

By: Representative Anderson

To: Judiciary B

HOUSE BILL NO. 1316

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 of 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.

