

By: Senator(s) Barnett

To: Corrections; Finance

SENATE BILL NO. 2302

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE A COURT TO EXPUNGE CERTAIN NONVIOLENT FELONY  
 3 CONVICTIONS; TO BAN CRIMINAL HISTORY CHECKS AS PART OF THE  
 4 PRELIMINARY JOB APPLICATION PROCESS EXCEPT AS REQUIRED BY LAW; TO  
 5 AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS EMPLOYING PERSONS WHO  
 6 HAVE BEEN CONVICTED OF A FELONY AND WHO HAVE BEEN UNEMPLOYED FOR  
 7 SIX CONSECUTIVE MONTHS IMMEDIATELY PRIOR TO BEING EMPLOYED BY SUCH  
 8 TAXPAYERS; TO PROVIDE THE AMOUNT OF THE TAX CREDIT; TO LIMIT THE  
 9 AMOUNT OF THE TAX CREDIT THAT MAY BE CLAIMED IN A TAXABLE YEAR; TO  
 10 AUTHORIZE ANY TAX CREDIT CLAIMED BUT NOT USED IN ANY TAXABLE YEAR  
 11 TO BE CARRIED FORWARD FOR FIVE CONSECUTIVE YEARS; AND FOR RELATED  
 12 PURPOSES.

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

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

16 99-19-71. (1) Any person who has been convicted of a  
 17 misdemeanor that is not a traffic violation, and who is a first  
 18 offender, may petition the justice, county, circuit or municipal  
 19 court in which the conviction was had for an order to expunge any  
 20 such conviction from all public records.

21 (2) (a) Any person who has been convicted of \* \* \* a felony  
 22 other than embezzlement that is not a crime of violence defined in  
 23 Section 97-3-2 may petition the court in which the conviction was



24 had for an order to expunge one (1) conviction from all public  
25 records five (5) years after the successful completion of all  
26 terms and conditions of the sentence for the conviction \* \* \*. A  
27 person is eligible for only one (1) felony expunction under this  
28 paragraph during the person's lifetime.

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

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) \* \* \* A person is not eligible for expunction under this  
80 section for any conviction related to \* \* \* the person's official  
81 duties as a public official.

82 **SECTION 2.** (1) A public or private employer may not inquire  
83 into or consider or require disclosure of the criminal record or  
84 criminal history of an applicant for employment until the  
85 applicant has been selected for an interview by the employer or,  
86 if there is not an interview, before a conditional offer of  
87 employment is made to the applicant.

88 (2) This section does not apply to the Department of  
89 Corrections or to employers who have a statutory duty to conduct a  
90 criminal history background check or otherwise take into  
91 consideration a potential employee's criminal history during the  
92 hiring process.

93 (3) This section does not prohibit an employer from  
94 notifying applicants that law or the employer's policy will  
95 disqualify an individual with a particular criminal history  
96 background from employment in particular positions.



97           **SECTION 3.** (1) Subject to the provisions of this section, a  
98 taxpayer that employs a person who is a new hire employed after  
99 January 1, 2017, who is a convicted felon and who has been  
100 unemployed for six (6) consecutive months immediately prior to  
101 being employed by the taxpayer, including anytime spent in  
102 incarceration, shall be allowed an annual credit against the taxes  
103 imposed under this chapter. The credit shall be for an annual  
104 amount of Two Thousand Five Hundred Dollars (\$2,500.00) for five  
105 (5) years for each person so employed and may be claimed by the  
106 taxpayer once for each person hired. The tax credit may not be  
107 claimed for hiring a person whose employment was previously  
108 utilized to claim the tax credit. The tax credit shall not exceed  
109 the amount of tax imposed upon the taxpayer for the taxable year  
110 reduced by the sum of all other credits allowable to the taxpayer  
111 under this chapter, except credit for tax payments made by or on  
112 behalf of the taxpayer. Any tax credit claimed under this section  
113 but not used in any taxable year may be carried forward for five  
114 (5) consecutive years from the close of the tax year in which the  
115 credits were earned. In order to be eligible to claim a tax  
116 credit for an employee, the taxpayer must employ the employee for  
117 at least six (6) consecutive months during the year for which the  
118 credit is claimed and the employee must work an average of at  
119 least thirty (30) hours per week for the taxpayer during that  
120 time.



121           (2) The tax credits provided for in this section shall be in  
122 addition to any other credit authorized under law.

123           (3) Any taxpayer who is eligible for the credit authorized  
124 in this section before January 1, 2020, shall be eligible for the  
125 credit authorized in this section, notwithstanding the repeal of  
126 this section, and shall be allowed to carry forward the credit  
127 after January 1, 2020, as provided for in subsection (1) of this  
128 section.

129           (4) This section shall be repealed from and after January 1,  
130 2020.

131           **SECTION 4.** This act shall take effect and be in force from  
132 and after July 1, 2017.

