

By: Representative Zuber

To: Judiciary B

HOUSE BILL NO. 1193

1 AN ACT TO CONSOLIDATE THE STATUTES CONCERNING EXPUNCTION; TO
2 CREATE A UNIFIED EXPUNCTION STATUTE; TO PROVIDE FOR THE LEGAL
3 EFFECT OF AN ORDER TO EXPUNGE; TO PROVIDE FOR EXPUNCTION OF
4 MISDEMEANOR AND FELONY CONVICTIONS; TO SPECIFY RECORDS THAT MAY
5 NOT BE EXPUNGED; TO PROVIDE FOR EXPUNCTION OF A FIRST OFFENSE DUI
6 CONVICTION; TO PROVIDE FOR EXPUNCTION UPON COMPLETION OF DRUG
7 COURT; TO PROVIDE FOR EXPUNCTION OF CONVICTIONS FOR PURCHASE OF
8 LIGHT WINE OR BEER BY MINORS; TO PROVIDE FOR CERTAIN
9 NONCONVICTIONS; TO SET FILING FEES ACCORDING TO PRE-EXISTING LAW;
10 TO REQUIRE NCIC REPORTS; TO REQUIRE CLERKS OF COURT TO SUBMIT
11 POST-EXPUNCTION RECORDS; TO AMEND SECTION 9-11-15, MISSISSIPPI
12 CODE OF 1972, TO CONFORM EXPUNCTIONS IN THE JUSTICE COURTS; TO
13 AMEND SECTION 9-23-23, MISSISSIPPI CODE OF 1972, TO CONFORM
14 EXPUNCTIONS IN THE DRUG COURTS; TO AMEND SECTION 21-23-7,
15 MISSISSIPPI CODE OF 1972, TO CONFORM EXPUNCTION IN MUNICIPAL
16 COURTS; TO AMEND SECTION 41-29-150, MISSISSIPPI CODE OF 1972, TO
17 CONFORM EXPUNCTION OF CERTAIN DRUG CHARGES; TO AMEND SECTION
18 45-27-21, MISSISSIPPI CODE OF 1972, TO CONFORM RECORD-KEEPING
19 REQUIREMENTS FOR THE CRIMINAL INFORMATION CENTER; TO AMEND SECTION
20 63-11-30, MISSISSIPPI CODE OF 1972, TO CONFORM THE EXPUNCTION OF
21 DUI RECORDS; TO AMEND SECTION 99-15-26, MISSISSIPPI CODE OF 1972,
22 TO CONFORM NONADJUDICATION PROVISIONS; TO REPEAL SECTION 99-15-59,
23 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT ANY PERSON WHO IS
24 ARRESTED, ISSUED A CITATION, OR HELD FOR ANY MISDEMEANOR AND NOT
25 FORMALLY CHARGED OR PROSECUTED WITH AN OFFENSE WITHIN 12 MONTHS OF
26 ARREST, OR UPON DISMISSAL OF THE CHARGE, MAY APPLY TO THE COURT
27 WITH JURISDICTION OVER THE MATTER FOR THE CHARGES TO BE EXPUNGED;
28 TO REPEAL SECTION 99-19-71, MISSISSIPPI CODE OF 1972, WHICH
29 PROVIDES FOR EXPUNCTION OF CERTAIN FELONY AND MISDEMEANOR
30 CONVICTION RECORDS; TO REPEAL SECTION 99-19-72, MISSISSIPPI CODE
31 OF 1972, WHICH PROVIDES FOR FILING FEES FOR CERTAIN PETITIONS FOR
32 EXPUNCTION AND THE DISPOSITION THEREOF; AND FOR RELATED PURPOSES.

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



34 **SECTION 1.** (1) **Legal effect of an order to expunge;**
35 **eligibility.** (a) "Expungement" or "expunction" means the
36 deletion, by court order, of the records of criminal offenses from
37 a person's public records.

38 (b) (i) Upon entering an order of expunction under
39 this section, a nonpublic record thereof shall be retained by the
40 Mississippi Criminal Information Center solely for the purpose of
41 determining whether, in subsequent proceedings, the person is a
42 first offender.

43 (ii) The order of expunction shall not preclude a
44 district attorney's office from retaining a nonpublic record
45 thereof for law enforcement purposes only.

46 (iii) The existence of an order of expunction
47 shall not preclude an employer from asking a prospective employee
48 if the employee has had an order of expunction entered on his
49 behalf.

50 (c) (i) The effect of an expunction order shall be to
51 restore the person, in the contemplation of the law, to the status
52 he occupied before any arrest or indictment for which convicted,
53 and the person thereafter legally stands as though he had never
54 been arrested, indicted, or convicted of the expunged offense or
55 offenses and may lawfully so respond to any query of prior
56 convictions.

57 (ii) No person as to whom an expunction order has
58 been entered shall be held thereafter under any provision of law



59 to be guilty of perjury or to have otherwise given a false
60 statement by reason of his failure to recite or acknowledge such
61 arrest, indictment or conviction in response to any inquiry made
62 of him for any purpose other than the purpose of determining, in
63 any subsequent proceedings under this section, whether the person
64 is a first offender. A person as to whom an order has been
65 entered, upon request, shall be required to advise the court, in
66 camera, of the previous conviction and expunction in any legal
67 proceeding wherein the person has been called as a prospective
68 juror. The court shall thereafter and before the selection of the
69 jury advise the attorneys representing the parties of the previous
70 conviction and expunction.

71 (d) No public official is eligible for expunction of
72 any felony or misdemeanor conviction related to his official
73 duties.

74 (2) **Expunction of misdemeanor convictions.** (a) **First**
75 **offender.** Any person who has been convicted of a misdemeanor that
76 is not a traffic violation, and who is a first offender, may
77 petition the justice, county, circuit or municipal court in which
78 the conviction was had for an order to expunge any such conviction
79 from all public records.

80 (b) **Multiple misdemeanors.** Upon prior notice to the
81 appropriate prosecuting attorney and upon a showing in open court
82 of rehabilitation, good conduct for a period of two (2) years
83 since the last conviction in any court, and that the best interest



84 of society would be served, the justice, municipal, county, or
85 circuit court may, in its discretion, order the record of
86 conviction of a person of any or all misdemeanors in that court
87 expunged.

88 (c) **Records that may not be expunged.** The confidential
89 records of law enforcement agencies and the driving record of a
90 person maintained under Title 63, Mississippi Code of 1972, are
91 not subject to expunction under this subsection (2).

