

By: Representative Faulkner

To: Judiciary B

HOUSE BILL NO. 241

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE A COURT UPON PETITION TO EXPUNGE CERTAIN NONVIOLENT
 3 FELONY 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 HAVE BEEN UNEMPLOYED FOR SIX
 7 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
 22 felony, other than embezzlement, that is not classified as a crime
 23 of violence as defined in Section 97-3-2 may petition the court in



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

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

41 (c) The petitioner shall give ten (10) days' written
42 notice to the district attorney before any hearing on the
43 petition. In all cases, the court wherein the petition is filed
44 may grant the petition if the court determines, on the record or
45 in writing, that the applicant is rehabilitated from the offense
46 which is the subject of the petition. In those cases where the
47 court denies the petition, the findings of the court in this
48 respect shall be identified specifically and not generally.



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



73 jury advise the attorneys representing the parties of the previous
74 conviction and expunction.

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

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

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

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

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



98 **SECTION 3.** (1) Subject to the provisions of this section, a
99 taxpayer that employs a person after January 1, 2018, who is a
100 convicted felon, who has been unemployed for six (6) consecutive
101 months immediately before being employed by the taxpayer,
102 including anytime spent in incarceration, shall be allowed an
103 annual credit against the taxes imposed under this chapter. The
104 credit shall be for an annual amount of Two Thousand Five Hundred
105 Dollars (\$2,500.00) for five (5) years for each person so employed
106 and may be claimed by the taxpayer once for each person hired.
107 The tax credit may not be claimed for hiring a person whose
108 employment was previously utilized to claim the tax credit. The
109 tax credit shall not exceed the amount of tax imposed upon the
110 taxpayer for the taxable year reduced by the sum of all other
111 credits allowable to the taxpayer under this chapter, except
112 credit for tax payments made by or on behalf of the taxpayer. Any
113 tax credit claimed under this section but not used in any taxable
114 year may be carried forward for five (5) consecutive years from
115 the close of the tax year in which the credits were earned. In
116 order to be eligible to claim a tax credit for an employee, the
117 taxpayer must employ the employee for at least six (6) consecutive
118 months during the year for which the credit is claimed and the
119 employee must work an average of at least thirty (30) hours per
120 week for the taxpayer during that 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, 2023, shall be approved for the
125 credit authorized in this section, and shall be allowed to carry
126 forward the credit after January 1, 2023, as provided for in
127 subsection (1) of this section, notwithstanding the repeal of this
128 section as provided in subsection (4) of this section.

129 (4) This section shall be repealed from and after January 1,
130 2023.

131 **SECTION 4.** This act shall take effect and be in force from
132 and after July 1, 2018.

