

# STATE OF MISSISSIPPI

## OFFICE OF THE STATE AUDITOR

STACEY PICKERING AUDITOR



### REPORT FROM THE AUDITOR

MUNICIPAL COURT CLERKS STATE WIDE SEMINAR  
IMPERIAL PALACE  
BILOXI, MISSISSIPPI

**JULY 14, 2009**

Presented By:  
Ronald Robinson, CPA

1-(800)-321-1275  
[www.osa.state.ms.us](http://www.osa.state.ms.us)

Post Office Box 956, Jackson, Mississippi 39205

# **PROGRAM INFORMATION**

**OBJECTIVES:** The objective of this program is to educate participants about their legal responsibilities and personal liability when exercising duties related to expending public funds and managing public property. With emphasis on accounting for and substantiating activities.

**HOURS:** Presentation time will be approximately one hour.

**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:**  
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 contact the State Auditor's Office (Technical Assistance) to ask additional questions, further comment on, and offer additional evaluate the program.

# TABLE OF CONTENTS

	<b>PAGE</b>
<b>I. INTERNET WEB SITES</b>	<b>4</b>
<b>II. SELECTED NEW LEGISLATION – 2009</b>	<b>5</b>
<b>III. STATE ASSESSMENTS AND FINE PROCEDURES</b>	<b>12</b>
<b>A. INCREASED UNIFORM ASSESSMENTS</b>	<b>12 – 13</b>
<b>B. VICTIMS BOND FEE ( VBF)</b>	<b>16</b>
<b>C. NEW SETTLEMENT FORM</b>	<b>27</b>

# **I. INTERNET WORLD WIDE WEB SITES**

LEGISLATIVE BILLS:	<a href="http://billstatus.ls.state.ms.us">http://billstatus.ls.state.ms.us</a>
MISSISSIPPI CODE:	<a href="http://www.sos.state.ms.us/pubs/MSCode/">http://www.sos.state.ms.us/pubs/MSCode/</a>
ATTORNEY GENERAL OPINIONS:	<a href="http://www.agopin.state.ms.us">http://www.agopin.state.ms.us</a>
ETHICS COMMISSION OPINIONS:	<a href="http://www.ethics.state.ms.us/opinion1.htm">http://www.ethics.state.ms.us/opinion1.htm</a>
DFA TRAVEL REGULATIONS:	<a href="http://www.mmrs.state.ms.us/Purchasing/Travel.htm">http://www.mmrs.state.ms.us/Purchasing/Travel.htm</a>
STATE AUDITOR'S OFFICE:	<a href="http://www.osa.state.ms.us">http://www.osa.state.ms.us</a>
ARCHIVES RECORDS:	<a href="http://www.mdah.state.ms.us/locgov/localgov.html">http://www.mdah.state.ms.us/locgov/localgov.html</a>
STATE RETIREMENT SYSTEM:	<a href="http://www.pers.state.ms.us/">http://www.pers.state.ms.us/</a>
STATE OF MISSISSIPPI:	<a href="http://www.state.ms.us/">http://www.state.ms.us/</a>
MISS. STATE PUBLICATIONS	<a href="http://msucares.com/community/governmental/">http://msucares.com/community/governmental/</a>

## **II. SELECTED NEW LEGISLATION 2009**

**[First Impressions]**

### **HOW TO TRACK NEW LEGISLATION ON THE INTERNET.**

**GO TO:** <http://billstatus.ls.state.ms.us/>

**UNDER "BILL STATUS":**           SELECT "All Measures (NOT DEAD)"

AT THIS POINT YOU WILL SEE A LIST OF BILLS THAT PASSED INTO LAW.

### **SELECTED LEGISLATION TO BE AWARE OF.**

#### **CHILD SUPPORT CONTEMPT:**

House Bill 469, effective 7/1/09 revised Sections 9-1-17, 9-5-87, & 93-5-23 to allow proper courts to refer qualified persons found in contempt for failure to pay child support to house arrest or a state, county or municipal restitution center. Section 99-37-19 was revised to allow counties and municipalities to house contemnors referred for failure to pay child support.

