MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Hines

To: Judiciary B;
Appropriations

HOUSE BILL NO. 36

AN ACT TO CREATE NEW SECTIONS 9-23-101, 9-23-103, 9-23-105, 9-23-107, 9-23-109, 9-23-111, 9-23-113 AND 9-23-115, MISSISSIPPI CODE OF 1972, TO PROVIDE AUTHORITY FOR A CHANCERY OR COUNTY COURT TO ESTABLISH A DOMESTIC ABUSE COURT AND TO PROVIDE AUTHORITY FOR JUSTICE AND MUNICIPAL COURTS TO PARTICIPATE IN SUCH A COURT; TO DEFINE CERTAIN TERMS; TO PROVIDE FOR THE ENACTMENT OF STANDARDS OF OPERATION TO GOVERN THE OPERATION OF DOMESTIC ABUSE COURTS BY THE ADMINISTRATIVE OFFICE OF COURTS; TO CREATE THE DOMESTIC ABUSE COURT SPECIAL FUND; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE OF 1972, TO PROVIDE AN ASSESSMENT TO FUND DOMESTIC ABUSE COURTS; TO REVISE CERTAIN ASSESSMENTS; TO AMEND SECTIONS 9-5-81 AND 9-9-21, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

SECTION 1. The Legislature finds that:

(a) Domestic violence is a serious issue that causes substantial damage to victims and children as well as to the community. Families experiencing domestic violence are often involved in more than one (1) court proceeding including divorce and custody cases, civil and criminal proceedings regarding domestic violence, substance abuse and child protection. Substantial state and county resources are required each year for the incarceration, supervision and treatment of batterers.

(b) Domestic abuse courts hold offenders accountable, increase victim safety, provide greater judicial monitoring, and coordinate information to provide effective interaction and use of resources among the courts, justice system personnel and community agencies. Effective case management and coordination ensures that decisions in one (1) case do not conflict with existing orders in other civil and criminal cases and provide courts with the necessary information to protect victims and families.

(c) Domestic abuse courts have proven effective in reducing recidivism and increasing victim safety. It is in the best interests of the citizens of this state to authorize the establishment of domestic abuse courts.

SECTION 2. The following shall be codified as Section 9-23-101, Mississippi Code of 1972:

9-23-101. (1) A domestic abuse court is a court focused on the safety of the victim and the accountability of the offender by:

(a) Bringing together criminal justice professionals, local social programs and intensive judicial monitoring;

(b) Linking victims to programs and services by effective collaboration with social service providers and other stakeholders to refer victims to appropriate and available community services based on risk and need;

(c) Linking eligible civil respondents to programs and services by effective collaboration with social service providers

and other stakeholders to refer such individuals to appropriate and available community services based on risk and need;

(d) Linking eligible criminal defendants to programs and services by effective collaboration with social service providers and other stakeholders to refer defendants to appropriate and available community services based on risk and need; and

(e) Providing centralized monitoring of participants to ensure compliance with any civil domestic abuse protection orders or with any treatment orders or other orders issued by the court.

(2) For the purposes of this act, "domestic abuse" and "domestic violence" shall have the meanings ascribed to "abuse" by Section 93-21-3 and to "misdemeanor which is an act of domestic violence" in Section 99-3-7.

SECTION 3. The following shall be codified as Section 9-23-103, Mississippi Code of 1972:

9-23-103. Any chancery or county court may establish a domestic abuse court program. Any municipal and justice court is authorized to participate in a domestic abuse court program established in the county.

SECTION 4. The following shall be codified as Section 9-23-105, Mississippi Code of 1972:

9-23-105. (1) A domestic abuse court and accompanying services of the domestic abuse court shall be available only to individuals over whom the court has established jurisdiction.

(2) A domestic abuse court that does not have felony jurisdiction may assume jurisdiction over an individual convicted of a felony from another court within the county upon entry of an appropriate order by the criminal court referring that individual to the domestic abuse court for the purpose of participation in the domestic abuse court program.

SECTION 5. The following shall be codified as Section 9-23-107, Mississippi Code of 1972:

9-23-107. (1) The Administrative Office of Courts shall develop uniform standards for operation of a domestic abuse court. Any domestic abuse court shall operate pursuant to those standards. Such standards shall, at a minimum, include provisions for:

(a) Establishment and coordination of the domestic abuse court;

(b) Funding for the domestic abuse court;

(c) Procedural matters;

(d) Referral protocols;

(e) Participant eligibility;

(f) Services to be made available to participants referred to the court; and

(g) Roles and duties of the court, which shall include, but not be limited to, assessment, referral, case management, supervision and evaluation.

(2) Any court wishing to adopt local rules for the coordination of services and to address court procedures that may vary from those established by the Administrative Office of Courts shall submit those rules to the Administrative Office of Courts for approval prior to implementation.

SECTION 6. The following shall be codified as Section 9-23-109, Mississippi Code of 1972:

9-23-109. A domestic abuse court may hire employees necessary to carry out the functions of the court, including, but not limited to, an administrator, case manager, counselor or clerical staff.

