

By: Representative Clarke

To: Judiciary B

HOUSE BILL NO. 1314

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 WHICH PROVIDES THE EXPUNGEMENT PROCESS FOR MISDEMEANORS AND
3 FELONIES; 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; sell or possession of a
18 controlled substance or paraphernalia under Section 41-29-139(a),



19 (b), (c) or (d); false pretense under Section 97-19-39; larceny
20 under Section 97-17-41; malicious mischief under Section 97-17-67;
21 or shoplifting under Section 97-23-93. A person is eligible for
22 only one (1) felony expunction under this paragraph.

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

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

42 (3) Upon entering an order of expunction under this section,
43 a nonpublic record thereof shall be retained by the Mississippi



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



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

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

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