92 (3) **Expunction of felony convictions.** (a) Any person who
93 has been convicted of one (1) of the following felonies may
94 petition the court in which the conviction was had for an order to
95 expunge one (1) conviction from all public records five (5) years
96 after the successful completion of all terms and conditions of the
97 sentence for the conviction: a bad check offense under Section
98 97-19-55; possession of a controlled substance or paraphernalia
99 under Section 41-29-139(c) or (d); false pretense under Section
100 97-19-39; larceny under Section 97-17-41; malicious mischief under
101 Section 97-17-67; or shoplifting under Section 97-23-93. A person
102 is eligible for only one (1) felony expunction under this
103 paragraph (a) during the lifetime of that person.

104 (b) A person who was under the age of twenty-one (21)
105 years when he committed a felony may petition the court in which
106 the conviction was had for an order to expunge one (1) conviction
107 from all public records five (5) years after the successful
108 completion of all terms and conditions of the sentence for the



109 conviction; however, the following felonies are not eligible for
110 expunction under this paragraph (b):

111 (i) A felony classified as a crime of violence
112 under Section 97-3-2; and

113 (ii) Any felony that, in the determination of the
114 circuit court, is related to the distribution of a controlled
115 substance and, in the court's discretion, should not be expunged.

116 A person is eligible for only one (1) felony expunction under
117 this paragraph (b) during the lifetime of the person.

118 (c) The petitioner shall give ten (10) days' written
119 notice to the district attorney before any hearing on the
120 petition. In all cases, the court wherein the petition is filed
121 may grant the petition if the court determines, on the record or
122 in writing, that the applicant is rehabilitated from the offense
123 which is the subject of the petition. In those cases where the
124 court denies the petition, the findings of the court in this
125 respect shall be identified specifically and not generally.

126 (4) (a) **DUI convictions.** Any person convicted of a first
127 offense of driving under the influence under Section 63-11-30(2)
128 or (3) and who was not the holder of a commercial driver's license
129 or a commercial learning permit at the time of the offense may
130 petition the circuit court of the county in which the conviction
131 was had for an order to expunge the record of the conviction at
132 least five (5) years after successful completion of all terms and



133 conditions of the sentence imposed for the conviction. Expunction
134 under this subsection will only be available to a person:

135 (i) Who has successfully completed all terms and
136 conditions of the sentence imposed for the conviction;

137 (ii) Who did not refuse to submit to a test of his
138 blood or breath;

139 (iii) Whose blood alcohol concentration tested
140 below sixteen one-hundredths percent (.16%) if test results are
141 available;

142 (iv) Who has not been convicted of and does not
143 have pending any other offense of driving under the influence;

144 (v) Who has provided the court with justification
145 as to why the conviction should be expunged; and

146 (vi) Who has not previously had a nonadjudication
147 or expunction of a violation of Section 63-11-30.

148 (b) A person is eligible for only one (1) expunction
149 under this subsection (4), and the Department of Public Safety
150 shall maintain a permanent confidential registry of all cases of
151 expunction under this subsection for the sole purpose of
152 determining a person's eligibility for expunction, for
153 nonadjudication, or as a first offender under this subsection (4).

154 (c) The court in its order of expunction shall state in
155 writing the justification for which the expunction was granted and
156 forward the order to the Department of Public Safety within five
157 (5) days of the entry of the order.



158 (5) **Completion of drug court.** If a drug court participant
159 was sentenced at the time of entry with a plea of guilty, and the
160 participant successfully completes the requirements of the drug
161 court order and other requirements of probation or suspension of
162 sentence, the record of the criminal conviction or adjudication
163 will be expunged. However, no expunction of any implied consent
164 violation shall be allowed in drug court.

165 (6) **Convictions for purchase of light wine or beer by person**
166 **under age of twenty-one (21).** A person who has been charged with
167 a violation of subsection (1) or (2) of Section 67-3-70 may, not
168 sooner than one (1) year after the dismissal and discharge or
169 completion of any sentence and payment of any fine, apply to the
170 court for an order to expunge from all official records all
171 recordation relating to his arrest, trial, finding or plea of
172 guilty, and dismissal and discharge. If the court determines that
173 such person was dismissed and the proceedings against him
174 discharged or that such person had satisfactorily served his
175 sentence and paid any fine, penalties and assessments, it shall
176 enter such order.

177 (7) **Nonconvictions.** (a) **Expunction of misdemeanor charges.**
178 Any person who is arrested, issued a citation, or held for any
179 misdemeanor and is not formally charged or prosecuted for the
180 offense within twelve (12) months of arrest, or upon dismissal of
181 the charge, may apply to the court with jurisdiction over the
182 matter for the charges to be expunged.



183 (b) **Nonadjudication of drug offenses.** Upon the
184 dismissal of the charges against a person and discharge of
185 proceedings against him under Section 41-29-150(d), the person may
186 apply to the court for an order to expunge from all official
187 records, other than the nonpublic records to be retained by the
188 bureau under Section 41-29-150(d), all recordation relating to his
189 arrest, indictment, trial, finding of guilt, and dismissal and
190 discharge pursuant to Section 41-29-150. If the court determines,
191 after hearing, that the charge against the person was dismissed
192 and the proceedings against him discharged, or that the person had
193 satisfactorily served his sentence or period of probation and
194 parole, it shall enter an order of expunction.

195 (c) Upon petition therefor, any circuit, county,
196 justice, or municipal court with jurisdiction over a criminal
197 offense shall expunge the record of any case in which an arrest
198 was made, the person arrested was released and the case was
199 dismissed, the charges were dropped or there was no disposition of
200 the case.

201 (d) From and after July 1, 2018, upon entry of an order
202 of dismissal or nolle prosequi, the court shall automatically
203 issue an order of expunction on its own motion and send a copy of
204 the order to the defendant or the defendant's attorney.

205 (8) **Filing fees.** (a) **Felony convictions in circuit court.**
206 A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby
207 levied on each petition to expunge the record of a conviction in



208 circuit or county court to be collected by the circuit clerk and
209 distributed as follows:

210 (i) One Hundred Forty Dollars (\$140.00) to be
211 deposited into the State General Fund; and

212 (ii) Ten Dollars (\$10.00) to be retained by the
213 circuit clerk collecting the fee for administration purposes.

214 (b) There shall be no filing fee levied on petitions
215 seeking expunction of offenses in cases where the petitioner was
216 arrested and released and the case was dismissed or the charges
217 were dropped or there was no disposition of such case.

218 (c) **Misdemeanor convictions in justice and municipal**
219 **courts.** The filing fee for expunction shall be as provided by
220 law.

221 (9) **NCIC reports.** Upon notice of the filing of an
222 expungement petition, the appropriate prosecuting attorney or
223 court clerk shall run a background check through the Federal
224 Bureau of Investigation's National Criminal Information Center and
225 present the results of the report to the court.

