

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 10, 2018

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County Prosecutor
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Post Office Box 912
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Re: Form of Tickets

Attorney General Hood is in receipt of your request for an official opinion, and it has been assigned to me for research and reply.

Background and Issues Presented

Your request states:

I am the County Prosecutor for Bolivar County and I have been asked to seek an opinion concerning the form of a citation/ticket:

Can a misdemeanor and/or traffic offense be written on a City Ordinance Violation Ticket?

Will such an Ordinance Violation Ticket give the municipal or Justice Court Judge jurisdiction to render a verdict?

Will such a Violation Ticket be sufficient to make an arrest in light of the new criminal rules?

To assist your office with a response, I have enclosed a copy of the Citation for your review.

We understand your questions and restate them as follows:

1. Can misdemeanors be written on a City Ordinance Violation Ticket that you attached to your request?
2. Can traffic offenses be written on the above mentioned City Ordinance Violation Ticket?

3. Does the Ordinance Violation Ticket commence an action in the Municipal or Justice Court?
4. Will a Violation Ticket be sufficient to make an arrest for any crime in light of the new Mississippi Criminal Rules of Procedure?

Applicable Law and Discussion

In response to your first question, this office does not approve forms by way of official opinion, and we are unable to comment as to whether the form you provided is sufficient.

However, in regard to your second question as to traffic violations, we are able to answer since traffic violations are governed by Miss. Code Ann. Section 63-9-21.

Miss. Code Ann. Section 63-9-21 states, in relevant part:

(2) **All traffic tickets**, except traffic tickets filed electronically as provided under subsection (8) of this section, shall be printed in the original and at least two (2) copies and such other copies as may be prescribed by the Commissioner of Public Safety. **All traffic tickets shall be uniform as prescribed by the Commissioner of Public Safety and the Attorney General**, except as otherwise provided in subsection (3)(b) and except that the Commissioner of Public Safety and the Attorney General may alter the form and content of traffic tickets to meet the varying requirements of the different law enforcement agencies. The Commissioner of Public Safety and the Attorney General shall prescribe a separate traffic ticket, consistent with the provisions of subsection (3)(b) of this section, to be used exclusively for violations of the Mississippi Implied Consent Law.

(3)(a) **Every traffic ticket issued by any sheriff, deputy sheriff, constable, county patrol officer, municipal police officer or State Highway Patrol officer for any violation of traffic or motor vehicle laws shall be issued on the uniform traffic ticket or uniform implied consent violation ticket consisting of an original and at least two (2) copies and such other copies as may be prescribed by the Commissioner of Public Safety.**

(b) The traffic ticket, citation or affidavit issued to a person arrested for a violation of the Mississippi Implied Consent Law shall contain a place for the trial judge hearing the case or accepting the guilty plea, as the case may be, to sign, stating that the person arrested either employed an attorney or waived his right to an attorney after having been properly advised of his right to have an attorney. If the person arrested employed an attorney, the name, address and telephone number of the attorney shall be entered or written on the ticket, citation or affidavit. . . .

(4) All traffic tickets, except traffic tickets filed electronically under subsection (8) of this section, shall be bound in book form, shall be consecutively numbered and each traffic ticket shall be accounted for to the officer issuing such book. The traffic ticket books shall be issued to sheriffs, deputy sheriffs, constables and county patrol officers by the chancery clerk of their respective counties, to each municipal police officer by the clerk of the municipal court, and to each State Highway Patrol officer by the Commissioner of Public Safety. . . .

(Emphasis added)

The answer to question number two is “no.” Traffic violations must be written on the uniform traffic ticket or uniform implied consent violation ticket prescribed by the Commissioner of Public Safety and the Attorney General in accordance with the above statute.

Your third question asks about the commencement of an action in Municipal and Justice Court. While we do not opine as to the sufficiency of the form you have provided, we point you to Miss. Code Ann. Section 21-23-7 and Miss. Code Ann. Section 99-33-2 respectively.

Miss. Code Ann. Section 21-23-7 states, in relevant part:

. . . Except as otherwise provided by law, criminal proceedings shall be brought by sworn complaint filed in the municipal court. Such complaint shall state the essential elements of the offense charged and the statute or ordinance relied upon. Such complaint shall not be required to conclude with a general averment that the offense is against the peace and dignity of the state or in violation of the ordinances of the municipality. . . .

Miss. Code Ann. Section 99-3-2 states, in relevant part:

(1) Anyone bringing a criminal matter in the justice court shall lodge the affidavit with the judge or clerk of the justice court. The clerk shall record all affidavits and shall, as far as practicable, assign criminal cases to the justice court judges in the county on a rotating basis to ensure equal distribution of the cases among the judges of the county; however, in all counties in which the courtrooms provided by the county for use of the justice court judges are located in more than one (1) place in the county, the clerk, in addition to assigning cases to the judges on a rotating basis, may also assign a courtroom for each case, such assignment may be made based upon the proximity of the courtroom to the defendant's residence or place of business. . . .

With regard to your fourth question, we find this question to be too broad to respond by way of an official opinion. It is beyond the scope of an official opinion to attempt to list the necessary provisions for any citation to be sufficient to make an arrest under all of the Mississippi Rules of Criminal Procedure. If you have a question regarding a specific

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set of facts, under a specific rule, we would be happy to answer that in a separate request.

Your correspondence states that you have been asked to seek this opinion. We note that pursuant to Miss. Code Ann. Section 7-5-25, opinion requests provide liability protection **only to the requestor** who, in good faith, acts in accordance with the opinion unless a court of competent jurisdiction finds that the opinion is manifestly wrong and without substantial support.

If this office can be of further assistance, do not hesitate to contact us.

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

By: 

Emiko Hemleben
Special Assistant Attorney General

OFFICIAL OPINION