Court Clerk and Chancery Clerk in accordance with "*County Financial Accounting Manual*" (find at: <http://www.osa.ms.gov/downloads.htm>) and these regulations. (See **Dept. of Archives and History for record disposal requirements** <http://www.mdah.state.ms.us/recman/countiesinf.php>)
5. **Settlement Codes** - must be used to account for assessments.

DFA Settlement Codes: The Justice Court Clerk must determine and provide the settlement codes to the Chancery Clerk for settlements to be made to the State Department of Finance (DFA), these codes are listed on settlement forms provided to the Chancery Clerk by DFA.

DPS Settlement Descriptions: The Justice Court Clerk must also determine and provide the description codes to the Chancery Clerk for settlements to be made to the State Department of Public Safety (DPS), these description codes are listed on settlement forms provided to the Chancery Clerk by DPS.

Old Law Assessment Codes: Old case (cases prior to 10/1/90) assessment collections must be reclassified by type of violation, and accounted for using the proper settlement code.

Code Training: Settlement codes prescribed by DFA and mailed to the Chancery Clerk will be provided to the Justice Court Clerks by the State Auditor's Office.

D. SETTLEMENT OF ASSESSMENTS

1. **Daily Settlement:** The Justice Court Clerk must settle all assessment collections to the county treasury daily, required by Sec. 25-1-72

2. **Monthly Settlement:**

Routine Collections: The Chancery Clerk must settle court assessments to the state and county funds monthly. The Justice Court Clerk must report all *Fees, costs, fines, penalties and bond forfeitures* to the Chancery Clerk, who in turn must submit such report to the Board of Supervisors monthly as required by Sec. 9-11-19. The Chancery Clerk must make monthly settlement of *assessments* to the state as required by Sec. 99-19-73 (9)

Other Collections: Collections pending determination should be held until resolutions. For example, prepaid appearance bond fees should be held until the court guilty/innocent decision is made; or the prosecutor determines a refund is due.

3. **Settlement Forms**

The *attached* settlement forms must be used by the Justice Court clerk to define settlements to the Chancery Clerk. This is so the Chancery Clerk will have the information to settle collections for the state to the proper state agency.

DFA Form: This form is prescribed by the Department of Finance and Administration (**DFA**) for settlement of assessments. The form will be updated as changes and new settlement codes are required.

DPS Form: This form will be prescribed by the Dept. of Public Safety's Office of Public Safety Planning for settlement of certain special assessments it accounts for and returns to the county, such as local citation and crime stopper assessments. This form will also be updated as required.

Preparation of Forms: These are "fill in the blank" forms that include instructions for mailing and making contact for assistance.

If a settlement cannot be neatly and completely made on the form (without change), contact should be made as instructed (something is wrong).

E. REFUND OF ASSESSMENTS

1. **Who Authorizes Refunds:** The Justice Court Clerks must authorize a refund when any of the following conditions occur.
 - (a) Over payments have been made due to **collection error**,
 - (b) **court order** directs,
 - (c) convictions have been **overturned upon appeal**,
 - (d) or in the case of an advance **appearance bond fee** payment, when the prosecutor enters a **nolle prosequi or retires the case to the file**.

2. **How Refunds Are Authorized:** The Justice Court Clerk must authorize all refunds by following the "**Certificate of Eligibility**" procedure.

3. **Certificates of Eligibility Procedure:** This procedure is the Justice Court Clerk must prepare, distribute and account for all Certificate of Eligibility forms issued as prescribed and regulated by the State Auditor (Sec. 99-19-73 & 83-39-31).
 - (a) The "**Certificates of Eligibility**" form is a mandatory document. This form is issued by the Justice Court Clerk to the person to be refunded. A copy must also be issued to the Chancery Clerk if he/she is to make the refund.
 - (b) The Certificate of Eligibility form must contain specific information. The form must be **written, signed and include the date, case number, payee, amount due and reason for the refund**. Written and signed may be electronic when appropriate (Sec. 75-12-13).
 - (c) Copies of all issued "certificates of eligibility" must be **maintained as a record** by the Justice Court Clerk; and the Chancery Clerk when a refund is made.

4. **Who Must Make Refunds:**
 - (a) The Chancery Clerk refunds collections authorized by "*certificates of eligibility*". The Chancery Clerk must maintain copies of all certificates received.
 - (b) The Justice Court Clerk may refund **funds held in the clearing account**, such as prepaid Appearance Bond Fees, cash bonds and money collected in error.
 - (c) The Justice Court Clerk may refund **funds held in criminal and civil accounts**, if a refund is due to collection error and the related collection has not been settled to the Chancery Clerk.

5. **Source of Refunds**
 - (a) Refunds must be made from the funds the original money was settled into; example: uniform assessments from the "State Assessment Clearing Fund"
 - (b) If assessment money has already been settled to the state, refunds are made from later similar collections. For large settled refunds: contact DFA.

6. **Board of Supervisors' Orders:** Board orders are *not required* for refunds of state assessments held in the "State Assessment Clearing Fund". A board order *is required* to authorize refunds of court cost, fines or special assessments received into county budgeted funds (this procedure may be used to support their claims).

