



The purpose of the Opinion Outline is to inform, on a quarterly basis, state, county, and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from 07/01/2025 through 09/30/2025.

The synopses that follow are based upon opinions that were issued by this office in response to specific facts and circumstances and, therefore, may not be applicable in all cases. **Complete opinions are available on our website, www.ago.state.ms.us.**

Sincerely,

A handwritten signature in black ink that reads "Lynn Fitch". The signature is fluid and cursive, with the first and last names being more prominent than the middle name.

Lynn Fitch
Attorney General
State of Mississippi

BOARD OF COSMETOLOGY AND BARBERING

[Rhodes – August 29, 2025 \(OP-2025-00093\)](#)

The Governor may not reappoint one or more of the same nominees while the Senate is in vacation. The Senate's failure to confirm results in the annulment of those appointments. Pursuant to Mississippi Code Annotated Section 7-1-35, "the vacancy shall not be filled if caused by the Senate's refusal to confirm any appointment or nomination." However, if the Governor were to appoint different individuals to the Board while the Senate is in vacation, subject to the advice and consent of the Senate during the 2026 legislative session, such nominees would be considered de facto officers until confirmed by the Senate.

CHILD PROTECTION SERVICES

[Alfonso – July 11, 2025 \(OP-2025-00046\)](#)

Supportive services payments, as provided for in Mississippi Code Annotated Section 43-15-17, are not available to indigent relatives with a child in their care if the child has not been placed with the relative by Child Protection Services (“CPS”). To receive supportive services payments from CPS, a child must be placed in the individual’s home by CPS, and the individual accepting the placement must complete foster care training requirements.

[Alfonso – August 25, 2025 \(OP-2025-00055\)](#)

Section 43-21-303 sets forth certain conditions that must be met for CPS—or a law enforcement officer or the Department of Human Services (“DHS”)—to take a child into immediate custody. Whether these conditions have been met is determined on a case-by-case basis based on the relevant facts. Section 43-21-303 does not address whether a medical provider may or may not notify law enforcement of a newborn or baby testing positive for a controlled substance of any nature.

COMMUNITY HOSPITALS

[Griffin – September 24, 2025 \(OP-2025-00108\)](#)

In light of a community hospital’s overarching objective to adapt to the healthcare needs of its community, a community hospital may sell an unused parcel of hospital property under Mississippi Code Annotated Section 57-7-1, after the required factual determination that the subject property is surplus and not needed for other governmental purposes. However, such a sale must be made for commercial or industrial purposes only.

COUNTIES

[Meek – July 7, 2025 \(OP-2025-00044\)](#)

A county cannot accept from a developer the conveyance of streets that are within the corporate limits of a town. Upon the appropriate factual determination, however, a county may contribute to or assist in the maintenance of municipal streets pursuant to Mississippi Code Annotated Section 65-7-85 or another applicable statute. Whether an interlocal agreement is needed and which statute applies to a specific situation are factual determinations to be made by the County and the Town and are outside the scope of an official opinion. This office does not opine on the necessity or terms of an interlocal agreement by official opinion.

[Dunlap – August 25, 2025 \(OP-2025-00051\)](#)

The maximum amount of land a county operating under the traditional district—or “beat”—system of county road maintenance can purchase as a “station for the working of the public roads” under Mississippi Code Annotated Section 65-7-91 is ten (10) acres. The only “reasonable and appropriate” use of such property is as “a station for the working of the public roads.” If property used as a road working station is no longer needed for that purpose, Section 19-7-3 governs the disposal of county real estate no longer being used for county purposes.

DEPARTMENT OF HEALTH

[Edney – August 4, 2025 \(OP-2025-00035\)](#)

Mississippi Code Annotated Section 27-104-33 allows the Mississippi Department of Health to utilize an electronic payment system with third-party vendor fees assessed to the user so long as the system complies with the Mississippi Department of Finance and Administration's policies regarding the same. Section 27-104-33 specifically provides, "[a]ny fees or charges associated with the use of such electronic payments shall be assessed to the user of the electronic payment as an additional charge for processing the electronic payment, so that the user will pay the full cost of using the electronic payment." Accordingly, assessing a processing fee, which would go directly to a third-party vendor, to cover the cost of an electronic payment platform does not constitute an increase in regulatory fees without statutory authority.