#### **ASSEMBLY AND DISORDERLY CONDUCT PENALTIES REPEALED:**

House Bill 584, effective 3/17/09 repealed criminal statutes related to certain unlawful assemblage and disorderly conduct.

#### **SUSPENDING SENTENCES**

House Bill 674, effective 3/17/09 revised Section 21-23-7 (5) to authorize a judge to suspend the execution of a sentence (or part of); provided the revised sentence could have originally been imposed by the judge or his predecessor and there has not been an appeal, etc..

## **TRAFFIC TICKETS:**

House Bill 718, effective 3/17/09 revised Section 63-9-21 to require traffic tickets to be filed with the court clerk by 9:00 AM the next day after it is issued; if the defendant was incarcerated.

[The language in this bill is expected to be combined with language in Senate Bill 2919 in the final revision to Section 63-9-21. See Senate Bill 2919 for additional changes]

[Note: If a dispatcher, police officer, etc. are made a deputy court clerk to receive traffic tickets on weekends; they must be bonded and be under the direction of the court clerk for this purpose.]

## **BAIL AGENT FEES & BONDS AND AIDING BOND JUMPER PENALTY:**

House Bill 880, effective 7/1/09 revised Section 83-39-25 to increase bail agent fees to a minimum of \$ 100 (was \$ 50), to delete the provision for certain expenses when traveling outside of the county, and to increase the processing fee from \$ 25 to \$ 50. Section 83-39-29 was revised to set a specific penalty (up to \$ 1000 and/or one year in jail) for aiding and abetting bond jumping.

Section 99-5-25 was revised to clarify bail bond forfeiture procedures.

## **COURT ASSESSMENTS:**

House Bill 883, effective 7/1/09 revised Section 99-19-73 to increase court assessments to provide funding for domestic violence prevention, etc.. However, this bill was superseded by Senate Bill 2978 (also effective 7/1/09). Senate Bill 2978 includes the changes in House Bill 883.

Section 93-21-7 was also revised to delete the requirement to collect the one dollar charge for the Protective Order Form.

## **VENDING MACHINE OR PARKING METER TAMPERING:**

House Bill 972, effective 7/1/09 revised Sections 97-17-68 and 97-17-67 to make clear a person may be charged under all laws and ordinances for tampering, mischief, etc. with vending machines, parking meters, etc.

## **COURT APPEARANCE BOND ASSESSMENTS:**

House Bill 989, effective 7/1/09 revised Section 83-39-31 to create a new assessment of \$ 10 when a defendant is convicted and posted a cash, surety, property, or guaranteed bond. This assessment is not collected on other types of bonds. Also, there is also no provision for this fee to be collected in advance when a cash (or any other type) bond is posted. The settlement code to the state is expected to be VBF (Victim's Bond Fee). [See page ]

## **WATER AND OTHER METER TAMPERING PENALTY:**

House Bill 1246, effective 7/1/09 revised Section 97-25-3 to increase the maximum fine from \$ 200 to \$ 500 for conviction of tampering with electric, water or gas meters.

## **IDENTITY THEFT:**

House Bill 1357, effective 7/1/09 revised Section 97-19-85 to establish the conditions for fraudulent use of another's identity.

## **COMPUTER CRIMES:**

House Bill 1362, effective 7/1/09 revised Section 7-5-59 to add certain computer crimes to the white collar crime investigative and prosecution authority of the Attorney General. The revision also prohibits unnecessary disclosure of investigations by subpoenaed persons.

## **INDIGENT BURIAL POLICY OF COUNTY:**

Senate Bill 2504, effective 7/1/09 revised Section 43-31-29 to require the Board of Supervisors to adopt a policy of standards and eligibility criteria for the burial of indigents. Authority is also provided so that adjudication of pauper status may be made after death.