SECTION 7. The following shall be codified as Section 9-23-111, Mississippi Code of 1972:

9-23-111. Nothing herein shall be construed to guarantee any individual the right to participate in a domestic abuse court program.

SECTION 8. The following shall be codified as Section 9-23-113, Mississippi Code of 1972:

9-23-113. (1) All monies received from any source by the domestic abuse court shall be accumulated in a fund to be used only for domestic abuse court purposes. Any funds remaining in this fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the Domestic Abuse Court Fund for the funding of further activities by the domestic abuse court.

(2) A domestic abuse court may apply for and receive the following:

(a) Gifts, bequests and donations from private sources.

(b) Grant and contract money from governmental sources.

(c) Other forms of financial assistance approved by the court to supplement the budget of the domestic abuse court.

SECTION 9. The following shall be codified as Section 9-23-115, Mississippi Code of 1972:

9-23-115. There is created in the State Treasury a special interest-bearing fund to be known as the Domestic Abuse Court Fund. The purpose of the fund shall be to provide supplemental funding to all domestic abuse courts in the state. Monies from the fund shall be distributed by the State Treasurer upon warrants issued by the Administrative Office of Courts to assist domestic abuse courts. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of: (a) monies appropriated by the Legislature for the purposes of funding domestic abuse courts; (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; and (e) monies received from such other sources as may be provided by law.

SECTION 10. Section 99-19-73, Mississippi Code of 1972, is amended as follows:

99-19-73. (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	[Deleted]
State Prosecutor Education Fund	[Deleted]
Vulnerable Persons Training, Investigation and Prosecution Trust Fund	[Deleted]
Child Support Prosecution Trust Fund	[Deleted]
Driver Training Penalty Assessment Fund	[Deleted]
Law Enforcement Officers Training Fund	[Deleted]
Spinal Cord and Head Injury Trust Fund (for all moving violations)	[Deleted]
Emergency Medical Services Operating Fund	[Deleted]
Mississippi Leadership Council on Aging Fund	[Deleted]
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	[Deleted]
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	[Deleted]
State Prosecutor Compensation Fund for the purpose of providing additional compensation for district attorneys and their legal assistants	[Deleted]

Crisis Intervention Mental Health Fund.....[Deleted]

Intervention Court Fund.....[Deleted]

Judicial Performance Fund.....[Deleted]

Capital Defense Counsel Fund.....[Deleted]

Indigent Appeals Fund.....[Deleted]

Capital Post-Conviction Counsel Fund.....[Deleted]

Victims of Domestic Violence Fund.....[Deleted]

Public Defenders Education Fund.....[Deleted]

Domestic Violence Training Fund.....[Deleted]

Attorney General's Cyber Crime Unit.....[Deleted]

Children's Safe Center Fund.....[Deleted]

DuBard School for Language Disorders Fund.....[Deleted]

Children's Advocacy Centers Fund.....[Deleted]

Judicial System Operation Fund.....[Deleted]

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.....[Deleted]

State Court Education Fund.....[Deleted]

State Prosecutor Education Fund.....[Deleted]

Vulnerable Persons Training,

Investigation and Prosecution Trust Fund.....[Deleted]

Child Support Prosecution Trust Fund.....[Deleted]

Driver Training Penalty Assessment Fund.....[Deleted]

Law Enforcement Officers Training Fund.....[Deleted]

Emergency Medical Services Operating Fund.....[Deleted]

Mississippi Alcohol Safety Education Program Fund.....[Deleted]

Federal-State Alcohol Program Fund.....[Deleted]

Mississippi Forensics Laboratory

Implied Consent Law Fund.....[Deleted]

Spinal Cord and Head Injury Trust Fund.....[Deleted]

Capital Defense Counsel Fund.....[Deleted]

Indigent Appeals Fund.....[Deleted]

Capital Post-Conviction Counsel Fund.....[Deleted]

Victims of Domestic Violence Fund.....[Deleted]

Law Enforcement Officers and Fire Fighters

Death Benefits Trust Fund.....[Deleted]

Law Enforcement Officers and Fire Fighters

Disability Benefits Trust Fund.....[Deleted]

State Prosecutor Compensation Fund for the purpose

of providing additional compensation for

district attorneys and their legal assistants.....[Deleted]

Crisis Intervention Mental Health Fund.....[Deleted]

Intervention Court Fund.....[Deleted]

Statewide Victims' Information and

Notification System Fund.....[Deleted]
Public Defenders Education Fund.....[Deleted]
Domestic Violence Training Fund.....[Deleted]
Attorney General's Cyber Crime Unit.....[Deleted]
GENERAL FUND.....$ * * *244.50