226 (10) **Post-expungement records.** A certified copy of every
227 expunction order shall be sent by the clerk of the circuit,
228 county, justice, or municipal court that issued the order to the
229 Mississippi Criminal Information Center where it shall be
230 maintained in a separate confidential database accessible only
231 upon written request by a district attorney, a county prosecuting
232 attorney, a municipal court prosecuting attorney, the Attorney



233 General of Mississippi and the Mississippi Law Enforcement
234 Standards and Training Board. A criminal conviction that has been
235 expunged may be used for the purpose of determining habitual
236 offender status and for the use of the Mississippi Law Enforcement
237 Standards and Training Board in granting or denying law
238 enforcement certification, and to ensure that a person is only
239 eligible for first-offender status one (1) time.

240 **SECTION 2.** Section 9-11-15, Mississippi Code of 1972, is
241 amended as follows:

242 9-11-15. (1) Justice court judges shall hold regular terms
243 of their courts, at such times as they may appoint, not exceeding
244 two (2) and not less than one (1) in every month, at the
245 appropriate justice court courtroom established by the board of
246 supervisors; and they may continue to hold their courts from day
247 to day so long as business may require; and all process shall be
248 returnable, and all trials shall take place at such regular terms,
249 except where it is otherwise provided; but where the defendant is
250 a nonresident or transient person, and it shall be shown by the
251 oath of either party that a delay of the trial until the regular
252 term will be of material injury to him, it shall be lawful for the
253 judge to have the parties brought before him at any reasonable
254 time and hear the evidence and give judgment or where the
255 defendant is a nonresident or transient person and the judge and
256 all parties agree, it shall be lawful for the judge to have the
257 parties brought before him on the day a citation is made and hear



258 the evidence and give judgment. Such court shall be a court of
259 record, with all the power incident to a court of record,
260 including power to fine in the amount of fine and length of
261 imprisonment as is authorized for a municipal court in Section
262 21-23-7(11) for contempt of court.

263 (2) (a) In counties with a population of less than one
264 hundred fifty thousand (150,000), each justice court shall
265 designate at least one-half (1/2) day each month as a traffic
266 court day, sufficient to handle the traffic violations docket of
267 that court, and shall notify all appropriate law enforcement
268 agencies of the date or dates. On the day or days so designated,
269 the justice court shall give priority to all cases involving
270 traffic violations.

271 (b) In counties with a population of one hundred fifty
272 thousand (150,000) or more, each justice court shall designate at
273 least one (1) day each month as a traffic court day, sufficient to
274 handle the traffic violations of that court, and shall notify all
275 appropriate law enforcement agencies of the date or dates. On the
276 day or days so designated, the justice court shall give priority
277 to all cases involving traffic violations. The one (1) day may be
278 one (1) whole day or it may be divided into half days as long as
279 one-half (1/2) day is held in the morning and one-half (1/2) day
280 is held in the afternoon, in the discretion of the court.

281 * * *



282 **SECTION 3.** Section 9-23-23, Mississippi Code of 1972, is
283 amended as follows:

284 9-23-23. If the participant completes all requirements
285 imposed upon him by the drug court, including the payment of fines
286 and fees assessed, the charge and prosecution shall be dismissed.
287 If the defendant or participant was sentenced at the time of entry
288 of plea of guilty, the successful completion of the drug court
289 order and other requirements of probation or suspension of
290 sentence will result in the record of the criminal conviction or
291 adjudication being expunged as provided in Section 1 of this act.
292 However, no expunction of any implied consent violation shall be
293 allowed.

294 **SECTION 4.** Section 21-23-7, Mississippi Code of 1972, is
295 amended as follows:

296 21-23-7. (1) The municipal judge shall hold court in a
297 public building designated by the governing authorities of the
298 municipality and may hold court every day except Sundays and legal
299 holidays if the business of the municipality so requires;
300 provided, however, the municipal judge may hold court outside the
301 boundaries of the municipality but not more than within a
302 sixty-mile radius of the municipality to handle preliminary
303 matters and criminal matters such as initial appearances and
304 felony preliminary hearings. The municipal judge may hold court
305 outside the boundaries of the municipality but not more than
306 within a one-mile radius of the municipality for any purpose. The



307 municipal judge shall have the jurisdiction to hear and determine,
308 without a jury and without a record of the testimony, all cases
309 charging violations of the municipal ordinances and state
310 misdemeanor laws made offenses against the municipality and to
311 punish offenders therefor as may be prescribed by law. Except as
312 otherwise provided by law, criminal proceedings shall be brought
313 by sworn complaint filed in the municipal court. Such complaint
314 shall state the essential elements of the offense charged and the
315 statute or ordinance relied upon. Such complaint shall not be
316 required to conclude with a general averment that the offense is
317 against the peace and dignity of the state or in violation of the
318 ordinances of the municipality. He may sit as a committing court
319 in all felonies committed within the municipality, and he shall
320 have the power to bind over the accused to the grand jury or to
321 appear before the proper court having jurisdiction to try the
322 same, and to set the amount of bail or refuse bail and commit the
323 accused to jail in cases not bailable. The municipal judge is a
324 conservator of the peace within his municipality. He may conduct
325 preliminary hearings in all violations of the criminal laws of
326 this state occurring within the municipality, and any person
327 arrested for a violation of law within the municipality may be
328 brought before him for initial appearance. The municipal court
329 shall have jurisdiction of any case remanded to it by a circuit
330 court grand jury. The municipal court shall have civil
331 jurisdiction over actions filed pursuant to and as provided in



332 Title 93, Chapter 21, Mississippi Code of 1972, the Protection
333 from Domestic Abuse Act.

334 (2) In the discretion of the court, where the objects of
335 justice would be more likely met, as an alternative to imposition
336 or payment of fine and/or incarceration, the municipal judge shall
337 have the power to sentence convicted offenders to work on a public
338 service project where the court has established such a program of
339 public service by written guidelines filed with the clerk for
340 public record. Such programs shall provide for reasonable
341 supervision of the offender and the work shall be commensurate
342 with the fine and/or incarceration that would have ordinarily been
343 imposed. Such program of public service may be utilized in the
344 implementation of the provisions of Section 99-19-20, and public
345 service work thereunder may be supervised by persons other than
346 the sheriff.

347 (3) The municipal judge may solemnize marriages, take oaths,
348 affidavits and acknowledgments, and issue orders, subpoenas,
349 summonses, citations, warrants for search and arrest upon a
350 finding of probable cause, and other such process under seal of
351 the court to any county or municipality, in a criminal case, to be
352 executed by the lawful authority of the county or the municipality
353 of the respondent, and enforce obedience thereto. The absence of
354 a seal shall not invalidate the process.