COURT ASSESSMENT/FINE SETTLEMENT FORM

Submit to Department of Finance and Administration

COUNTY **OR** MUNICIPALITY OF: _____

FOR THE MONTH & YEAR OF: _____

ASSESSMENT /FINE CODES	CITY COURT	CIRCUIT/ COUNTY COURT	JUSTICE COURT	CHANCERY COURT	TOTAL	ASSESSMENT /FINE CODES
SCEF						SCEF
TV						TV
IC						IC
GF						GF
SL						SL
TT						TT
OM						OM
OF						OF
ABF						ABF
VBF						VBF
DVF			X			DVF
CJF						CJF
CC						CC
DA			X			DA
HV						HV
MVL						MVL
ADT						ADT
CTF						CTF
CEC			X			CEC
CLA			X			CLA
ALA						ALA
POF						POF
RCV						RCV
DV						DV
EXP			X			EXP
TOTAL						

REPORT SUBMITTED BY: _____

DATE OF REPORT: _____

TELEPHONE NUMBER: _____

An Explanation and the Assessment and Fine Codes are defined on the back of this form.

EXPLANATION OF STATE ASSESSMENT/FINE FORM

1. This form was designed by the State Auditor's Office to be used in the settlement of court assessments and fines. The form should be processed as follows:
 - (A) All assessments and applicable fines should be settled monthly.
 - (B) The form should show the total from each type of assessment and fine and the court making the assessment and/or fine.
 - (C) **One** check should accompany the settlement and be payable to **"State Treasurer"**.
 - (D) The completed form and check should be mailed to:

Department of Finance and Administration
Office of Budget and Accounting
P. O. Box 267, Jackson, MS 39205
2. Questions regarding this form should be directed to:

Department of Finance and Administration 601-359-3402
State Auditor's Office 1-800-321-1275 or 601-576-2657
3. The assessment and fine codes shown on the form are defined as follows:

(1)	SCEF	-	State Court Education Fund	-	SEC. 37-26-3
(2)	TV	-	Traffic Violations	-	SEC. 99-19-73 (1)
(3)	IC	-	Implied Consent Law Violations	-	SEC. 99-19-73 (2)
(4)	GF	-	Game and Fish Law Violations	-	SEC. 99-19-73 (3)
(5)	SL	-	Litter Law Violations	-	SEC. 99-19-73 (4)
(6)	TT	-	Traffic Trust	-	Sec. 99-19-73 (5)
(7)	OM	-	Other Misdemeanors	-	SEC. 99-19-73 (6)
(8)	OF	-	Other Felonies	-	SEC. 99-19-73 (7)
(9)	ABF	-	Appearance Bond Fee	-	SEC. 83-39-31
(10)	VBF	-	Victims Bond Fee	-	SEC. 83-39-31 (7)
(11)	DVF	-	Domestic Violence Fund	-	SEC. 25-7-13
(12)	CJF	-	Criminal Justice Fund	-	SEC. 97-19-67
(13)	CC	-	Court Constituents Fund	-	SEC. 37-26-9
(14)	DA	-	Drug Abuse/Drivers License Reinstatement	-	SEC. 63-1-71 / SEC. 63-11-30
(15)	HV	-	Hunting Violation Fee	-	SEC. 49-7-21
(16)	MVL	-	Compulsory Motor Vehicle Liability Insurance	-	SEC. 63-15-4
(17)	ADT	-	Adult Driver Training	-	SEC. 63-9-11
(18)	CTF	-	Mississippi Children's Trust Fund	-	SEC. 99-19-75
(19)	CEC	-	Comprehensive Electronic Court Systems	-	SEC. 25-7-9 / 25-7-13
(20)	CLA	-	Civil Legal Assistance Fund	-	SEC. 25-7-9 / 25-7-13
(21)	ALA	-	Additional Littering Assessment	-	SEC. 97-15-29
(22)	POF	-	Protective Order Form [Domestic Violence]	-	SEC. 93-21-7
(23)	RCV	-	Railroad Crossing Violation	-	Sec. 99-19-73 (8) (a)
(24)	DV	-	Drug Violation	-	Sec. 99-19-73 (8) (b)
(25)	EXP	-	Expunge Fee	-	Sec. 99-19-72

Department of Public Safety COURT ASSESSMENT SETTLEMENT FORM

SECTIONS 63-9-31 and 45-39-17

Name of County or Municipality _____

Month _ _ Year _

A	B	C	D	E	F
				FOR DPS USE ONLY	
	Participant	County or City Code	Total Assessments Collected	Less 1% Administrative Fee	Total Participant Deposit
WIRELESS COMMUNICATIONS ASSESSMENT Sec. 63-9-31					
LINE 1	MHP Title 63 Citations	900			
LINE 2	All Other Title 63 Citations				
CRIME STOPPERS ASSESSMENT					
LINE 3	Crime Stopper 45-39-17 Assessment				
LINE 4	TOTAL				

Report Submitted By: _ _ _ _

Title of Submitter: _ _ _ _

Address of County/City: _ _ _ _

Telephone Number: _ _ _ _

Fax Number: _ _ _ _

INSTRUCTIONS FOR COMPLETION BY COURT CLERK:

The code for MHP is 900. This code is already inserted on Line 1, Column C.

1. Insert your county or municipal code on Line 2, Column C and on Line 3, Column C.
2. Counties enter total wireless communication assessments on MHP citations collected on Line 1, Column D.

NOTE: Cities will not normally have an amount here unless an MHP citation were for some reason adjudicated in city court.

3. Enter the total wireless communication assessments collected on all non-MHP citations on Line 2, Column D.
4. Enter the total crime stopper assessments collected on all citations on Line 3, Column D.
5. Total Column D on Line 4.
6. Columns E & F are for DPS use only.

**JUSTICE COURT CLERKS SETTLE TO CHANCERY CLERK
WITH COURT ASSESSMENT SETTLEMENT FORM**

CHANCERY CLERKS AND MUNICIPAL CLERKS MAKE CHECKS PAYABLE TO "DPS FUND #3747.

Be sure to include a copy of Court Assessment Settlement Form with your check.

MAIL TO:

**Mississippi Department of Public Safety
Comptroller's Office**