

1 SB262
2 189196-2
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 30-JAN-18

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8 SYNOPSIS: Under existing law, docket fees and other
9 court costs in criminal cases may be assessed by a
10 judge upon conviction.

11 This bill would allow magistrates to assess
12 the fees and other costs upon conviction.

13 Existing law provides for the duties of a
14 municipal court magistrate.

15 This bill would give a magistrate the
16 discretion to use electronic communication to
17 notify defendants of any legal process required by
18 the court in lieu of other forms of notification
19 required by law.

20 This bill would also provide a municipal
21 court magistrate with absolute judicial immunity
22 under certain conditions.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to magistrates; to amend Section 12-14-51,
2 Code of Alabama 1975, relating to the duties of a municipal
3 court magistrate; to further authorize the use of electronic
4 communication with a defendant in lieu of other forms of
5 notification; to provide the magistrate with absolute judicial
6 immunity under certain conditions; and to amend Section
7 12-19-150, Code of Alabama 1975, relating to the assessment of
8 fees in criminal cases, to provide that a magistrate may
9 assess fees in the criminal cases over which he or she
10 presides.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 12-14-51 and 12-19-150, Code of
13 Alabama 1975, are amended to read as follows:

14 "§12-14-51.

15 "(a) The magistrates shall be considered the chief
16 officers of the municipal court administrative agency.

17 "(b) The Supreme Court may, by rule, prescribe
18 procedures for the appointment of magistrates by class or
19 position and, in addition thereto, provide for the appointment
20 of other magistrates by the Administrative Director of Courts,
21 upon recommendation by municipal judges.

22 "(c) The powers of a magistrate shall be limited to
23 the following:

24 "(1) Issuance of arrest warrants.

25 "(2) Granting of bail in minor misdemeanor
26 prosecutions in accordance with the discretionary bail

1 schedule and approving property, cash, and professional surety
2 bonds upon a municipal judge's approval.

3 "(3) Receiving of pleas of guilty in minor
4 misdemeanors where a schedule of fines has been prescribed by
5 rule.

6 "(4) Accountability to the municipal court for all
7 uniform traffic tickets and complaints issued, including all
8 electronic traffic tickets or e-tickets, as defined in Section
9 32-1-4, in instances in which the court has, in its
10 discretion, determined to use e-tickets, and for all moneys
11 received and records of offenses.

12 "(5) Accepting and screening affidavits of
13 substantial hardship upon a municipal judge's approval and, if
14 authorized by court order, assigning attorneys on a rotating
15 basis from a list approved by the court.

16 "(6) Conducting arraignments and setting nonguilty
17 pleas for trial, upon a municipal judge's approval.

18 "(7) Opening court and calling the docket, upon a
19 municipal judge's approval.

20 "(8) Granting continuances in municipal ordinance
21 violation cases, upon a municipal judge's approval.

22 "(9) Dismissing no driver's license violations
23 pursuant to Section 32-6-9 where the defendant shows proof of
24 a driver's license at the time the citation was written.

25 "(10) Dismissing mandatory liability insurance
26 violations pursuant to Section 32-7A-20 where the defendant
27 has produced satisfactory evidence that at the time of the

1 citation the motor vehicle was covered by a liability
2 insurance policy in accordance with Section 32-7A-4.

3 "(11) Dismissing equipment violations where a
4 municipal ordinance allows and where the law enforcement
5 officer signs the uniform traffic ticket and complaint
6 verifying that the equipment has been replaced.

7 "(12) Using emails or text messages to notify a
8 defendant of any legal process required by the court in lieu
9 of any other form of communication as provided for by law, at
10 the discretion of the municipal court clerk and the
11 magistrate.

12 "~~(12)~~ (13) Any other authority as may be granted by
13 law.

14 "(d) In the performance of any official duty
15 provided for by this section, a municipal magistrate shall
16 have absolute judicial immunity from any lawsuit arising from
17 the execution of the duties provided for by this section.

18 "§12-19-150.

19 "(a) It is hereby declared to be the policy of the
20 state that docket fees and other court costs in criminal cases
21 shall generally be assessed only upon conviction. It is
22 further declared to be the policy of the state that a creditor
23 shall not use the criminal process in order to collect civil
24 debts. The state does recognize that situations will arise
25 from time to time wherein justice may best be served by
26 allowing a judge to enter an order dismissing a case upon the
27 payment of costs by the defendant or by the complainant where

1 the judge has determined that the criminal process has been
2 abused.

3 "(b) Docket fees and other court costs in criminal
4 cases shall be assessed upon conviction; provided that, in the
5 interest of justice, following an arrest or the issuance of a
6 warrant for the arrest of a defendant, a judge may in his or
7 her discretion, on motion of the district attorney or upon his
8 or her own motion, enter an order prior to trial dismissing
9 the case. Such order may be conditioned upon the defendant's
10 payment of the docket fee and other court costs accruing in
11 the proceeding. It is further provided that such costs may be
12 taxed against any person who has made a complaint upon which a
13 warrant was issued and who subsequently requests that such
14 case be dismissed without just cause or legal excuse. A judge
15 may excuse payment of fees in any case wherein the defendant
16 serves an active jail sentence.

17 "(c) For the purpose of assessing fees in criminal
18 cases, a case shall include all offenses arising out of the
19 same incident. Fees shall be assessed on the basis of the most
20 serious offense of which the defendant is convicted, provided,
21 that the judge or magistrate, in his or her discretion, may
22 assess costs for each conviction. When two or more defendants
23 are charged in the same indictment or complaint, fees shall be
24 assessed against them separately, as if they had been charged
25 separately.

26 "(d) If an appeal is taken from the district court
27 or the municipal court in a criminal case, the clerk, in

1 making records available to the circuit court, shall submit a
2 cost bill from the district court or municipal court, and the
3 final assessment of cost will be made in circuit court,
4 including unpaid court costs and fees from district,
5 municipal, and circuit courts."

6 Section 2. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.