355 (4) When a person shall be charged with an offense in
356 municipal court punishable by confinement, the municipal judge,



357 being satisfied that such person is an indigent person and is
358 unable to employ counsel, may, in the discretion of the court,
359 appoint counsel from the membership of The Mississippi Bar
360 residing in his county who shall represent him. Compensation for
361 appointed counsel in criminal cases shall be approved and allowed
362 by the municipal judge and shall be paid by the municipality. The
363 maximum compensation shall not exceed Two Hundred Dollars
364 (\$200.00) for any one (1) case. The governing authorities of a
365 municipality may, in their discretion, appoint a public
366 defender(s) who must be a licensed attorney and who shall receive
367 a salary to be fixed by the governing authorities.

368 (5) The municipal judge of any municipality is hereby
369 authorized to suspend the sentence and to suspend the execution of
370 the sentence, or any part thereof, on such terms as may be imposed
371 by the municipal judge. However, the suspension of imposition or
372 execution of a sentence hereunder may not be revoked after a
373 period of two (2) years. The municipal judge shall have the power
374 to establish and operate a probation program, dispute resolution
375 program and other practices or procedures appropriate to the
376 judiciary and designed to aid in the administration of justice.
377 Any such program shall be established by the court with written
378 policies and procedures filed with the clerk of the court for
379 public record. Subsequent to original sentencing, the municipal
380 judge, in misdemeanor cases, is hereby authorized to suspend
381 sentence and to suspend the execution of a sentence, or any part



382 thereof, on such terms as may be imposed by the municipal judge,
383 if (a) the judge or his or her predecessor was authorized to order
384 such suspension when the sentence was originally imposed; and (b)
385 such conviction (i) has not been appealed; or (ii) has been
386 appealed and the appeal has been voluntarily dismissed.

387 (6) * * * [Deleted]

388 (7) * * * [Deleted]

389 (8) In the discretion of the court, a plea of nolo
390 contendere may be entered to any charge in municipal court. Upon
391 the entry of a plea of nolo contendere the court shall convict the
392 defendant of the offense charged and shall proceed to sentence the
393 defendant according to law. The judgment of the court shall
394 reflect that the conviction was on a plea of nolo contendere. An
395 appeal may be made from a conviction on a plea of nolo contendere
396 as in other cases.

397 (9) Upon execution of a sworn complaint charging a
398 misdemeanor, the municipal court may, in its discretion and in
399 lieu of an arrest warrant, issue a citation requiring the
400 appearance of the defendant to answer the charge made against him.
401 On default of appearance, an arrest warrant may be issued for the
402 defendant. The clerk of the court or deputy clerk may issue such
403 citations.

404 (10) The municipal court shall have the power to make rules
405 for the administration of the court's business, which rules, if
406 any, shall be in writing filed with the clerk of the court and



407 shall include the enactment of rules related to the court's
408 authority to issue domestic abuse protection orders pursuant to
409 Section 93-21-1 et seq.

410 (11) The municipal court shall have the power to impose
411 punishment of a fine of not more than One Thousand Dollars
412 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
413 of court. The municipal court may have the power to impose
414 reasonable costs of court, not in excess of the following:

415 Dismissal of any affidavit, complaint or charge 416 in municipal court.....	\$ 50.00
417 Suspension of a minor's driver's license in lieu of 418 conviction.....	\$ 50.00
419 Service of scire facias or return "not found".....	\$ 20.00
420 Causing search warrant to issue or causing 421 prosecution without reasonable cause or refusing to 422 cooperate after initiating action.....	\$ 100.00
423 Certified copy of the court record.....	\$ 5.00
424 Service of arrest warrant for failure to answer 425 citation or traffic summons.....	\$ 25.00
426 Jail cost per day - actual jail cost paid by the municipality but 427 not to exceed.....	\$ 35.00
428 Service of court documents related to the filing 429 of a petition or issuance of a protection from domestic 430 abuse order under Title 93, Chapter 21, Mississippi 431 Code of 1972	\$ 25.00



432 Expungement.....\$ 50.00

433 Any other item of court cost.....\$ 50.00

434 No filing fee or such cost shall be imposed for the bringing
435 of an action in municipal court.

436 (12) A municipal court judge shall not dismiss a criminal
437 case but may transfer the case to the justice court of the county
438 if the municipal court judge is prohibited from presiding over the
439 case by the Canons of Judicial Conduct and provided that venue and
440 jurisdiction are proper in the justice court. Upon transfer of
441 any such case, the municipal court judge shall give the municipal
442 court clerk a written order to transmit the affidavit or complaint
443 and all other records and evidence in the court's possession to
444 the justice court by certified mail or to instruct the arresting
445 officer to deliver such documents and records to the justice
446 court. There shall be no court costs charged for the transfer of
447 the case to the justice court.

448 * * *

449 **SECTION 5.** Section 41-29-150, Mississippi Code of 1972, is
450 amended as follows:

451 41-29-150. (a) Any person convicted under Section 41-29-139
452 may be required, in the discretion of the court, as a part of the
453 sentence otherwise imposed, or in lieu of imprisonment in cases of
454 probation or suspension of sentence, to attend a course of
455 instruction conducted by the bureau, the State Board of Health, or
456 any similar agency, on the effects, medically, psychologically and



457 socially, of the misuse of controlled substances. The course may
458 be conducted at any correctional institution, detention center or
459 hospital, or at any center or treatment facility established for
460 the purpose of education and rehabilitation of those persons
461 committed because of abuse of controlled substances.

462 (b) Any person convicted under Section 41-29-139 who is
463 found to be dependent upon or addicted to any controlled substance
464 shall be required, as a part of the sentence otherwise imposed, or
465 in lieu of imprisonment in cases of parole, probation or
466 suspension of sentence, to receive medical treatment for such
467 dependency or addiction. The regimen of medical treatment may
468 include confinement in a medical facility of any correctional
469 institution, detention center or hospital, or at any center or
470 facility established for treatment of those persons committed
471 because of a dependence or addiction to controlled substances.

472 (c) Those persons previously convicted of a felony under
473 Section 41-29-139 and who are now confined at the Mississippi
474 State Hospital at Whitfield, Mississippi, or at the East
475 Mississippi State Hospital at Meridian, Mississippi, for the term
476 of their sentence shall remain under the jurisdiction of the
477 Mississippi Department of Corrections and shall be required to
478 abide by all reasonable rules and regulations promulgated by the
479 director and staff of said institutions and of the Department of
480 Corrections. Any persons so confined who shall refuse to abide by
481 said rules or who attempt an escape or who shall escape shall be



482 transferred to the State Penitentiary or to a county jail, where
483 appropriate, to serve the remainder of the term of imprisonment;
484 this provision shall not preclude prosecution and conviction for
485 escape from said institutions.

