

JUSTICE COURT / MUNICIPAL COURT BENCH CARD ON REVOCATION PROCEEDINGS

PROCEDURES ON REVOCATION PROCEEDINGS ARE SET FORTH IN RULE 27 OF THE MISSISSIPPI RULES OF CRIMINAL PROCEDURE. READ THE RULE!

JUSTICE COURT JUDGES may suspend sentences, or the execution of sentences, as set forth in Section 99-19-25.

MUNICIPAL COURT JUDGES may suspend sentences, or the execution of sentences, as set forth in Section 21-23-7(5).

Rule 27.4 of the Mississippi Rules of Criminal Procedures provides: "Proceedings to revoke or modify any other suspended sentence or period of post-release supervision shall be conducted in accordance with Rule 27."

**BEFORE REVOKING OR MODIFYING A
SUSPENDED SENTENCE, THE JUDGE MUST
FOLLOW THE PROCEDURES IN RULE 27.**

RULE 27 REQUIREMENTS:

- A petition giving sufficient notice of the alleged violations and the evidence to be relied upon.
- A summons to appear and show cause.
- An advisement on the right to testify, to present witnesses and evidence, and to cross-examine adverse witnesses.
- An advisement that comports with Rule 27.3(d) on the right to an attorney, and if indigent, an appointed attorney FREE OF COST.
- A hearing by the trial judge as set forth in Rule 27.3(f).

REVOCATION HEARINGS:

- Require proof by a preponderance of the evidence.
- Allow the judge to receive any reliable, relevant evidence not legally privileged, including hearsay.
- Allow the defendant a FULL OPPORTUNITY to present testimony, confront and cross-examine adverse witnesses, and to present evidence in his/her defense.

IF THE ALLEGED VIOLATION INVOLVES A CRIMINAL OFFENSE, then the judge must warn the defendant that incriminating statements may be used against him/her at a subsequent proceeding or trial. MRCrP 27.3(2).

IF THE ALLEGED VIOLATION IS THE NONPAYMENT OF A FINE, FEE, RESTITUTION, AND/OR COURT COSTS, then the judge MAY NOT revoke a suspended jail sentence UNLESS he/she examines the reasons for nonpayment and makes a written finding that the defendant could have satisfied payment but refused to do so. See Bearden v. Georgia, 461 U.S. 660 (1983). Incarceration may be employed only after a hearing pursuant to Section 99-19-20.1.

AT THE HEARING, the judge may reduce the amount of the remaining fines, fees, restitution, and/or court costs, allow additional time for payments, and/or order community service with credit received at the highest current federal minimum wage. All orders revoking a suspended sentence must state the evidence relied upon and the reasons for the decision.



Prepared by the Mississippi Judicial College for training and educational purposes pursuant to Section 37-26-1.