

By: Senator(s) Barnett, Frazier, Jackson
(11th), Jackson (32nd), Jordan, Simmons
(13th), Witherspoon

To: Judiciary, Division A

SENATE BILL NO. 2841
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 63-1-71, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE REQUIREMENT THAT A PERSON'S LICENSE BE SUSPENDED FOR A
3 CONTROLLED SUBSTANCE VIOLATION THAT IS UNRELATED TO OPERATING A
4 MOTOR VEHICLE; TO AMEND SECTION 9-23-13, MISSISSIPPI CODE OF 1972,
5 TO REQUIRE ALL DRUG COURTS TO MAKE AVAILABLE THE OPTION FOR
6 PARTICIPANTS IN A DRUG COURT PROGRAM TO USE MEDICATION-ASSISTED
7 TREATMENT WHILE PARTICIPATING IN A DRUG COURT PROGRAM; TO AMEND
8 SECTION 47-7-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN
9 OFFENDER SHALL MAKE HIS OR HER INITIAL PAYMENT FOR SUPERVISION
10 FEES WITHIN 90 DAYS RATHER THAN 30 DAYS OF BEING RELEASED; TO
11 PROVIDE CERTAIN CRITERIA FOR A DETERMINATION OF INDIGENCE FOR AN
12 OFFENDER WHO IS UNABLE TO PAY FIELD SUPERVISION FEES AND TO EXTEND
13 THE DATE OF REPEAL ON THIS SECTION; TO AMEND SECTION 47-7-40,
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN OFFENDER SHALL NOT BE
15 DENIED EARNED-DISCHARGE CREDITS SOLELY BASED ON NONPAYMENT OF FEES
16 OR FINES IF A DETERMINATION OF INDIGENCE IS MADE; AND FOR RELATED
17 PURPOSES.

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

19 **SECTION 1.** Section 63-1-71, Mississippi Code of 1972, is
20 amended as follows:

21 63-1-71. (1) * * * ~~In addition to any penalty authorized by~~
22 ~~the Uniform Controlled Substances Law or any other statute~~
23 ~~indicating the dispositions that can be ordered for an~~
24 ~~adjudication of delinquency, every person convicted of, or~~
25 ~~entering a plea of nolo contendere to, or adjudicated delinquent~~



26 ~~in a court of this state for a violation of any offense defined in~~
27 ~~the Uniform Controlled Substances Law, and every person convicted~~
28 ~~of, or entering a plea of nolo contendere to, or adjudicated~~
29 ~~delinquent under the laws of the United States, another state, a~~
30 ~~territory or possession of the United States, the District of~~
31 ~~Columbia or the Commonwealth of Puerto Rico of a violation for the~~
32 ~~use, distribution, possession, manufacture, sale, barter, transfer~~
33 ~~or dispensing of a "controlled substance," "counterfeit~~
34 ~~substance," "narcotic drug" or "drug," as such terms are defined~~
35 ~~under Section 41-29-105, shall forthwith forfeit his right to~~
36 ~~operate a motor vehicle over the highways of this state for a~~
37 ~~period of six (6) months.~~ Notwithstanding the provisions of
38 Section 63-11-30(2) (a) and in addition to any penalty authorized
39 by the Uniform Controlled Substances Law or any other statute
40 indicating the dispositions that can be ordered for an
41 adjudication of delinquency, every person convicted of driving
42 under the influence of a controlled substance, or entering a plea
43 of nolo contendere thereto, or adjudicated delinquent therefor, in
44 a court of this state, and every person convicted of driving under
45 the influence of a controlled substance, or entering a plea of
46 nolo contendere thereto, or adjudicated delinquent therefor, under
47 the laws of the United States, another state, a territory or
48 possession of the United States, the District of Columbia or the
49 Commonwealth of Puerto Rico, shall forthwith forfeit his right to
50 operate a motor vehicle over the highways of this state for a



51 period of not less than six (6) months. In the case of any person
52 who at the time of the imposition of sentence does not have a
53 driver's license or is less than fifteen (15) years of age, the
54 period of the suspension of driving privileges authorized herein
55 shall commence on the day the sentence is imposed and shall run
56 for a period of not less than six (6) months after the day the
57 person obtains a driver's license or reaches the age of fifteen
58 (15) years. If the driving privilege of any person is under
59 revocation or suspension at the time of any conviction or
60 adjudication of delinquency for * * *~~a violation of any offense~~
61 ~~defined in the Uniform Controlled Substances Law~~ driving under the
62 influence of a controlled substance, the revocation or suspension
63 period imposed herein shall commence as of the date of termination
64 of the existing revocation or suspension.

65 (2) The court in this state before whom any person is
66 convicted of or adjudicated delinquent for * * *~~a violation of an~~
67 ~~offense under subsection (1) of this section~~ driving under the
68 influence of a controlled substance shall collect forthwith the
69 Mississippi driver's license of the person and forward such
70 license to the Department of Public Safety along with a report
71 indicating the first and last day of the suspension or revocation
72 period imposed pursuant to this section. If the court is for any
73 reason unable to collect the license of the person, the court
74 shall cause a report of the conviction or adjudication of
75 delinquency to be filed with the Commissioner of Public Safety.



