

By: Representative Reynolds

To: Judiciary B

HOUSE BILL NO. 1345

1 AN ACT TO AMEND SECTION 97-37-5, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A COURT THAT GRANTS A CERTIFICATE OF REHABILITATION TO
3 ALSO GRANT AN EXPUNGEMENT WITHIN THE CERTIFICATE OF
4 REHABILITATION; TO BRING FORWARD SECTION 99-19-71, MISSISSIPPI
5 CODE OF 1972, WHICH PROVIDES THE REGULATIONS FOR EXPUNGEMENT, FOR
6 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 97-37-5, Mississippi Code of 1972, is
9 amended as follows:

10 97-37-5. (1) It shall be unlawful for any person who has
11 been convicted of a felony under the laws of this state, any other
12 state, or of the United States to possess any firearm or any bowie
13 knife, dirk knife, butcher knife, switchblade knife, metallic
14 knuckles, blackjack, or any muffler or silencer for any firearm
15 unless such person has received a pardon for such felony, has
16 received a relief from disability pursuant to Section 925(c) of
17 Title 18 of the United States Code, or has received a certificate
18 of rehabilitation pursuant to subsection (3) of this section.

19 (2) Any person violating this section shall be guilty of a
20 felony and, upon conviction thereof, shall be fined not more than



21 Five Thousand Dollars (\$5,000.00), or committed to the custody of
22 the State Department of Corrections for not less than one (1) year
23 nor more than ten (10) years, or both.

24 (3) A person who has been convicted of a felony under the
25 laws of this state may apply to the court in which he was
26 convicted for a certificate of rehabilitation. The court may
27 grant such certificate in its discretion upon a showing to the
28 satisfaction of the court that the applicant has been
29 rehabilitated and has led a useful, productive and law-abiding
30 life since the completion of his sentence and upon the finding of
31 the court that he will not be likely to act in a manner dangerous
32 to public safety. Upon granting a certificate of rehabilitation
33 under this subsection, the court may also grant an expungement
34 within the certificate of rehabilitation for any felony listed in
35 Section 99-19-71. The petition requirements of Section 99-19-71
36 shall not be applicable for purposes of granting an expungement
37 under this subsection. No person may be granted more than one
38 expungement under the provisions of this subsection.

39 (4) (a) A person who is discharged from court-ordered
40 mental health treatment may petition the court which entered the
41 commitment order for an order stating that the person qualifies
42 for relief from a firearms disability.

43 (b) In determining whether to grant relief, the court
44 must hear and consider evidence about:



45 (i) The circumstances that led to imposition of
46 the firearms disability under 18 * * * USCS, Section 922(d)(4);

47 (ii) The person's mental history;

48 (iii) The person's criminal history; and

49 (iv) The person's reputation.

50 (c) A court may not grant relief unless it makes and
51 enters in the record the following affirmative findings:

52 (i) That the person is no longer likely to act in
53 a manner dangerous to public safety; and

54 (ii) Removing the person's disability to purchase
55 a firearm is not against the public interest.

56 **SECTION 2.** Section 99-19-71, Mississippi Code of 1972, is
57 brought forward as follows:

58 99-19-71. (1) Any person who has been convicted of a
59 misdemeanor that is not a traffic violation, and who is a first
60 offender, may petition the justice, county, circuit or municipal
61 court in which the conviction was had for an order to expunge any
62 such conviction from all public records.

63 (2) (a) Any person who has been convicted of one (1) of the
64 following felonies may petition the court in which the conviction
65 was had for an order to expunge one (1) conviction from all public
66 records five (5) years after the successful completion of all
67 terms and conditions of the sentence for the conviction: a bad
68 check offense under Section 97-19-55; possession of a controlled
69 substance or paraphernalia under Section 41-29-139(c) or (d);



70 false pretense under Section 97-19-39; larceny under Section
71 97-17-41; malicious mischief under Section 97-17-67; or
72 shoplifting under Section 97-23-93. A person is eligible for only
73 one (1) felony expunction under this paragraph.

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

85 (c) The petitioner shall give ten (10) days' written
86 notice to the district attorney before any hearing on the
87 petition. In all cases, the court wherein the petition is filed
88 may grant the petition if the court determines, on the record or
89 in writing, that the applicant is rehabilitated from the offense
90 which is the subject of the petition. In those cases where the
91 court denies the petition, the findings of the court in this
92 respect shall be identified specifically and not generally.

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



95 Criminal Information Center solely for the purpose of determining
96 whether, in subsequent proceedings, the person is a first
97 offender. The order of expunction shall not preclude a district
98 attorney's office from retaining a nonpublic record thereof for
99 law enforcement purposes only. The existence of an order of
100 expunction shall not preclude an employer from asking a
101 prospective employee if the employee has had an order of
102 expunction entered on his behalf. The effect of the expunction
103 order shall be to restore the person, in the contemplation of the
104 law, to the status he occupied before any arrest or indictment for
105 which convicted. No person as to whom an expunction order has
106 been entered shall be held thereafter under any provision of law
107 to be guilty of perjury or to have otherwise given a false
108 statement by reason of his failure to recite or acknowledge such
109 arrest, indictment or conviction in response to any inquiry made
110 of him for any purpose other than the purpose of determining, in
111 any subsequent proceedings under this section, whether the person
112 is a first offender. A person as to whom an order has been
113 entered, upon request, shall be required to advise the court, in
114 camera, of the previous conviction and expunction in any legal
115 proceeding wherein the person has been called as a prospective
116 juror. The court shall thereafter and before the selection of the
117 jury advise the attorneys representing the parties of the previous
118 conviction and expunction.



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

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

126 **SECTION 3.** This act shall take effect and be in force from
127 and after July 1, 2018.

