

By: Representatives White, Faulkner, Dixon,
Karriem

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1392

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 TO REVISE EXPUNGEMENT PROCEDURES; AND FOR RELATED PURPOSES.

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

4 **SECTION 1.** Section 99-19-71, Mississippi Code of 1972, is
5 amended as follows:

6 99-19-71. (1) Any person who has been convicted of a
7 misdemeanor that is not a traffic violation, and who is a first
8 offender, may petition the justice, county, circuit or municipal
9 court in which the conviction was had for an order to expunge any
10 such conviction from all public records.

11 (2) (a) Any person who has been convicted of one (1) of the
12 following felonies may petition the court in which the conviction
13 was had for an order to expunge one (1) conviction from all public
14 records five (5) years after the successful completion of all
15 terms and conditions of the sentence for the conviction: a bad
16 check offense under Section 97-19-55; possession of a controlled
17 substance or paraphernalia under Section 41-29-139(c) or (d);
18 false pretense under Section 97-19-39; larceny under Section



19 97-17-41; malicious mischief under Section 97-17-67; or
20 shoplifting under Section 97-23-93. A person is eligible for only
21 one (1) felony expunction under this paragraph. For purposes of
22 this subsection, the terms "one (1) conviction" and "one (1)
23 felony expunction" shall include any convictions that arose from a
24 common nucleus of operative facts in the discretion of the court.

25 (b) Any person who was under the age of twenty-one (21)
26 years when he committed a felony may petition the court in which
27 the conviction was had for an order to expunge one (1) conviction
28 from all public records five (5) years after the successful
29 completion of all terms and conditions of the sentence for the
30 conviction; however, eligibility for expunction shall not apply to
31 a felony classified as a crime of violence under Section 97-3-2
32 and any felony that, in the determination of the circuit court, is
33 related to the distribution of a controlled substance and in the
34 court's discretion it should not be expunged. A person is
35 eligible for only one (1) felony expunction under this paragraph.
36 For purposes of this subsection, the terms "one (1) conviction"
37 and "one (1) felony expunction" shall include any convictions that
38 arose from a common nucleus of operative facts in the discretion
39 of the court.

40 (c) The petitioner shall give ten (10) days' written
41 notice to the district attorney before any hearing on the
42 petition. In all cases, the court wherein the petition is filed
43 may grant the petition if the court determines, on the record or



44 in writing, that the applicant is rehabilitated from the offense
45 which is the subject of the petition. In those cases where the
46 court denies the petition, the findings of the court in this
47 respect shall be identified specifically and not generally.

48 (3) Upon entering an order of expunction under this section,
49 a nonpublic record thereof shall be retained by the Mississippi
50 Criminal Information Center solely for the purpose of determining
51 whether, in subsequent proceedings, the person is a first
52 offender. The order of expunction shall not preclude a district
53 attorney's office from retaining a nonpublic record thereof for
54 law enforcement purposes only. The existence of an order of
55 expunction shall not preclude an employer from asking a
56 prospective employee if the employee has had an order of
57 expunction entered on his behalf. The effect of the expunction
58 order shall be to restore the person, in the contemplation of the
59 law, to the status he occupied before any arrest or indictment for
60 which convicted. No person as to whom an expunction order has
61 been entered shall be held thereafter under any provision of law
62 to be guilty of perjury or to have otherwise given a false
63 statement by reason of his failure to recite or acknowledge such
64 arrest, indictment or conviction in response to any inquiry made
65 of him for any purpose other than the purpose of determining, in
66 any subsequent proceedings under this section, whether the person
67 is a first offender. A person as to whom an order has been
68 entered, upon request, shall be required to advise the court, in



69 camera, of the previous conviction and expunction in any legal
70 proceeding wherein the person has been called as a prospective
71 juror. The court shall thereafter and before the selection of the
72 jury advise the attorneys representing the parties of the previous
73 conviction and expunction.

74 (4) Upon petition therefor, a justice, county, circuit or
75 municipal court shall expunge the record of any case in which an
76 arrest was made, the person arrested was released and the case was
77 dismissed or the charges were dropped or there was no disposition
78 of such case.

79 (5) No public official is eligible for expunction under this
80 section for any conviction related to his official duties.

81 **SECTION 2.** This act shall take effect and be in force from
82 and after July 1, 2017.