76 That report shall include the complete name, address, date of
77 birth, eye color and sex of the person and shall indicate the
78 first and last day of the suspension or revocation period imposed
79 by the court pursuant to this section. The court shall inform the
80 person orally and in writing that if the person is convicted of
81 personally operating a motor vehicle during the period of license
82 suspension or revocation imposed pursuant to this section, the
83 person shall, upon conviction, be subject to the penalties set
84 forth in Section 63-11-40. A person shall be required to
85 acknowledge receipt of the written notice in writing. Failure to
86 receive a written notice or failure to acknowledge in writing the
87 receipt of a written notice shall not be a defense to a subsequent
88 charge of a violation of Section 63-11-40. If the person is the
89 holder of a driver's license from another jurisdiction, the court
90 shall not collect the license but shall notify forthwith the
91 Commissioner of Public Safety who shall notify the appropriate
92 officials in the licensing jurisdiction. The court shall,
93 however, in accordance with the provisions of this section, revoke
94 the person's nonresident driving privilege in this state.

95 (3) The county court or circuit court having jurisdiction,
96 on petition, may reduce the suspension of driving privileges under
97 this section if the denial of which would constitute a hardship on
98 the offender. When the petition is filed, such person shall pay
99 to the circuit clerk of the court where the petition is filed a
100 fee of Twenty Dollars (\$20.00) for each year, or portion thereof,



101 of license revocation or suspension remaining under the original
102 sentence, which shall be deposited into the State General Fund to
103 the credit of a special fund hereby created in the State Treasury
104 to be used for alcohol or drug abuse treatment and education, upon
105 appropriation by the Legislature. This fee shall be in addition
106 to any other court costs or fees required for the filing of
107 petitions.

108 **SECTION 2.** Section 9-23-13, Mississippi Code of 1972, is
109 amended as follows:

110 9-23-13. (1) A drug court's alcohol and drug intervention
111 component shall provide for eligible individuals, either directly
112 or through referrals, a range of necessary court intervention
113 services, including, but not limited to, the following:

114 (a) Screening using a valid and reliable assessment
115 tool effective for identifying alcohol and drug dependent persons
116 for eligibility and appropriate services;

117 (b) Clinical assessment;

118 (c) Education;

119 (d) Referral;

120 (e) Service coordination and case management; and

121 (f) Counseling and rehabilitative care.

122 (2) Any inpatient treatment or inpatient detoxification
123 program ordered by the court shall be certified by the Department
124 of Mental Health, other appropriate state agency or the equivalent
125 agency of another state.



126 (3) In accordance with the recommendations of the National
127 Drug Court Institute to combat the opioid epidemic, all drug
128 courts shall make available the option for participants to use
129 medication-assisted treatment while participating in the drug
130 court program.

131 **SECTION 3.** Section 47-7-49, Mississippi Code of 1972, is
132 amended as follows:

133 47-7-49. (1) Any offender on probation, parole,
134 earned-release supervision, post-release supervision, earned
135 probation or any other offender under the field supervision of the
136 Community Services Division of the department shall pay to the
137 department the sum of Fifty-five Dollars (\$55.00) per month by
138 certified check or money order unless a * * *~~hardship waiver is~~
139 granted determination of indigence is made. An offender shall
140 make the initial payment within * * *~~thirty (30)~~ ninety (90) days
141 after being released from imprisonment unless a * * *~~hardship~~
142 waiver is granted determination of indigence is made.

143 A * * *~~hardship waiver may~~ determination of indigence shall be
144 granted by the sentencing court or the Department of Corrections
145 to any individual meeting the requirements in subsection (3) of
146 this section. * * * ~~A hardship waiver may not be granted for a~~
147 ~~period of time exceeding ninety (90) days.~~ The commissioner or his
148 designee shall deposit Fifty Dollars (\$50.00) of each payment
149 received into a special fund in the State Treasury, which is
150 hereby created, to be known as the Community Service Revolving



151 Fund. Expenditures from this fund shall be made for: (a) the
152 establishment of restitution and satellite centers; and (b) the
153 establishment, administration and operation of the department's
154 Drug Identification Program and the intensive and field
155 supervision program. The Fifty Dollars (\$50.00) may be used for
156 salaries and to purchase equipment, supplies and vehicles to be
157 used by the Community Services Division in the performance of its
158 duties. Expenditures for the purposes established in this section
159 may be made from the fund upon requisition by the commissioner, or
160 his designee.

161 Of the remaining amount, Three Dollars (\$3.00) of each
162 payment shall be deposited into the Crime Victims' Compensation
163 Fund created in Section 99-41-29, and Two Dollars (\$2.00) shall be
164 deposited into the Training Revolving Fund created pursuant to
165 Section 47-7-51. When a person is convicted of a felony in this
166 state, in addition to any other sentence it may impose, the court
167 may, in its discretion, order the offender to pay a state
168 assessment not to exceed the greater of One Thousand Dollars
169 (\$1,000.00) or the maximum fine that may be imposed for the
170 offense, into the Crime Victims' Compensation Fund created
171 pursuant to Section 99-41-29.