ELECTIONS

[Watson – August 18, 2025 \(OP-2025-00050\)](#)

The threshold to obtain office for a legislative district composed of one county or less, a legislative district composed of more than one county, and a state district office (i.e. Public Service Commissioner or Transportation Commissioner) is still a plurality of votes pursuant to Mississippi Code Annotated Sections 23-15-601 and 23-15-605.

[Norton – August 25, 2025 \(OP-2025-00075\)](#)

Mississippi Code Annotated Section 23-15-833, regarding special elections generally, states that "[a]ll special elections, or elections to fill vacancies, shall in all respects be held, conducted and returned in the same manner as general elections." Specific to school board qualification, Section 37-7-201 provides, "to be eligible to hold the office of trustee . . . of a school district lying in two or more counties . . . such person must be a bona fide resident and a qualified elector of the territory entitled to such representation on the board." In MS AG Op., *Eskridge* at *2 (Aug. 16, 1996), this office opined, "for the single-member districts that lie partially in both counties, a candidate may have a single qualifying petition signed by qualified electors of the district regardless of county in which they may reside. Such qualifying petition should be filed in the county in which the school superintendent's office is located."

[Liddell – August 25, 2025 \(OP-2025-00066\)](#)

While there is no statutory prohibition against running for Sheriff while holding the position of Constable, if such a candidate were to win the election, any potential issues regarding separation of powers and conflicts of interest would then need to be addressed.

LAW ENFORCEMENT

[Null – August 21, 2025 \(OP-2025-00058\)](#)

A municipal prisoner becomes a county prisoner when said prisoner is either 1) bound over to the grand jury at a preliminary hearing, or 2) waives said preliminary hearing. Therefore, following either the holding or waiver of a preliminary hearing in the lower court, once a municipal prisoner's case has been bound over to a grand jury for indictment, the County becomes responsible for the defendant inmate's expenses.

[Sims – August 25, 2025 \(OP-2025-00061\)](#)

This office has consistently opined that “the intent of [Mississippi Code Annotated Section] 63-3-519 is to prohibit the use of all devices for the detection of the speed of automobiles, not just those which use emission of electronic waves.” MS AG Op., *Ewing* at *1 (Feb. 10, 1993). Therefore, “laser speed detection devices fall within the prohibition of radar speed detection equipment in § 63-3-519.” MS AG Op., *McFatter* at *1 (May 31, 2002). “[T]he legislative intent of Section 63-3-519 is to prohibit the use of speed detection devices by those agencies not authorized to use them.” MS AG Op., *McFatter* at *1 (May 31, 2002).

MUNICIPALITIES

[Freeman – July 11, 2025 \(OP-2025-00043\)](#)

In code charter municipalities, the executive power of the municipality and the supervision of municipal officers and affairs are vested in the mayor. Superintending control entitles the mayor to “enact policies related to the overall supervision of employees and department heads,” and “give duty specific direction to both.” MS AG Op., *Honnoll* at *1 (Aug. 13, 2010) (citing MS AG Op., *Goddard* (June 16, 2006)). Further, “[n]o member of the board of alderman shall give orders to any employee or subordinate of a municipality other than the alderman’s personal staff.” Miss. Code Ann. § 21-3-15(2)(a).

[Lockley – August 28, 2025 \(OP-2025-00064\)](#)

Meals are included in the statutory daily rate when a municipality is paying a county to hold a municipal detainee or prisoner in the county jail. However, in accordance with Mississippi Code Annotated Sections 19-25-73(3) and 47-5-909(3), medical treatment and related transportation are an additional responsibility. Mississippi law does not address whether transportation unrelated to medical treatment is included in the contracted daily rate; accordingly, such decision is left to the discretion of the parties.

