

By: Senator(s) Dearing

To: Judiciary

SENATE BILL NO. 2284

1 AN ACT TO AMEND SECTION 63-9-11, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE FOR SENTENCING OF A FIRST-TIME TRAFFIC VIOLATOR TO A
 3 SAFE-DRIVING SCHOOL AND TO PROVIDE THAT A FIRST TRAFFIC VIOLATION
 4 WILL NOT BE ENTERED ON THE DRIVING RECORD OF ANY INDIVIDUAL; TO
 5 AMEND SECTION 63-9-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY;
 6 AND FOR RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF
 7 THE STATE OF MISSISSIPPI:

8
 9 SECTION 1. Section 63-9-11, Mississippi Code of 1972, is
 10 amended as follows:

11 63-9-11. (1) It is a misdemeanor for any person to violate
 12 any of the provisions of Chapter 3, 5, or 7 of this title, unless
 13 such violation is by such chapters or other law of this state
 14 declared to be a felony.

15 (2) Every person convicted of a misdemeanor for a violation
 16 of any of the provisions of such chapters for which another
 17 penalty is not provided shall for first conviction thereof be
 18 punished by a fine of not more than One Hundred Dollars (\$100.00)
 19 or by imprisonment for not more than ten (10) days; for a second
 20 such conviction within one (1) year thereafter such person shall
 21 be punished by a fine of not more than Two Hundred Dollars
 22 (\$200.00) or by imprisonment for not more than twenty (20) days or
 23 by both such fine and imprisonment; upon a third or subsequent
 24 conviction within one (1) year after the first conviction such
 25 person shall be punished by a fine of not more than Five Hundred
 26 Dollars (\$500.00) or by imprisonment for not more than six (6)
 27 months or by both such fine and imprisonment.

28 (3) Whenever, in a misdemeanor case, a person is convicted
 29 of violating any of the provisions of Chapter 3, 5 or 7 of this

30 title, the court imposing sentence may order the defendant to
31 attend and participate in a traffic safety violator school, in
32 addition to any other penalty authorized by law.

33 (4) If a person pleads not guilty to a misdemeanor offense
34 under any of the provisions of Chapter 3, 5 or 7 of this title but
35 is convicted, and the person has not received a prior conviction
36 under said chapters within three (3) years of the date of the
37 alleged offense, the court shall suspend the sentence for such
38 offense to allow the defendant ninety (90) days to successfully
39 complete a safety violator school at his own cost. Upon
40 successful completion by the defendant of the course, the court
41 shall set the conviction aside, dismiss the prosecution and direct
42 that the case be closed. The court on its own motion shall
43 expunge the record of the conviction, and the only record
44 maintained thereafter shall be the non-public record required
45 under Section 63-9-17, Mississippi Code of 1972, solely for use by
46 the courts in determining an offender's eligibility under this
47 section as a first-time offender.

48 (5) If all of the conditions set forth in paragraphs (a)
49 through (f) of this subsection are met, the court may withhold
50 acceptance of the plea and defer sentencing in order to allow the
51 defendant ninety (90) days to successfully complete a traffic
52 safety violator school at his own cost, whereupon the court shall
53 dismiss the prosecution and direct that the case be closed. The
54 only record maintained thereafter shall be the non-public record
55 required under Section 63-9-17, Mississippi Code of 1972, solely
56 for use by the courts in determining eligibility as a first-time
57 offender under this section:

58 (a) The person, except as provided in paragraph (f),
59 enters a plea in person or in writing of nolo contendere or guilty
60 and presents to the court an oral request or a written request, in
61 person or by mail postmarked on or before the appearance date on
62 the citation, to attend a traffic safety violator school.

63 (b) The court enters judgment on the defendant's plea
64 of nolo contendere or guilty at the time the plea is made, but
65 defers the imposition or the execution of the whole or any part of
66 the sentence for ninety (90) days.

67 (c) The defendant has a valid Mississippi driver's
68 license or permit.

69 (d) The defendant's public and non-public driving
70 record as maintained by the Department of Public Safety does not
71 indicate successful completion of a driver's education, training
72 or improvement course under this section within the three (3)
73 years of the date of the alleged offense.

74 (e) The defendant files an affidavit with the court
75 stating that this is his first conviction in more than three (3)
76 years, he is not in the process of taking a course under this
77 section and he has not completed a course under this section that
78 is not yet reflected on his driving record.

79 (f) The offense charged is for a misdemeanor offense
80 under Chapter 3, 5 or 7 of this title.

81 (6) An out-of-state resident may be allowed to complete a
82 substantially similar program in his home state, province or
83 country provided paragraphs (a), (b), (d), (e) and (f) of
84 subsection (5) of this section are satisfied, and provided that
85 the defendant has a valid driver's license or permit from that
86 home jurisdiction.

87 SECTION 2. Section 63-9-17, Mississippi Code of 1972, is
88 amended as follows:

89 63-9-17. (1) Every court shall keep a full record of the
90 proceedings of every case in which a person is charged with any
91 violation of law regulating the operation of vehicles on the
92 highways, streets or roads of this state.

93 (2) Unless otherwise sooner required by law, within
94 forty-five (45) days after the conviction of a person upon a
95 charge of violating any law regulating the operation of vehicles

96 on the highways, streets or roads of this state, every * * * court
97 in which such conviction was had shall prepare and immediately
98 forward to the Department of Public Safety an abstract of the
99 record of said court covering the case in which said person was so
100 convicted, which abstract must be certified by the person so
101 authorized to prepare the same to be true and correct.

102 (3) Said abstract must be made upon a form approved by the
103 Department of Public Safety, and shall include the name and
104 address of the party charged, the registration number of the
105 vehicle involved, the nature of the offense, the date of hearing,
106 the plea, the judgment, and if the fine was satisfied by
107 prepayment or appearance bond forfeiture, and the amount of the
108 fine or forfeiture, as the case may be.

109 (4) Every * * * court shall also forward a like report to
110 the Department of Public Safety upon the conviction of any person
111 of manslaughter or other felony in the commission of which a
112 vehicle was used.

113 (5) Every court shall also forward a like report to the
114 Department of Public Safety upon the satisfactory completion by
115 any defendant of a traffic safety violator school under subsection
116 (4) or (5) of Section 63-9-11, Mississippi Code of 1972, and the
117 department shall make and maintain a private, non-public record to
118 be kept for a period of three (3) years. The record shall be
119 solely for the use of the courts in determining eligibility under
120 Section 63-9-11, Mississippi Code of 1972, as a first-time
121 offender, and shall not constitute a criminal record for the
122 purpose of private or administrative inquiry. Reports forwarded
123 to the Department of Public Safety under this subsection shall be
124 exempt from the provisions of the Mississippi Public Records Act
125 of 1983.

126 (6) The failure by refusal or neglect of any such judicial
127 officer to comply with any of the requirements of this section
128 shall constitute misconduct in office and shall be grounds for

129 removal therefrom.

130 (7) The Department of Public Safety shall keep copies of all
131 abstracts received hereunder for a period of three (3) years at
132 its main office and the same shall be open to public inspection
133 during reasonable business hours.

134 SECTION 3. This act shall take effect and be in force from
135 and after January 1, 2000.