### **FALSE IDENTIFICATION BY MINOR:**

Senate Bill 2616, effective 7/1/09 revised Section 67-1-81 to include presentation of a false document for the purpose of purchasing alcohol to be a false statement crime.

### **CRIME STOPPERS LOCAL AUDIT:**

Senate Bill 2673, effective 7/1/09 revised Section 45-39-5 to allow the State Crime Stoppers Advisory Council to require audits of local crime stopper programs.

### **FAILED TO APPEAR DELINQUENT FINE COLLECTIONS:**

Senate Bill 2918 by Senator Albritton, effective 4/6/09 revised Section 63-1-53 to allow the municipality to use the procedures under Section 21-17-1 (6) [Imposing delinquent fees and contracting collections; see page III-E1, Municipal Audit and Accounting Guide <http://www.osa.state.ms.us/downloads.htm> ] to collect potential fines and delinquency fees when a defendant “Fails to Appear”.

This authority applies to traffic offences that are delinquent for at least 90 days after the Department of Public Safety has suspended the license of the defendant for “Failure to Appear”. The amount of the delinquent fine and court costs is the amount set by the judge under Section 99-19-3.

[This authority is intended to allow the use of collection procedures and the charging of collection fees to encourage payment of amounts set by the judge to be used to pay fines and costs temporarily available to the defendant under Section 99-19-3 (like a bond). Use of this procedure does not establish or suggest an obligation exist to be accounted for in receivable records or financial reports.]

### **DECEASED DEFENDANT FINE WRITE-OFF:**

Senate Bill 2918 (Section 2) by Senator Albritton , effective 4/6/09 (also) created a new law to authorize the municipal court to purge judgment rolls of all fines and fees owed by persons who are proven to be deceased. [Proof is a factual matter to be determined by the court.]

## **UNIFORM TRAFFIC TICKET REVISION:**

### **TRAFFIC TICKETS CONTENT:**

Senate Bill 2919 by Senator Albritton, effective 7/1/09 revised Section 63-9-21 to require that uniform traffic tickets contain space for the “current” address and telephone number of the person being charged. The bill also requires the social security number to be excluded, unless it is used as the driver’s license number.

New traffic tickets will be prescribed by the Attorney General and State Auditor.

[The language in this bill is expected to be combined with the language in House Bill 718 in the final revision to Sec. 63-9-21. See House Bill 718 for additional changes.]

### **PURCHASE LAWS:**

Senate Bill 2923, effective 4/15/09 revised Section 31-7-13 to change bid solicitation procedures; and revise Section 7-7-211 to make technical corrections to the State Auditor’s authority law.

Generally, the following changes were made.

#### **Sec. 31-7-13 (b) - Quote Increase**

- Increase the range for quotes to \$ 5,000 to \$ 50,000 (was \$ 5,000 to \$ 25,000).
- Require bids for construction to detail component descriptions and pricing in bids for evaluation criteria.

#### **Sec. 31-7-13 (c) - Advertise Increase & Federal Fund Procedures**

- Increase the amount requiring publication to over \$ 50,000 (was over \$ 25,000).
  - Require all American Recovery and Reinvestment Act (ARRA) projects in excess of \$ 25,000 be published for bids.
    - ARRA projects must only be published one time and the bid opening at least 10 days after publication and posting by the state (no change to non ARRA project procedures).
  - Requires the governing authority (city, etc.) to submit detailed information to the Miss. Procurement Technical Assistance Program (MPTAP) for all projects funded with ARRA funds.
- Dept. of Finance and Administration will post rules at [www.mmrs.state.ms.us](http://www.mmrs.state.ms.us) .

#### **Sec. 31-7-13 (v) - Proof of Insurance Option**

- Construction contract requirements for insurance coverage may be satisfied by proof of current coverage or ability to obtain the require insurance.
- The bidder is allowed five days from bid acceptance to provide such proof.