[Evans – August 28, 2025 \(OP-2025-00071\)](#)

As highlighted by the Mississippi Supreme Court in *City of Greenville v. Queen City Lumber Co.*, 86 So. 2d 860, 863 (Miss. 1956), a municipality’s decision to construct and maintain a sewer system is discretionary, not mandatory. “This office has consistently opined that ‘[a] municipality has authority to maintain the main sewer line to the point of connection with the service line, and the property owner has responsibility to maintain the service line from the point of connection with the main line to the residence.’” MS AG Op., *Brannon* at *2 (June 29, 2023) (quoting MS AG Op., *Snowden* at *2 (Feb. 12, 1999)). Finally, we find no prohibition against a city expending public funds to repair and maintain a sewer lagoon rather than constructing a new main line.

SCHOOLS

[Simmons – July 11, 2025 \(OP-2025-00048\)](#)

There is no statutory prohibition against a school district accepting a lawful donation from an individual, vendor, business, and/or entity currently under contract with the school district. There is also no statutory prohibition against a school district accepting a benefit —such as a waiver of interest or fees owed— from an individual, vendor, business, and/or entity currently under contract

with the school district. However, we caution against any action that could be considered improper or illegal, such as accepting a donation in exchange for favorable treatment.

[Hopson – July 11, 2025 \(OP-2025-00059\)](#)

There is no statutory requirement that a school district superintendent work full time. A school district superintendent may collect public retirement benefits and be employed by a school district on a part-time basis as long as he or she complies with the requirements of Mississippi Code Annotated Section 25-11-127.

SEPARATION OF POWERS

[Sims – August 27, 2025 \(OP-2025-00062\)](#)

Consistent with state law and prior opinions of this office, a city attorney does not exercise power at the core of the executive branch of government and, therefore, there is no violation of the separation of powers doctrine when one person serves simultaneously as city attorney and municipal judge. Additionally, we refer you to the Mississippi Ethics Commission and the Mississippi Commission on Judicial Performance for any questions regarding potential conflicts of interest that may arise from simultaneous service in these positions.

TAXES

[Caves – August 28, 2025 \(OP-2025-00038\)](#)

Delinquent ad valorem taxes owed on a sixteenth section leasehold are a personal debt of the original lessee. A subsequent lessee is not responsible for taxes not paid by a prior lessee. There is no prohibition against leasing sixteenth section land or accepting payment of current ad valorem taxes for such lease simply because a prior lessee still owes delinquent ad valorem taxes. In fact, a school district, in exercising their trustee duties, must make all efforts to maximize the revenue of the sixteenth section land for the beneficiaries of the trust. Delinquent ad valorem taxes cannot be waived or forgiven. However, the debt could be recorded as uncollectable in the county books.

INTERLOCAL AGREEMENTS APPROVED

[Cummings – July 11, 2025 \(OP-2025-00065\)](#)

The Interlocal Cooperation Agreement between Tishomingo County and the City of Iuka regarding the collection of taxes is approved.

[Roy – July 11, 2025 \(OP-2025-00053\)](#)

The Interlocal Cooperation Agreement between Quitman County and Coahoma County regarding road asphalt overlay projects is approved.

Gore – July 21, 2025 (OP-2025-00057)

The Interlocal Cooperation Agreement between Grenada County and the City of Grenada regarding the Grenada Emergency Operations Commission is approved.

Karanja – September 4, 2025 (OP-2025-00083)

The Regional Economic Development Act Agreement between Jones County, the City of Laurel, and the City of Ellisville regarding the Jones Work Project Alliance is approved.

Brannan – September 4, 2025 (OP-2025-00085)

The Interlocal Cooperation Agreement between Clarke County and the Enterprise School District regarding the furnishing of school resource officers is approved.

Whaley-Smith – September 4, 2025 (OP-2025-00087)

The Interlocal Cooperation Agreement between Marshall County and the Town of Potts regarding the housing of inmates and detainees is approved.

Whaley-Smith – September 4, 2025 (OP-2025-00088)

The Interlocal Cooperation Agreement between Marshall County and the Town of Byhalia regarding the housing of inmates and detainees is approved.

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