

1 HB392  
2 189196-2  
3 By Representative Whorton (I)  
4 RFD: Judiciary  
5 First Read: 08-FEB-18

2  
3  
4  
5  
6  
7  
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.