### **PROTECTION ORDERS COURT COSTS (DOMESTIC VIOLENCE):**

Senate Bill 2925, effective 3/20/09 creates a law to provide for victims of stalking or sexual assault not to have to prepay fees when filing for a protective order. The bill requires the court to assess costs to the perpetrator when relief is issued; or to the petitioner if the court determines the request is frivolous. [There is no requirement to collect a Protective Order Form fee starting 7/1/09.]

### **DOMESTIC VIOLENCE PROCEDURES:**

Senate Bill 2967, effective 7/1/09 revised various laws related to domestic violence; including provisions related to municipal courts. This bill also revised Section 93-21-7 (3) to delete the requirement to collect a one dollar charge for the Protective Order Form [See page 13]

[This bill includes provisions from House Bill 883.]

### **COURT UNIFORM ASSESSMENTS:**

Senate Bill 2978, effective 7/1/09 revised Section 99-19-73 to increase court assessments; and to correct the “Other Misdemeanor” assessment to restore its application to littering charges. [Note: This revision includes the increase in court assessments passed in House Bill 883.]

Types of Violations are increased as follows:

Traffic Violations **(TV ) are increased** from \$ 74.50 to \$ 77.50.

Implied Consent Law Violations **(IC) are increased** from \$ 229.50 to \$ 232.50.

Game and Fish Law Violations **(GF) are increased** from \$ 74.00 to \$ 77.00.

Other Misdemeanors **(OM) are increased** from \$ 88.00 to \$ 95.00.

Other Felonies **(OF) are increased** from \$ 166.50 to \$ 169.50.

**Litter Law Violations (SL) are increased** from the \$ 25.00 assessment alone to also include the Other Misdemeanors (OM) assessment of \$ 95.00. This makes a new total of \$ 25.00 + \$95.00 = \$ 120.00. Each amount is settled under its proper code. [This corrects last year’s error.]

## **SURETY BOND INCREASE:**

Senate Bill 3050, effective 7/1/09 revised several county and municipal laws to increase the surety bond requirement to hold certain positions. Included in this bill are revisions to Section 21-3-5 (code charter municipalities), Section 21-8-23 (mayor council municipalities) and Section 21-9-21 (council Manager municipalities) to increase bonds for anyone handling money from \$ 10,000 to \$ 50,000 (this includes municipal court clerks).

Section 21-15-23 was revised to increase the bond of deputy municipal clerks from \$ 10,000 to \$ 50,000.

Section 21-17-5 was also revised to set a minimum bond of \$ 50,000 for municipal board and council members representing municipalities with a population in excess of 2000. [The 5 % of last years ad valorem tax collections up to \$ 100,000 bond still applies to all other municipalities.]

## **STATE AUDITOR'S DUTIES:**

Senate Bill 3052, effective 4/15/09 revised and created laws affecting the State Auditor's Office. The only provision that may relate to the municipal court is his additional duty to audit the American Recovery and Investment Act.

### III. STATE ASSESSMENT AND FINE PROCEDURES EFFECTIVE JULY 1, 2009 -

#### 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 no penalty, such as with an ordinance warning for a curfew, leash, etc. violation*)
3. **Types of Violations:**

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

- (1) Includes: Any violation in Title 63, Miss. Code
  - (2) Excludes: Parking or Registration offenses; and  
Sec. 63-11-1 et seq. Implied Consent Violations
  - (3) Amount: **Seventy Seven Dollars and Fifty Cents \$ 77.50**
  - (4) DFA Settlement Code: **T V**
- New  
**S. B. 2978**  
(was \$ 74.50)

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

- (1) Includes: Any violation in Title 63-11-1 et seq.
  - (2) Amount: **Two Hundred Thirty Two Dollars  
and Fifty Cents \$ 232.50**
  - (3) DFA Settlement Code: **I C**
- New  
**S. B. 2978**  
(was \$ 229.50)