486 (d) (1) If any person who has not previously been convicted
487 of violating Section 41-29-139, or the laws of the United States
488 or of another state relating to narcotic drugs, stimulant or
489 depressant substances, other controlled substances or marihuana is
490 found to be guilty of a violation of subsection (c) or (d) of
491 Section 41-29-139, after trial or upon a plea of guilty, the court
492 may, without entering a judgment of guilty and with the consent of
493 such person, defer further proceedings and place him on probation
494 upon such reasonable conditions as it may require and for such
495 period, not to exceed three (3) years, as the court may prescribe.
496 Upon violation of a condition of the probation, the court may
497 enter an adjudication of guilt and proceed as otherwise provided.
498 The court may, in its discretion, dismiss the proceedings against
499 such person and discharge him from probation before the expiration
500 of the maximum period prescribed for such person's probation. If
501 during the period of his probation such person does not violate
502 any of the conditions of the probation, then upon expiration of
503 such period the court shall discharge such person and dismiss the
504 proceedings against him. Discharge and dismissal under this
505 subsection shall be without court adjudication of guilt, but a
506 nonpublic record thereof shall be retained by the bureau solely



507 for the purpose of use by the courts in determining whether or
508 not, in subsequent proceedings, such person qualifies under this
509 subsection. Such discharge or dismissal shall not be deemed a
510 conviction for purposes of disqualifications or disabilities
511 imposed by law upon conviction of a crime, including the penalties
512 prescribed under this article for second or subsequent conviction,
513 or for any other purpose. Discharge and dismissal under this
514 subsection may occur only once with respect to any person; and

515 (2) Upon the dismissal of a person and discharge of
516 proceedings against him under paragraph (1) of this subsection,
517 the person may apply to the court for an expunction order * * *
518 under Section 1 of this act.

519 (e) Every person who has been or may hereafter be convicted
520 of a felony offense under Section 41-29-139 and sentenced under
521 Section 41-29-150(c) shall be under the jurisdiction of the
522 Mississippi Department of Corrections.

523 (f) It shall be unlawful for any person confined under the
524 provisions of subsection (b) or (c) of this section to escape or
525 attempt to escape from said institution, and, upon conviction,
526 said person shall be guilty of a felony and shall be imprisoned
527 for a term not to exceed two (2) years.

528 (g) It is the intent and purpose of the Legislature to
529 promote the rehabilitation of persons convicted of offenses under
530 the Uniform Controlled Substances Law.



531 **SECTION 6.** Section 45-27-21, Mississippi Code of 1972, is
532 amended as follows:

533 45-27-21. A certified copy of every * * * nonadjudication
534 order shall be sent by the circuit clerk to the Mississippi
535 Criminal Information Center where it shall be maintained in a
536 separate confidential database accessible only upon written
537 request by a district attorney, a county prosecuting attorney, a
538 municipal court prosecuting attorney, the Attorney General of
539 Mississippi and the Mississippi Law Enforcement Standards and
540 Training Board. Any criminal conviction which has been * * *
541 nonadjudicated may be used for the purpose of determining habitual
542 offender status and for the use of the Mississippi Law Enforcement
543 Standards and Training Board in * * * granting or denying law
544 enforcement certification, and to ensure that a person is only
545 eligible for first-offender status one (1) time.

546 **SECTION 7.** Section 63-11-30, Mississippi Code of 1972, is
547 amended as follows:

548 63-11-30. (1) It is unlawful for a person to drive or
549 otherwise operate a vehicle within this state if the person:
550 (a) Is under the influence of intoxicating liquor;
551 (b) Is under the influence of any other substance that
552 has impaired the person's ability to operate a motor vehicle;
553 (c) Is under the influence of any drug or controlled
554 substance, the possession of which is unlawful under the
555 Mississippi Controlled Substances Law; or



556 (d) Has an alcohol concentration in the person's blood,
557 based upon grams of alcohol per one hundred (100) milliliters of
558 blood, or grams of alcohol per two hundred ten (210) liters of
559 breath, as shown by a chemical analysis of the person's breath,
560 blood or urine administered as authorized by this chapter, of:

561 (i) Eight one-hundredths percent (.08%) or more
562 for a person who is above the legal age to purchase alcoholic
563 beverages under state law;

564 (ii) Two one-hundredths percent (.02%) or more for
565 a person who is below the legal age to purchase alcoholic
566 beverages under state law; or

567 (iii) Four one-hundredths percent (.04%) or more
568 for a person operating a commercial motor vehicle.

569 (2) Except as otherwise provided in subsection (3) of this
570 section (Zero Tolerance for Minors):

571 (a) **First offense DUI.** (i) Upon conviction of any
572 person for the first offense of violating subsection (1) of this
573 section where chemical tests under Section 63-11-5 were given, or
574 where chemical test results are not available, the person shall be
575 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
576 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
577 than forty-eight (48) hours in jail, or both; the court shall
578 order the person to attend and complete an alcohol safety
579 education program as provided in Section 63-11-32 within six (6)



580 months of sentencing. The court may substitute attendance at a
581 victim impact panel instead of forty-eight (48) hours in jail.

582 (ii) Suspension of commercial driving privileges
583 is governed by Section 63-1-216.

584 (iii) A qualifying first offense may be
585 nonadjudicated by the court under subsection (14) of this section.
586 The holder of a commercial driver's license or a commercial
587 learning permit at the time of the offense is ineligible for
588 nonadjudication.

589 (iv) Eligibility for an interlock-restricted
590 license is governed by Section 63-11-31 and suspension of regular
591 driving privileges is governed by Section 63-11-23.

592 (b) **Second offense DUI.** (i) Upon any second
593 conviction of any person violating subsection (1) of this section,
594 the offenses being committed within a period of five (5) years,
595 the person shall be guilty of a misdemeanor, fined not less than
596 Six Hundred Dollars (\$600.00) nor more than One Thousand Five
597 Hundred Dollars (\$1,500.00), shall be imprisoned not less than
598 five (5) days nor more than six (6) months and sentenced to
599 community service work for not less than ten (10) days nor more
600 than six (6) months. The minimum penalties shall not be suspended
601 or reduced by the court and no prosecutor shall offer any
602 suspension or sentence reduction as part of a plea bargain.

603 (ii) Suspension of commercial driving privileges
604 is governed by Section 63-1-216.



605 (iii) Eligibility for an interlock-restricted
606 license is governed by Section 63-11-31 and suspension of regular
607 driving privileges is governed by Section 63-11-23.

608 (c) **Third offense DUI.** (i) For a third conviction of
609 a person for violating subsection (1) of this section, the
610 offenses being committed within a period of five (5) years, the
611 person shall be guilty of a felony and fined not less than Two
612 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
613 (\$5,000.00), and shall serve not less than one (1) year nor more
614 than five (5) years in the custody of the Department of
615 Corrections. For any offense that does not result in serious
616 injury or death to any person, the sentence of incarceration may
617 be served in the county jail rather than in the State Penitentiary
618 at the discretion of the circuit court judge. The minimum
619 penalties shall not be suspended or reduced by the court and no
620 prosecutor shall offer any suspension or sentence reduction as
621 part of a plea bargain.

