

By: Representative Faulkner

To: Judiciary B

HOUSE BILL NO. 1315

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY FIRST TIME OFFENDER WHO IS CONVICTED OF A
3 FELONY CRIME, OTHER THAN A CRIME OF VIOLENCE, IS ELIGIBLE FOR ONE
4 FELONY EXPUNCTION; AND FOR RELATED PURPOSES.

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

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

8 99-19-71. (1) Any person who has been convicted of a
9 misdemeanor that is not a traffic violation, and who is a first
10 offender, may petition the justice, county, circuit or municipal
11 court in which the conviction was had for an order to expunge any
12 such conviction from all public records.

13 (2) (a) Any person who has been convicted of * * * any
14 felony crime, other than a crime of violence as defined under
15 Section 97-32-2 and such person is a first offender, may petition
16 the court in which the conviction was had for an order to expunge
17 one (1) conviction from all public records * * * two (2) years
18 after the successful completion of all terms and conditions of the



19 sentence * * *. A person is eligible for only one (1) felony
20 expunction under this paragraph.

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

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

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



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

66 (4) Upon petition therefor, a justice, county, circuit or
67 municipal court shall expunge the record of any case in which an
68 arrest was made, the person arrested was released and the case was



69 dismissed or the charges were dropped or there was no disposition
70 of such case.

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

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