##### (c) GAME AND FISH LAW VIOLATIONS SEC.99-19-73 (3)

- (1) Includes: Violation of the game and fish laws or regulations
  - (2) Amount: **Seventy Seven Dollars \$ 77.00**
  - (3) DFA Settlement Code: **G F**
- New  
**S. B. 2978**  
(was 74.00)

(d) **LITTER LAW VIOLATIONS** SEC. 99-19-73 (4)

- (1) Includes: Any violation of Section 97-15-29
  - (2) Excludes: Any violation not under this section
  - (3) Amount: Twenty Five Dollars **\$ 25.00**  
The \$ 50.00 ALA assessment must also be collected.  
**The "Other Misdemeanor" assessment is collected.**
  - (4) DFA Settlement Code: **SL**
- New S. B. 2978

(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 (5)

- (1) Includes: All misdemeanor violations unless excluded  
- includes ordinance violations  
- **(Litter Violation is included)**  
- tag violations A. G. 4/19/02
  - (2) Excludes: (1) Traffic Violations see (a) above  
(2) Implied Consent Violations see (b) above  
(3) Game and Fish Law Violations see (c) above  
(5) Trauma Traffic Violations see (e) above  
(6) Vehicular Parking and Registration
  - (3) Amount: **Ninety Five Dollars \$ 95.00**
  - (4) DFA Settlement Code: **OM**
- New  
S. B. 2978
- New  
S. B. 2978  
(was \$ 88.00)

(g) **OTHER FELONIES** SEC. 99-19-73 (6)

- (1) Includes: All felony violations
  - (2) Excludes: Same as Other Misdemeanors
  - (3) Amount: **One Hundred Sixty Nine Dollars  
And Fifty Cents \$ 169.50**
  - (4) DFA Settlement Code: **OF**
- New  
S. B. 2978  
(was \$ 166.50)

**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. **DFA 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**

**D. 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 Sec. 99-19-73 State Uniform Assessments under codes OM and SL)**
4. **DFA Settlement Code:** **ALA**

E. 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 recognizance, driver's license deposit, or written promise to appear; and was *required to appear* at trial.
  - (c) The defendant was released on an appeal bond, *with appearance required*.
3. **Not Imposed When:**
  - (a) No bond was posted, *defendant was held in jail until trial*
  - (b) After conviction, but *special circumstances apply*
    - (1) Traffic violation prepaid - Sec. 21-23-17
    - (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 bond or guaranteed arrest bond certificate is posted with the court clerk.
  - (b) **After conviction** when any type of bond is taken by someone other than the court clerk, such as the sheriff or other police officer.
  - (c) **In advance**, when **Cash Bond** is taken.  
(Includes police officers taking cash bonds, A. G. 3-29-02.)
5. **Amount:** Greater of 2 % of bond or Twenty Dollars \$ 20.00
6. **DFA Settlement Code:** A B F

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

**NEW LAW**

**H. B. 989**

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

(New Code) 6. **Settlement Code:** V B F

**F. 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)
3. **Amount Due:** The amount the license would have costs. To be noted on the ticket or citation by the charging officer. The officer may obtain the amount by contacting the local Field Office of the Department of Wildlife, Fisheries, & Parks. (Dist. 1 Tupelo (662) 840-5172, Dist. 2 Batesville (662) 563-6330, Dist. 3 Stoneville (601) 686-3520, Dist 4 (601) Meridian 692-2776, Dist. 5 Brookhaven (601) 835-3050, Dist. 6 Hattiesburg (601) 545-5632, Marine Biloxi (228) 435-1332, Metro Jackson 364-2235)
4. **DFA Settlement Code:** *H V*

**G. 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 by the City Clerk to the Department of Finance and Administration (DFA).
5. **DFA Settlement Code:** **ADT**

