

By: Representative Moak

To: Judiciary B

HOUSE BILL NO. 130

1 AN ACT TO AMEND SECTION 99-15-26, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY EXPUNCTION OF CASES IN WHICH COURT-IMPOSED CONDITIONS
3 ARE COMPLETED AND CASES WHICH ARE DISMISSED; AND FOR RELATED
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 99-15-26, Mississippi Code of 1972, is
7 amended as follows:

8 99-15-26. (1) In all criminal cases, felony and
9 misdemeanor, other than crimes against the person, the circuit or
10 county court shall be empowered, upon the entry of a plea of
11 guilty by a criminal defendant, to withhold acceptance of the plea
12 and sentence thereon pending successful completion of such
13 conditions as may be imposed by the court pursuant to subsection
14 (2) of this section. In all misdemeanor criminal cases, other
15 than crimes against the person, the justice or municipal court
16 shall be empowered, upon the entry of a plea of guilty by a
17 criminal defendant, to withhold acceptance of the plea and
18 sentence thereon pending successful completion of such conditions
19 as may be imposed by the court pursuant to subsection (2) of this
20 section. No person having previously qualified under the
21 provisions of this section or having ever been convicted of a
22 felony shall be eligible to qualify for release in accordance with
23 this section. A person shall not be eligible to qualify for
24 release in accordance with this section if such person has been
25 charged (a) with an offense pertaining to the sale, barter,
26 transfer, manufacture, distribution or dispensing of a controlled
27 substance, or the possession with intent to sell, barter,
28 transfer, manufacture, distribute or dispense a controlled

29 substance, as provided in Section 41-29-139(a)(1), Mississippi
30 Code of 1972, except for a charge under said provision when the
31 controlled substance involved is one (1) ounce or less of
32 marihuana; (b) with an offense pertaining to the possession of one
33 (1) kilogram or more of marihuana as provided in Section
34 41-29-139(c)(2)(D), Mississippi Code of 1972; or (c) with an
35 offense under the Mississippi Implied Consent Law.

36 (2) Conditions which the circuit, county, justice or
37 municipal court may impose under subsection (1) of this section
38 shall consist of:

39 (a) Reasonable restitution to the victim of the crime.

40 (b) Performance of not more than nine hundred sixty
41 (960) hours of public service work approved by the court.

42 (c) Payment of a fine not to exceed the statutory
43 limit.

44 (d) Successful completion of drug, alcohol,
45 psychological or psychiatric treatment or any combination thereof
46 if the court deems such treatment necessary.

47 (e) The circuit or county court, in its discretion, may
48 require the defendant to remain in the program subject to good
49 behavior for a period of time not to exceed five (5) years. The
50 justice or municipal court, in its discretion, may require the
51 defendant to remain in the program subject to good behavior for a
52 period of time not to exceed two (2) years.

53 (3) When the court has imposed upon the defendant the
54 conditions set out in this section, the court shall release the
55 bail bond, if any.

56 (4) Upon successful completion of the court-imposed
57 conditions permitted by subsection (2) of this section, the court
58 shall direct that the cause be dismissed, the case be closed and
59 the record expunged.

60 (5) Upon petition therefor, the court shall expunge the
61 record of any case in which an arrest was made, the person

62 arrested was released and the case was dismissed or the charges
63 were dropped or there was no disposition of such case.

64 (6) This section shall take effect and be in force from and
65 after March 31, 1983.

66 **SECTION 2.** This act shall take effect and be in force from
67 and after July 1, 2004.