

By: Representative Moak

To: Judiciary B

HOUSE BILL NO. 1040

1 AN ACT TO AMEND SECTION 99-15-26, MISSISSIPPI CODE OF 1972,
2 TO CORRECT AN INTERNAL REFERENCE IN THE PRETRIAL INTERVENTION LAW;
3 AND FOR RELATED PURPOSES.

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

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

7 99-15-26. (1) In all criminal cases, felony and
8 misdemeanor, other than crimes against the person, the circuit or
9 county court shall be empowered, upon the entry of a plea of
10 guilty by a criminal defendant, to withhold acceptance of the plea
11 and sentence thereon pending successful completion of such
12 conditions as may be imposed by the court pursuant to subsection
13 (2) of this section. In all misdemeanor criminal cases, other
14 than crimes against the person, the justice or municipal court
15 shall be empowered, upon the entry of a plea of guilty by a
16 criminal defendant, to withhold acceptance of the plea and
17 sentence thereon pending successful completion of such conditions
18 as may be imposed by the court pursuant to subsection (2) of this
19 section. No person having previously qualified under the
20 provisions of this section or having ever been convicted of a
21 felony shall be eligible to qualify for release in accordance with
22 this section. A person shall not be eligible to qualify for
23 release in accordance with this section if such person has been
24 charged (a) with an offense pertaining to the sale, barter,
25 transfer, manufacture, distribution or dispensing of a controlled
26 substance, or the possession with intent to sell, barter,
27 transfer, manufacture, distribute or dispense a controlled

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

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

38 (i) Reasonable restitution to the victim of the
39 crime.

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

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

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

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

53 (b) Conditions which the circuit or county court may
54 impose under subsection (1) of this section also include
55 successful completion of a regimented inmate discipline program.

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

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

62 (5) Upon petition therefor, the court shall expunge the
63 record of any case in which an arrest was made, the person
64 arrested was released and the case was dismissed or the charges
65 were dropped or there was no disposition of such case.

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

68 **SECTION 2.** This act shall take effect and be in force from
69 and after July 1, 2006.