

By: Representative Burnett

To: Judiciary B

HOUSE BILL NO. 1213

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,  
2 TO ADD EMBEZZLEMENT TO THE LIST OF FELONIES THAT MAY BE EXPUNGED;  
3 AND FOR 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 one (1) of the  
13 following felonies may petition the court in which the conviction  
14 was had for an order to expunge one (1) conviction from all public  
15 records five (5) years after the successful completion of all  
16 terms and conditions of the sentence for the conviction: a bad  
17 check offense under Section 97-19-55; possession of a controlled  
18 substance or paraphernalia under Section 41-29-139(c) or (d);



19 false pretense under Section 97-19-39; larceny under Section  
20 97-17-41; malicious mischief under Section 97-17-67; \* \* \*  
21 shoplifting under Section 97-23-93; or embezzlement under Section  
22 97-23-19, 97-23-25, 97-11-29, 97-23-21 or 97-11-27. A person is

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

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



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



67 jury advise the attorneys representing the parties of the previous  
68 conviction and expunction.

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

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

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