(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.....[Deleted]
State Prosecutor Education Fund.....[Deleted]
Vulnerable Persons Training,
Investigation and Prosecution Trust Fund.....[Deleted]
Law Enforcement Officers Training Fund.....[Deleted]
Hunter Education and Training Program Fund.....[Deleted]
Law Enforcement Officers and Fire Fighters
Death Benefits Trust Fund.....[Deleted]
Law Enforcement Officers and Fire Fighters
Disability Benefits Trust Fund.....[Deleted]
State Prosecutor Compensation Fund for the purpose
of providing additional compensation for district
attorneys and their legal assistants.....[Deleted]

Crisis Intervention Mental Health Fund.....[Deleted]

Intervention Court Fund.....[Deleted]

Capital Defense Counsel Fund.....[Deleted]

Indigent Appeals Fund.....[Deleted]

Capital Post-Conviction Counsel Fund.....[Deleted]

Victims of Domestic Violence Fund.....[Deleted]

Public Defenders Education Fund.....[Deleted]

Domestic Violence Training Fund.....[Deleted]

Attorney General's Cyber Crime Unit.....[Deleted]

GENERAL FUND.....$ * * *90.00

(4) [Deleted]

(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	[Deleted]
State Court Education Fund	[Deleted]
State Prosecutor Education Fund	[Deleted]
Vulnerable Persons Training, Investigation and Prosecution Trust Fund	[Deleted]
Child Support Prosecution Trust Fund	[Deleted]
Law Enforcement Officers Training Fund	[Deleted]
Capital Defense Counsel Fund	[Deleted]
Indigent Appeals Fund	[Deleted]
Capital Post-Conviction Counsel Fund	[Deleted]
Victims of Domestic Violence Fund	[Deleted]

State Crime Stoppers Fund.....[Deleted]

Law Enforcement Officers and Fire Fighters

Death Benefits Trust Fund.....[Deleted]

Law Enforcement Officers and Fire Fighters

Disability Benefits Trust Fund.....[Deleted]

State Prosecutor Compensation Fund for the purpose

of providing additional compensation for

district attorneys and their legal assistants.....[Deleted]

Crisis Intervention Mental Health Fund.....[Deleted]

Intervention Court Fund.....[Deleted]

Judicial Performance Fund.....[Deleted]

Statewide Victims' Information and

Notification System Fund.....[Deleted]

Public Defenders Education Fund.....[Deleted]

Domestic Violence Training Fund.....[Deleted]

Attorney General's Cyber Crime Unit.....[Deleted]

Information Exchange Network Fund.....[Deleted]

Motorcycle Officer Training Fund.....[Deleted]

Civil Legal Assistance Fund.....[Deleted]

Justice Court Collections Fund.....[Deleted]

Municipal Court Collections Fund.....[Deleted]

GENERAL FUND.....$ *** *122.75

(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	[Deleted]
State Court Education Fund	[Deleted]
State Prosecutor Education Fund	[Deleted]
Vulnerable Persons Training, Investigation and Prosecution Trust Fund	[Deleted]
Child Support Prosecution Trust Fund	[Deleted]
Law Enforcement Officers Training Fund	[Deleted]
Capital Defense Counsel Fund	[Deleted]
Indigent Appeals Fund	[Deleted]
Capital Post-Conviction Counsel Fund	[Deleted]
Victims of Domestic Violence Fund	[Deleted]
Criminal Justice Fund	[Deleted]
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund	[Deleted]
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund	[Deleted]
State Prosecutor Compensation Fund for the purpose of providing additional compensation for district attorneys and their legal assistants	[Deleted]
Crisis Intervention Mental Health Fund	[Deleted]
Intervention Court Fund	[Deleted]

Statewide Victims' Information and

Notification System Fund.....[Deleted]

Public Defenders Education Fund.....[Deleted]

Domestic Violence Training Fund.....[Deleted]

Attorney General's Cyber Crime Unit.....[Deleted]

Forensics Laboratory DNA Identification System Fund.....[Deleted]

GENERAL FUND.....$ * * *281.50

(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

(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

Mississippi Foster Care Fund.....$2.00

(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.

SECTION 11. Section 9-5-81, Mississippi Code of 1972, is amended as follows:

9-5-81. The chancery court in addition to the full jurisdiction in all the matters and cases expressly conferred upon it by the Constitution shall have jurisdiction of all cases transferred to it by the circuit court or remanded to it by the Supreme Court; and such further jurisdiction, as is, in this chapter or elsewhere, provided by law. A chancery court is authorized to establish a domestic abuse court as provided in Sections 1 through 9 of House Bill No. , 2021 Regular Session.

SECTION 12. Section 9-9-21, Mississippi Code of 1972, is amended as follows:

9-9-21. (1) The jurisdiction of the county court shall be as follows: It shall have jurisdiction concurrent with the justice court in all matters, civil and criminal of which the

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

assigned by a judge of the circuit court district in which the county is included.

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

(3) A county court is authorized to establish a domestic abuse court as provided in Sections 1 through 9 of House Bill No. , 2021 Regular Session.

SECTION 13. This act shall take effect and be in force from and after July 1, 2021.