172 Any federal funds made available to the department for
173 training or for training facilities, equipment or services shall
174 be deposited into the Correctional Training Revolving Fund created
175 in Section 47-7-51. The funds deposited in this account shall be



176 used to support an expansion of the department's training program
177 to include the renovation of facilities for training purposes,
178 purchase of equipment and contracting of training services with
179 community colleges in the state.

180 No offender shall be required to make this payment for a
181 period of time longer than ten (10) years.

182 (2) The offender may be imprisoned until the payments are
183 made if the offender is financially able to make the payments and
184 the court in the county where the offender resides so finds,
185 subject to the limitations hereinafter set out. The offender
186 shall not be imprisoned if the offender is financially unable to
187 make the payments and so states to the court in writing, under
188 oath, and * * * the court so finds a finding of indigence is made
189 by the court in writing.

190 (3) When determining whether a person is indigent, the
191 Department of Corrections' Community Corrections Division or the
192 court shall use the current Federal Poverty Guidelines and there
193 shall be a presumption of indigence when a defendant's income is
194 at or below one hundred twenty-five percent (125%) of the Federal
195 Poverty Guidelines, subject to a review of his or her assets. An
196 offender at or below one hundred twenty-five percent (125%) of the
197 Federal Poverty Guidelines without substantial liquid assets
198 available to pay fines, fees, and costs shall be deemed indigent.
199 In determining whether an offender has substantial liquid assets,
200 up to Ten Thousand Dollars (\$10,000.00) in tangible personal



201 property, including motor vehicles, household goods, or any other
202 assets exempted from seizure under execution or attachment, as
203 provided under Section 85-3-1, shall not be considered. If the
204 offender is above one hundred twenty-five percent (125%) of the
205 Federal Poverty Guidelines, an individualized assessment of his or
206 her ability to pay based on the totality of the circumstances
207 shall be made, including, but not limited to, the offender's
208 disposable income, financial obligations and liquid assets. If a
209 determination of indigence is not made and it is determined that
210 the defendant could have made payment but refused to do so, the
211 case file shall include a written explanation of the basis for the
212 determination. In court, such finding shall be included in the
213 court's order.

214 (4) Absent a finding of willful nonpayment using a
215 determination of indigence, a probationer or parolee's failure to
216 pay the monthly fees in arrears shall not be deemed a violation of
217 a condition of parole or probation, and the participant shall not
218 be revoked for failure to pay the monthly fees in arrears.

219 (* * *~~35~~) This section shall stand repealed from and after
220 June 30, * * *~~2018~~ 2021.

221 **SECTION 4.** Section 47-7-40, Mississippi Code of 1972, is
222 amended as follows:

223 47-7-40. (1) The commissioner shall establish rules and
224 regulations for implementing the earned-discharge program that
225 allows offenders on probation and parole to reduce the period of



226 supervision for complying with conditions of probation. The
227 department shall have the authority to award earned-discharge
228 credits to all offenders placed on probation, parole, or
229 post-release supervision who are in compliance with the terms and
230 conditions of supervision. An offender serving a Mississippi
231 sentence for an eligible offense in any jurisdiction under the
232 Interstate Compact for Adult Offender Supervision shall be
233 eligible for earned-discharge credits under this section.
234 Offenders shall not be denied earned-discharge credits solely
235 based on nonpayment of fees or fines if a determination of
236 indigence can be made according to the guidelines in Section
237 47-7-49.

238 (2) For each full calendar month of compliance with the
239 conditions of supervision, earned-discharge credits equal to the
240 number of days in that month shall be deducted from the offender's
241 sentence discharge date. Credits begin to accrue for eligible
242 offenders after the first full calendar month of compliance
243 supervision conditions. For the purposes of this section, an
244 offender is deemed to be in compliance with the conditions of
245 supervision if there was no violation of the conditions of
246 supervision.

247 (3) No earned-discharge credits may accrue for a calendar
248 month in which a violation report has been submitted, the offender
249 has absconded from supervision, the offender is serving a term of
250 imprisonment in a technical violation center, or for the months



251 between the submission of the violation report and the final
252 action on the violation report by the court or the board.

253 (4) Earned-discharge credits shall be applied to the
254 sentence within thirty (30) days of the end of the month in which
255 the credits were earned. At least every six (6) months, an
256 offender who is serving a sentence eligible for earned-discharge
257 credits shall be notified of the current sentence discharge date.

258 (5) Once the combination of time served on probation, parole
259 or post-release supervision, and earned-discharge credits satisfy
260 the term of probation, parole, or post-release supervision, the
261 board or sentencing court shall order final discharge of the
262 offender. No less than sixty (60) days prior to the date of final
263 discharge, the department shall notify the sentencing court and
264 the board of the impending discharge.

265 (6) The department shall provide semiannually to the
266 Oversight Task Force the number and percentage of offenders who
267 qualify for earned discharge in one or more months of the year and
268 the average amount of credits earned within the year.

269 **SECTION 5.** This act shall take effect and be in force from
270 and after its passage.