**H. 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.

**I. OTHER EXCEPTIONS**

- 1. SEATBELT CONVICTIONS:** State assessments are not collected for seatbelt convictions under Sec. 63-2-7. However, local assessments are collected (see A. G. opinion addressed to Donny Joe Sparks, dated August 15, 2008).  
[A seatbelt violation is not the same thing as a child restraint violation. Assessments are collected for child restraint violations under Sec. 63-7-301.]
- 2. DEFENSE DRIVING :** No assessments should be charged on a **minor’s defensive driving** option in lieu of conviction under Sec. 63-1-55. However, 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

It is unlikely that a civil case will arise in municipal court. In the event of a civil case the following assessments must be charged.

- 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
  3. **Amount Due:** On each case filed - Two Dollars **\$ 2.00**
  4. **DFA 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
  3. **Amount Due:** On each case filed - Fifty Cents **\$ .50**
  4. **DFA Settlement Code:** *C C*

## 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 municipal board *may* impose this assessment to assist the cost of operating the county law library.
  3. **Amount Due:** Up to **\$ 1.50** for each case where convicted
  4. **County Settlement:** Settle to the Chancery Clerk

**B. LOCAL CITATION ASSESSMENT**

Sec. 63-9-31

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

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

1. **Purpose:** To fund local crime stopper programs
2. **Imposed When:** The Municipal Board (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. **DPS Settlement:** Settled to the Municipal Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning (DPS).



**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.
  - 2. **Municipal Share:** One Half (50 %) of the fine collected must be settled to the municipality. The money is settled as with other general fine collections, to the General Fund of the municipality
- E. DFA Settlement Code:** MVL

[**Note:** Care should be taken to report to the Department of Public Safety on the **UP 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.]

**4. REGULATIONS GOVERNING ASSESSMENTS**  
(Formal Regulations: Rule 4.700: Title 4, effective June 30, 2005)

**A. APPLYING ASSESSMENTS** – Assessments are determined as of the date of the court judgment. There is no authority to suspend assessments

**B. COLLECTION OF ASSESSMENTS**

**1. Who Collects:** The municipal court clerk Sec. 21-23-11

**2. How Collected:**

**(a) Cash**

**(b) Check** received from a Miss. resident paying a Title 63 Ch. 3, 5, or 7 traffic violation must be accepted (required by Sec. 63-9-12). The court clerk is not responsible for a bad check, if a reasonable collection effort is made (such as suspending the driver's license).

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

**(1)** The court clerk is responsible for bad collections, accepted at personal risk. (It is suggested that you do not deliver the receipt or credit the person's account until the check, etc. clears)

**(2)** If a bad check is received, Sec. 97-19-57 explains the procedure for notification to the defendant that a check has been dishonored. This procedure is to establish intent to write a bad check and authorize a \$40,00 service charge.

**(d) Working assessments off** may be authorized by the court (A.G. Priscilla Daniel 10/3/90). Sec. 47-1-47 & Sec. 99-19-20 authorizes amount of the credit. The municipality does not reimburse the state for the loss.

**C. ACCOUNTING FOR ASSESSMENTS**

**1. Receipts** - must be written to show the type assessments collected.

**2. Settlement Reports** - must be made (daily) to the municipal clerk, when there is a separate court clerk. This report must provide all necessary information for the municipal clerk's further accounting and further settling (Sec. 21-15-21).

**3. Account Funds** - *clearing funds* must be maintained by municipal clerks to account for and to hold state and county assessments. Special municipal assessments are accounted for in municipal *special revenue funds*.

**4. Accounting Records** - must be prepared by the court clerk and municipal clerk as appropriate and required by the “*Municipal Audit and Accounting Guide*” regulations ( find at website: <http://www.osa.state.ms.us/downloads.htm> ). These include receipts, journals, and ledgers.

**5. Settlement Codes and Descriptions** - must be used to account for assessments.

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

**DPS Settlement Descriptions:** The court clerk must also determine and provide the description codes to the municipal 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 municipal clerks by DPS.

