

By: Representative Clark

To: Judiciary B

HOUSE BILL NO. 240

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE LIST OF FELONIES THAT MAY BE EXPUNGED; AND FOR
3 RELATED PURPOSES.

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

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

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

12 (2) (a) Any person who has been convicted of * * * a felony
13 that is not a crime of violence as described in Section 97-3-2 may
14 petition the court in which the conviction was had for an order to
15 expunge * * * such conviction from all public records five (5)
16 years after the successful completion of all terms and conditions
17 of the sentence for the conviction * * *. A person is eligible
18 for only one (1) felony expunction under this paragraph.



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

30 (c) The petitioner shall give ten (10) days' written
31 notice to the district attorney before any hearing on the
32 petition. In all cases, the court wherein the petition is filed
33 may grant the petition if the court determines, on the record or
34 in writing, that the applicant is rehabilitated from the offense
35 which is the subject of the petition. In those cases where the
36 court denies the petition, the findings of the court in this
37 respect shall be identified specifically and not generally.

38 (3) Upon entering an order of expunction under this section,
39 a nonpublic record thereof shall be retained by the Mississippi
40 Criminal Information Center solely for the purpose of determining
41 whether, in subsequent proceedings, the person is a first
42 offender. The order of expunction shall not preclude a district
43 attorney's office from retaining a nonpublic record thereof for



44 law enforcement purposes only. The existence of an order of
45 expunction shall not preclude an employer from asking a
46 prospective employee if the employee has had an order of
47 expunction entered on his behalf. The effect of the expunction
48 order shall be to restore the person, in the contemplation of the
49 law, to the status he occupied before any arrest or indictment for
50 which convicted. No person as to whom an expunction order has
51 been entered shall be held thereafter under any provision of law
52 to be guilty of perjury or to have otherwise given a false
53 statement by reason of his failure to recite or acknowledge such
54 arrest, indictment or conviction in response to any inquiry made
55 of him for any purpose other than the purpose of determining, in
56 any subsequent proceedings under this section, whether the person
57 is a first offender. A person as to whom an order has been
58 entered, upon request, shall be required to advise the court, in
59 camera, of the previous conviction and expunction in any legal
60 proceeding wherein the person has been called as a prospective
61 juror. The court shall thereafter and before the selection of the
62 jury advise the attorneys representing the parties of the previous
63 conviction and expunction.

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



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

71 **SECTION 2.** This act shall take effect and be in force from
72 and after July 1, 2018.