622 (ii) The suspension of commercial driving
623 privileges is governed by Section 63-1-216.

624 (iii) The suspension of regular driving privileges
625 is governed by Section 63-11-23.

626 (d) **Fourth and subsequent offense DUI.** (i) For any
627 fourth or subsequent conviction of a violation of subsection (1)
628 of this section, without regard to the time period within which
629 the violations occurred, the person shall be guilty of a felony



630 and fined not less than Three Thousand Dollars (\$3,000.00) nor
631 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
632 less than two (2) years nor more than ten (10) years in the
633 custody of the Department of Corrections.

634 (ii) The suspension of commercial driving
635 privileges is governed by Section 63-1-216.

636 (iii) A person convicted of a fourth or subsequent
637 offense is ineligible to exercise the privilege to operate a motor
638 vehicle that is not equipped with an ignition-interlock device for
639 ten (10) years.

640 (e) Any person convicted of a second or subsequent
641 violation of subsection (1) of this section shall receive an
642 in-depth diagnostic assessment, and if as a result of the
643 assessment is determined to be in need of treatment for alcohol or
644 drug abuse, the person must successfully complete treatment at a
645 program site certified by the Department of Mental Health. Each
646 person who receives a diagnostic assessment shall pay a fee
647 representing the cost of the assessment. Each person who
648 participates in a treatment program shall pay a fee representing
649 the cost of treatment.

650 (f) The use of ignition-interlock devices is governed
651 by Section 63-11-31.

652 (3) **Zero Tolerance for Minors.** (a) This subsection shall
653 be known and may be cited as Zero Tolerance for Minors. The
654 provisions of this subsection shall apply only when a person under



655 the age of twenty-one (21) years has a blood alcohol concentration
656 of two one-hundredths percent (.02%) or more, but lower than eight
657 one-hundredths percent (.08%). If the person's blood alcohol
658 concentration is eight one-hundredths percent (.08%) or more, the
659 provisions of subsection (2) shall apply.

660 (b) (i) A person under the age of twenty-one (21) is
661 eligible for nonadjudication of a qualifying first offense by the
662 court pursuant to subsection (14) of this section.

663 (ii) Upon conviction of any person under the age
664 of twenty-one (21) years for the first offense of violating
665 subsection (1) of this section where chemical tests provided for
666 under Section 63-11-5 were given, or where chemical test results
667 are not available, the person shall be fined Two Hundred Fifty
668 Dollars (\$250.00); the court shall order the person to attend and
669 complete an alcohol safety education program as provided in
670 Section 63-11-32 within six (6) months. The court may also
671 require attendance at a victim impact panel.

672 (c) A person under the age of twenty-one (21) years who
673 is convicted of a second violation of subsection (1) of this
674 section, the offenses being committed within a period of five (5)
675 years, shall be fined not more than Five Hundred Dollars
676 (\$500.00).

677 (d) A person under the age of twenty-one (21) years who
678 is convicted of a third or subsequent violation of subsection (1)
679 of this section, the offenses being committed within a period of



680 five (5) years, shall be fined not more than One Thousand Dollars
681 (\$1,000.00).

682 (e) License suspension is governed by Section 63-11-23
683 and ignition interlock is governed by Section 63-11-31.

684 (f) Any person under the age of twenty-one (21) years
685 convicted of a third or subsequent violation of subsection (1) of
686 this section must complete treatment of an alcohol or drug abuse
687 program at a site certified by the Department of Mental Health.

688 (4) **DUI test refusal.** In addition to the other penalties
689 provided in this section, every person refusing a law enforcement
690 officer's request to submit to a chemical test of the person's
691 breath as provided in this chapter, or who was unconscious at the
692 time of a chemical test and refused to consent to the introduction
693 of the results of the test in any prosecution, shall suffer an
694 additional administrative suspension of driving privileges as set
695 forth in Section 63-11-23.

696 (5) **Aggravated DUI.** (a) Every person who operates any
697 motor vehicle in violation of the provisions of subsection (1) of
698 this section and who in a negligent manner causes the death of
699 another or mutilates, disfigures, permanently disables or destroys
700 the tongue, eye, lip, nose or any other limb, organ or member of
701 another shall, upon conviction, be guilty of a separate felony for
702 each victim who suffers death, mutilation, disfigurement or other
703 injury and shall be committed to the custody of the State
704 Department of Corrections for a period of time of not less than



705 five (5) years and not to exceed twenty-five (25) years for each
706 death, mutilation, disfigurement or other injury, and the
707 imprisonment for the second or each subsequent conviction, in the
708 discretion of the court, shall commence either at the termination
709 of the imprisonment for the preceding conviction or run
710 concurrently with the preceding conviction. Any person charged
711 with causing the death of another as described in this subsection
712 shall be required to post bail before being released after arrest.

713 (b) A holder of a commercial driver's license who is
714 convicted of operating a commercial motor vehicle with an alcohol
715 concentration of eight one-hundredths percent (.08%) or more shall
716 be guilty of a felony and shall be committed to the custody of the
717 Department of Corrections for not less than two (2) years and not
718 more than ten (10) years.

719 (c) The court shall order an ignition-interlock
720 restriction on the offender's privilege to drive as a condition of
721 probation or post-release supervision not to exceed five (5) years
722 unless a longer restriction is required under other law. The
723 ignition-interlock restriction shall not be applied to commercial
724 license privileges until the driver serves the full
725 disqualification period required by Section 63-1-216.

726 (6) **DUI citations.** (a) Upon conviction of a violation of
727 subsection (1) of this section, the trial judge shall sign in the
728 place provided on the traffic ticket, citation or affidavit
729 stating that the person arrested either employed an attorney or



730 waived his right to an attorney after having been properly
731 advised. If the person arrested employed an attorney, the name,
732 address and telephone number of the attorney shall be written on
733 the ticket, citation or affidavit. The court clerk must
734 immediately send a copy of the traffic ticket, citation or
735 affidavit, and any other pertinent documents concerning the
736 conviction or other order of the court, to the Department of
737 Public Safety as provided in Section 63-11-37.

738 (b) A copy of the traffic ticket, citation or affidavit
739 and any other pertinent documents, having been attested as true
740 and correct by the Commissioner of Public Safety, or his designee,
741 shall be sufficient proof of the conviction for purposes of
742 determining the enhanced penalty for any subsequent convictions of
743 violations of subsection (1) of this section. The Department of
744 Public Safety shall maintain a central database for verification
745 of prior offenses and convictions.

