

By: Representative Burnett

To: Judiciary B

HOUSE BILL NO. 1212

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT CERTAIN FELONY EMBEZZLEMENT CONVICTIONS MAY BE  
3 EXPUNGED FOURTEEN YEARS AFTER SUCCESSFUL COMPLETION OF ALL TERMS  
4 AND CONDITIONS OF THE SENTENCE FOR THE CONVICTION; AND FOR RELATED  
5 PURPOSES.

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

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

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

14 (2) (a) Any person who has been convicted of one (1) of the  
15 following felonies may petition the court in which the conviction  
16 was had for an order to expunge one (1) conviction from all public  
17 records five (5) years after the successful completion of all  
18 terms and conditions of the sentence for the conviction: a bad  
19 check offense under Section 97-19-55; possession of a controlled



20 substance or paraphernalia under Section 41-29-139(c) or (d);  
21 false pretense under Section 97-19-39; larceny under Section  
22 97-17-41; malicious mischief under Section 97-17-67; or  
23 shoplifting under Section 97-23-93. Any person who has been  
24 convicted of felony embezzlement under Section 97-23-19, 97-23-25,  
25 97-11-29, 97-23-21 or 97-11-27 may petition the court in which the  
26 conviction was had for an order to expunge one (1) conviction from  
27 all public records fourteen (14) years after the successful  
28 completion of all terms and conditions of the sentence for the  
29 conviction. A person is eligible for only one (1) felony  
30 expunction under this paragraph.

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

42 (c) The petitioner shall give ten (10) days' written  
43 notice to the district attorney before any hearing on the  
44 petition. In all cases, the court wherein the petition is filed



45 may grant the petition if the court determines, on the record or  
46 in writing, that the applicant is rehabilitated from the offense  
47 which is the subject of the petition. In those cases where the  
48 court denies the petition, the findings of the court in this  
49 respect shall be identified specifically and not generally.

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



70 entered, upon request, shall be required to advise the court, in  
71 camera, of the previous conviction and expunction in any legal  
72 proceeding wherein the person has been called as a prospective  
73 juror. The court shall thereafter and before the selection of the  
74 jury advise the attorneys representing the parties of the previous  
75 conviction and expunction.

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

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

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