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

**Code Training:** These codes and descriptions are also included in Judicial College training materials presented to court clerks.

## D. SETTLEMENT OF ASSESSMENTS

1. **Daily Settlements:** The court clerk must immediately settle all collections to the municipal treasury (Sec. 21-15-21). Generally, this means daily.

2. **Monthly Settlements:**

**Routine Collections:** The municipal clerk must settle court *assessments* to the state and county monthly (a board claim or approval order is not required and should not delay settlement).

**Other Collections:** Collections pending determination should be held until resolutions. For example, pre-paid appearance bond fees should be held until the court guilty/innocent decision or the prosecutor determines if a refund is due.

3. **Settlement Forms:** State issued settlement forms must be used by the municipal clerk for settlements to the state.

**DFA Form:** This form will be prescribed by the Dept. of Finance and Administration for settlement of assessments such as uniform assessments. This 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 municipality, such as local citation and crime stopper assessments.

**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 STATE ASSESSMENTS  
[AND OTHER COURT RELATED PAYMENTS TO THE STATE]**

1. **Who Authorizes Refunds:** The 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. **Who Must Make Refunds:** The Municipal Clerk must make the refund when legally authorized by the Court Clerk.
3. **How Refunds Are Authorized:** The Court Clerk must authorize all refunds by following the "**certificates of eligibility**" procedure.
4. **Certificate of Eligibility Procedure:** This procedure involves the Court Clerk preparing, distributing and accounting for a form 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 Court Clerk to the person to be refunded and the Municipal Clerk.
  - (b) The Certificate of Eligibility form must contain the 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 Court Clerk; and the Municipal Clerk when a refund is made.

**F. REFUNDS OF OTHER COLLECTIONS [NOT STATE RELATED]**

The "Certificate of Eligibility" procedure may also be used to support claims presented to the municipality for other (over or refundable) payments made to municipal funds (claims docket, Sec. 21-39-5 & 21-39-7). This means claims filed with the Municipal Clerk for court collections that were settled into municipal funds; such as fines, court costs, bond forfeitures, local assessments, etc.. Such claims may be filed by a person making the claim or the court clerk on their behalf.

**G. SOURCES OF REFUNDS:**

Refunds must be made from the funds and accounts the originally collected money was settled into. For example, an overpayment of a State Uniform Assessment Traffic Violation (TV) collection would be refunded from the TV collection currently held in the “State Assessment Clearing Fund”.

If assessment money has already been settled to the state (or county), refunds are made from later similar collections as it is deposited into the fund.

The Municipal Clerk must reduce the settlement to the state by the amount of refunds made. The state settlement form list net settlements; it is not necessary to show refunds.

If the amount of a refund is too large to recover from similar funds on hand; the municipal clerk should contact the Department of Finance and Administration for procedures.

Refunds from municipal funds (General Fund, etc.) are not limited to the type of revenue (fine, court costs, bond forfeiture, etc.) collected.

**H. MUNICIPAL BOARD ORDERS FOR REFUNDS:**

Municipal Board's Orders are not required for refunds of state or county assessments (money held in clearing funds). A board order is required to authorize refunds of court cost, fines or special municipal assessments (money held in budgeted municipal funds).

# 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
<b>VBF</b>						<b>VBF</b>
DVF						DVF
CJF						CJF
CC						CC
DA						DA
HV						HV
MVL						MVL
ADT						ADT
CTF						CTF
CEC						CEC
CLA						CLA
ALA						ALA
POF						POF
<b>TOTAL</b>						

REPORT SUBMITTED BY: \_\_\_\_\_  
 DATE OF REPORT: \_\_\_\_\_  
 TELEPHONE NUMBER: \_\_\_\_\_

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

REVISED BY DFA July 1, 2008 (VBF code added by OSA, in anticipation of DFA Form format)

## 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 - Trauma Traffic - 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



**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**