746 (7) **Out-of-state prior convictions.** Convictions in another
747 state, territory or possession of the United States, or under the
748 law of a federally recognized Native American tribe, of violations
749 for driving or operating a vehicle while under the influence of an
750 intoxicating liquor or while under the influence of any other
751 substance that has impaired the person's ability to operate a
752 motor vehicle occurring within five (5) years before an offense
753 shall be counted for the purposes of determining if a violation of
754 subsection (1) of this section is a second, third, fourth or



755 subsequent offense and the penalty that shall be imposed upon
756 conviction for a violation of subsection (1) of this section.

757 (8) **Charging of subsequent offenses.** (a) For the purposes
758 of determining how to impose the sentence for a second, third,
759 fourth or subsequent conviction under this section, the affidavit
760 or indictment shall not be required to enumerate previous
761 convictions. It shall only be necessary that the affidavit or
762 indictment states the number of times that the defendant has been
763 convicted and sentenced within the past five (5) years for a
764 second or third offense, or without a time limitation for a fourth
765 or subsequent offense, under this section to determine if an
766 enhanced penalty shall be imposed. The amount of fine and
767 imprisonment imposed in previous convictions shall not be
768 considered in calculating offenses to determine a second, third,
769 fourth or subsequent offense of this section.

770 (b) Before a defendant enters a plea of guilty to an
771 offense under this section, law enforcement must submit
772 certification to the prosecutor that the defendant's driving
773 record, the confidential registry and National Crime Information
774 Center record have been searched for all prior convictions,
775 nonadjudications, pretrial diversions and arrests for driving or
776 operating a vehicle while under the influence of an intoxicating
777 liquor or while under the influence of any other substance that
778 has impaired the person's ability to operate a motor vehicle. The
779 results of the search must be included in the certification.



780 (9) **License eligibility for underage offenders.** A person
781 who is under the legal age to obtain a license to operate a motor
782 vehicle at the time of the offense and who is convicted under this
783 section shall not be eligible to receive a driver's license until
784 the person reaches the age of eighteen (18) years.

785 (10) **License suspensions and restrictions to run**
786 **consecutively.** Suspension or restriction of driving privileges
787 for any person convicted of or nonadjudicated for violations of
788 subsection (1) of this section shall run consecutively to and not
789 concurrently with any other administrative license suspension.

790 (11) **Ignition interlock.** If the court orders installation
791 and use of an ignition-interlock device as provided in Section
792 63-11-31 for every vehicle operated by a person convicted or
793 nonadjudicated under this section, each device shall be installed,
794 maintained and removed as provided in Section 63-11-31.

795 (12) **DUI child endangerment.** A person over the age of
796 twenty-one (21) who violates subsection (1) of this section while
797 transporting in a motor vehicle a child under the age of sixteen
798 (16) years is guilty of the separate offense of endangering a
799 child by driving under the influence of alcohol or any other
800 substance which has impaired the person's ability to operate a
801 motor vehicle. The offense of endangering a child by driving
802 under the influence of alcohol or any other substance which has
803 impaired the person's ability to operate a motor vehicle shall not
804 be merged with an offense of violating subsection (1) of this



805 section for the purposes of prosecution and sentencing. An
806 offender who is convicted of a violation of this subsection shall
807 be punished as follows:

808 (a) A person who commits a violation of this subsection
809 which does not result in the serious injury or death of a child
810 and which is a first conviction shall be guilty of a misdemeanor
811 and, upon conviction, shall be fined not more than One Thousand
812 Dollars (\$1,000.00) or shall be imprisoned for not more than
813 twelve (12) months, or both;

814 (b) A person who commits a violation of this subsection
815 which does not result in the serious injury or death of a child
816 and which is a second conviction shall be guilty of a misdemeanor
817 and, upon conviction, shall be fined not less than One Thousand
818 Dollars (\$1,000.00) nor more than Five Thousand Dollars
819 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

820 (c) A person who commits a violation of this subsection
821 which does not result in the serious injury or death of a child
822 and which is a third or subsequent conviction shall be guilty of a
823 felony and, upon conviction, shall be fined not less than Ten
824 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
825 than one (1) year nor more than five (5) years, or both; and

826 (d) A person who commits a violation of this subsection
827 which results in the serious injury or death of a child, without
828 regard to whether the offense was a first, second, third or
829 subsequent offense, shall be guilty of a felony and, upon



830 conviction, shall be punished by a fine of not less than Ten
831 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
832 than five (5) years nor more than twenty-five (25) years.

833 (13) **Expunction. * * *** [Deleted]

834 (14) **Nonadjudication.** (a) For the purposes of this
835 chapter, "nonadjudication" means that the court withholds
836 adjudication of guilt and sentencing, either at the conclusion of
837 a trial on the merits or upon the entry of a plea of guilt by a
838 defendant, and places the defendant in a nonadjudication program
839 conditioned upon the successful completion of the requirements
840 imposed by the court under this subsection.

841 (b) A person is eligible for nonadjudication of an
842 offense under this Section 63-11-30 only one (1) time under any
843 provision of a law that authorizes nonadjudication and only for an
844 offender:

845 (i) Who has successfully completed all terms and
846 conditions imposed by the court after placement of the defendant
847 in a nonadjudication program;

848 (ii) Who was not the holder of a commercial
849 driver's license or a commercial learning permit at the time of
850 the offense;

851 (iii) Who has not previously been convicted of and
852 does not have pending any former or subsequent charges under this
853 section; and



854 (iv) Who has provided the court with justification
855 as to why nonadjudication is appropriate.

856 (c) Nonadjudication may be initiated upon the filing of
857 a petition for nonadjudication or at any stage of the proceedings
858 in the discretion of the court; the court may withhold
859 adjudication of guilt, defer sentencing, and upon the agreement of
860 the offender to participate in a nonadjudication program, enter an
861 order imposing requirements on the offender for a period of court
862 supervision before the order of nonadjudication is entered.
863 Failure to successfully complete a nonadjudication program
864 subjects the person to adjudication of the charges against him and
865 to imposition of all penalties previously withheld due to entrance
866 into a nonadjudication program. The court shall immediately
867 inform the commissioner of the conviction as required in Section
868 63-11-37.

869 (i) The court shall order the person to:

870 1. Pay the nonadjudication fee imposed under
871 Section 63-11-31 if applicable;

872 2. Pay all fines, penalties and assessments
873 that would have been imposed for conviction;

874 3. Attend and complete an alcohol safety
875 education program as provided in Section 63-11-32 within six (6)
876 months of the date of the order;

877 4. a. If the court determines that the
878 person violated this section with respect to alcohol or



879 intoxicating liquor, the person must install an ignition-interlock
880 device on every motor vehicle operated by the person, obtain an
881 interlock-restricted license, and maintain that license for one
882 hundred twenty (120) days or suffer a one-hundred-twenty-day
883 suspension of the person's regular driver's license, during which
884 time the person must not operate any vehicle.

885 b. If the court determines that the
886 person violated this section by operating a vehicle when under the
887 influence of a substance other than alcohol that has impaired the
888 person's ability to operate a motor vehicle, including any drug or
889 controlled substance which is unlawful to possess under the
890 Mississippi Controlled Substances Law, the person must submit to a
891 one-hundred-twenty-day period of a nonadjudication program that
892 includes court-ordered drug testing at the person's own expense
893 not less often than every thirty (30) days, during which time the
894 person may drive if compliant with the terms of the program, or
895 suffer a one-hundred-twenty-day suspension of the person's regular
896 driver's license, during which time the person will not operate
897 any vehicle.

898 (ii) Other conditions that may be imposed by the
899 court include, but are not limited to, alcohol or drug screening,
900 or both, proof that the person has not committed any other traffic
901 violations while under court supervision, proof of immobilization
902 or impoundment of vehicles owned by the offender if required, and
903 attendance at a victim-impact panel.



904 (d) The court may enter an order of nonadjudication
905 only if the court finds, after a hearing or after ex parte
906 examination of reliable documentation of compliance, that the
907 offender has successfully completed all conditions imposed by law
908 and previous orders of the court. The court shall retain
909 jurisdiction over cases involving nonadjudication for a period of
910 not more than two (2) years.

911 (e) (i) The clerk shall immediately forward a record
912 of every person placed in a nonadjudication program and of every
913 nonadjudication order to the Department of Public Safety for
914 inclusion in the permanent confidential registry of all cases that
915 are nonadjudicated under this subsection (14).

916 (ii) Judges, clerks and prosecutors involved in
917 the trial of implied consent violations and law enforcement
918 officers involved in the issuance of citations for implied consent
919 violations shall have secure online access to the confidential
920 registry for the purpose of determining whether a person has
921 previously been the subject of a nonadjudicated case and 1. is
922 therefore ineligible for another nonadjudication; 2. is ineligible
923 as a first offender for a violation of this section; or 3. is
924 ineligible for expunction of a conviction of a violation of this
925 section.

926 (iii) The Driver Services Bureau of the department
927 shall have access to the confidential registry for the purpose of
928 determining whether a person is eligible for a form of license not



929 restricted to operating a vehicle equipped with an
930 ignition-interlock device.

931 (iv) The Mississippi Alcohol Safety Education
932 Program shall have secure online access to the confidential
933 registry for research purposes only.

934 **SECTION 8.** Section 99-15-26, Mississippi Code of 1972, is
935 amended as follows:

936 99-15-26. (1) (a) In all criminal cases, felony and
937 misdemeanor, other than crimes against the person, a crime of
938 violence as defined in Section 97-3-2 or a violation of Section
939 97-11-31, the circuit or county court shall be empowered, upon the
940 entry of a plea of guilty by a criminal defendant made on or after
941 July 1, 2014, to withhold acceptance of the plea and sentence
942 thereon pending successful completion of such conditions as may be
943 imposed by the court pursuant to subsection (2) of this section.

944 (b) In all misdemeanor criminal cases, other than
945 crimes against the person, the justice or municipal court shall be
946 empowered, upon the entry of a plea of guilty by a criminal
947 defendant, to withhold acceptance of the plea and sentence thereon
948 pending successful completion of such conditions as may be imposed
949 by the court pursuant to subsection (2) of this section.

950 (c) Notwithstanding paragraph (a) of this subsection
951 (1), in all criminal cases charging a misdemeanor of domestic
952 violence as defined in Section 99-3-7(5), a circuit, county,
953 justice or municipal court shall be empowered, upon the entry of a



954 plea of guilty by the criminal defendant, to withhold acceptance
955 of the plea and sentence thereon pending successful completion of
956 such conditions as may be imposed by the court pursuant to
957 subsection (2) of this section.

958 (d) No person having previously qualified under the
959 provisions of this section shall be eligible to qualify for
960 release in accordance with this section for a repeat offense. A
961 person shall not be eligible to qualify for release in accordance
962 with this section if charged with the offense of trafficking of a
963 controlled substance as provided in Section 41-29-139(f) or if
964 charged with an offense under the Mississippi Implied Consent Law.
965 Violations under the Mississippi Implied Consent Law can only be
966 nonadjudicated under the provisions of Section 63-11-30.

967 (2) (a) Conditions which the circuit, county, justice or
968 municipal court may impose under subsection (1) of this section
969 shall consist of:

970 (i) Reasonable restitution to the victim of the
971 crime.

972 (ii) Performance of not more than nine hundred
973 sixty (960) hours of public service work approved by the court.

974 (iii) Payment of a fine not to exceed the
975 statutory limit.

976 (iv) Successful completion of drug, alcohol,
977 psychological or psychiatric treatment, successful completion of a
978 program designed to bring about the cessation of domestic abuse,



979 or any combination thereof, if the court deems treatment
980 necessary.

981 (v) The circuit or county court, in its
982 discretion, may require the defendant to remain in the program
983 subject to good behavior for a period of time not to exceed five
984 (5) years. The justice or municipal court, in its discretion, may
985 require the defendant to remain in the program subject to good
986 behavior for a period of time not to exceed two (2) years.

987 (b) Conditions which the circuit or county court may
988 impose under subsection (1) of this section also include
989 successful completion of an effective evidence-based program or a
990 properly controlled pilot study designed to contribute to the
991 evidence-based research literature on programs targeted at
992 reducing recidivism. Such program or pilot study may be community
993 based or institutionally based and should address risk factors
994 identified in a formal assessment of the offender's risks and
995 needs.

996 (3) When the court has imposed upon the defendant the
997 conditions set out in this section, the court shall release the
998 bail bond, if any.

999 (4) Upon successful completion of the court-imposed
1000 conditions permitted by subsection (2) of this section, the court
1001 shall direct that the cause be dismissed and the case be closed.

1002 * * *



1003 **SECTION 9.** Section 99-15-59, Mississippi Code of 1972, which
1004 provides that any person who is arrested, issued a citation, or
1005 held for any misdemeanor and not formally charged or prosecuted
1006 with an offense within twelve (12) months of arrest, or upon
1007 dismissal of the charge, may apply to the court with jurisdiction
1008 over the matter for the charges to be expunged, is repealed.

1009 **SECTION 10.** Section 99-19-71, Mississippi Code of 1972,
1010 which provides for expunction of certain felony and misdemeanor
1011 conviction records, is repealed.

1012 **SECTION 11.** Section 99-19-72, Mississippi Code of 1972,
1013 which provides for filing fees for certain petitions for
1014 expunction and the disposition thereof, is repealed.

1015 **SECTION 12.** This act shall take effect and be in force from
1016 and after July 1, 2018.

