

By: Senator(s) Barnett, Frazier, Jackson
(11th), Jackson (32nd), Jordan, Simmons
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To: Judiciary, Division A

SENATE BILL NO. 2841
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 63-1-71, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE REQUIREMENT THAT A PERSON'S LICENSE BE SUSPENDED FOR A
3 CONTROLLED SUBSTANCE VIOLATION THAT IS UNRELATED TO OPERATING A
4 MOTOR VEHICLE; TO AMEND SECTION 9-23-13, MISSISSIPPI CODE OF 1972,
5 TO REQUIRE ALL DRUG COURTS TO MAKE AVAILABLE THE OPTION FOR
6 PARTICIPANTS IN A DRUG COURT PROGRAM TO USE MEDICATION-ASSISTED
7 TREATMENT WHILE PARTICIPATING IN A DRUG COURT PROGRAM; TO AMEND
8 SECTION 47-7-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN
9 OFFENDER SHALL MAKE HIS OR HER INITIAL PAYMENT FOR SUPERVISION
10 FEES WITHIN 90 DAYS RATHER THAN 30 DAYS OF BEING RELEASED; TO
11 PROVIDE CERTAIN CRITERIA FOR A DETERMINATION OF INDIGENCE FOR AN
12 OFFENDER WHO IS UNABLE TO PAY FIELD SUPERVISION FEES AND TO EXTEND
13 THE DATE OF REPEAL ON THIS SECTION; TO AMEND SECTION 47-7-40,
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN OFFENDER SHALL NOT BE
15 DENIED EARNED-DISCHARGE CREDITS SOLELY BASED ON NONPAYMENT OF FEES
16 OR FINES IF A DETERMINATION OF INDIGENCE IS MADE; AND FOR RELATED
17 PURPOSES.

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

19 **SECTION 1.** Section 63-1-71, Mississippi Code of 1972, is
20 amended as follows:

21 63-1-71. (1) * * * Notwithstanding the provisions of
22 Section 63-11-30(2) (a) and in addition to any penalty authorized
23 by the Uniform Controlled Substances Law or any other statute
24 indicating the dispositions that can be ordered for an
25 adjudication of delinquency, every person convicted of driving



26 under the influence of a controlled substance, or entering a plea
27 of nolo contendere thereto, or adjudicated delinquent therefor, in
28 a court of this state, and every person convicted of driving under
29 the influence of a controlled substance, or entering a plea of
30 nolo contendere thereto, or adjudicated delinquent therefor, under
31 the laws of the United States, another state, a territory or
32 possession of the United States, the District of Columbia or the
33 Commonwealth of Puerto Rico, shall forthwith forfeit his right to
34 operate a motor vehicle over the highways of this state for a
35 period of not less than six (6) months. In the case of any person
36 who at the time of the imposition of sentence does not have a
37 driver's license or is less than fifteen (15) years of age, the
38 period of the suspension of driving privileges authorized herein
39 shall commence on the day the sentence is imposed and shall run
40 for a period of not less than six (6) months after the day the
41 person obtains a driver's license or reaches the age of fifteen
42 (15) years. If the driving privilege of any person is under
43 revocation or suspension at the time of any conviction or
44 adjudication of delinquency for * * * driving under the influence
45 of a controlled substance, the revocation or suspension period
46 imposed herein shall commence as of the date of termination of the
47 existing revocation or suspension.

48 (2) The court in this state before whom any person is
49 convicted of or adjudicated delinquent for * * * driving under the
50 influence of a controlled substance shall collect forthwith the



51 Mississippi driver's license of the person and forward such
52 license to the Department of Public Safety along with a report
53 indicating the first and last day of the suspension or revocation
54 period imposed pursuant to this section. If the court is for any
55 reason unable to collect the license of the person, the court
56 shall cause a report of the conviction or adjudication of
57 delinquency to be filed with the Commissioner of Public Safety.
58 That report shall include the complete name, address, date of
59 birth, eye color and sex of the person and shall indicate the
60 first and last day of the suspension or revocation period imposed
61 by the court pursuant to this section. The court shall inform the
62 person orally and in writing that if the person is convicted of
63 personally operating a motor vehicle during the period of license
64 suspension or revocation imposed pursuant to this section, the
65 person shall, upon conviction, be subject to the penalties set
66 forth in Section 63-11-40. A person shall be required to
67 acknowledge receipt of the written notice in writing. Failure to
68 receive a written notice or failure to acknowledge in writing the
69 receipt of a written notice shall not be a defense to a subsequent
70 charge of a violation of Section 63-11-40. If the person is the
71 holder of a driver's license from another jurisdiction, the court
72 shall not collect the license but shall notify forthwith the
73 Commissioner of Public Safety who shall notify the appropriate
74 officials in the licensing jurisdiction. The court shall,



75 however, in accordance with the provisions of this section, revoke
76 the person's nonresident driving privilege in this state.

77 (3) The county court or circuit court having jurisdiction,
78 on petition, may reduce the suspension of driving privileges under
79 this section if the denial of which would constitute a hardship on
80 the offender. When the petition is filed, such person shall pay
81 to the circuit clerk of the court where the petition is filed a
82 fee of Twenty Dollars (\$20.00) for each year, or portion thereof,
83 of license revocation or suspension remaining under the original
84 sentence, which shall be deposited into the State General Fund to
85 the credit of a special fund hereby created in the State Treasury
86 to be used for alcohol or drug abuse treatment and education, upon
87 appropriation by the Legislature. This fee shall be in addition
88 to any other court costs or fees required for the filing of
89 petitions.

90 **SECTION 2.** Section 9-23-13, Mississippi Code of 1972, is
91 amended as follows:

92 9-23-13. (1) A drug court's alcohol and drug intervention
93 component shall provide for eligible individuals, either directly
94 or through referrals, a range of necessary court intervention
95 services, including, but not limited to, the following:

96 (a) Screening using a valid and reliable assessment
97 tool effective for identifying alcohol and drug dependent persons
98 for eligibility and appropriate services;

99 (b) Clinical assessment;



- 100 (c) Education;
101 (d) Referral;
102 (e) Service coordination and case management; and
103 (f) Counseling and rehabilitative care.

104 (2) Any inpatient treatment or inpatient detoxification
105 program ordered by the court shall be certified by the Department
106 of Mental Health, other appropriate state agency or the equivalent
107 agency of another state.

108 (3) In accordance with the recommendations of the National
109 Drug Court Institute to combat the opioid epidemic, all drug
110 courts shall make available the option for participants to use
111 medication-assisted treatment while participating in the drug
112 court program.

113 **SECTION 3.** Section 47-7-49, Mississippi Code of 1972, is
114 amended as follows:

115 47-7-49. (1) Any offender on probation, parole,
116 earned-release supervision, post-release supervision, earned
117 probation or any other offender under the field supervision of the
118 Community Services Division of the department shall pay to the
119 department the sum of Fifty-five Dollars (\$55.00) per month by
120 certified check or money order unless a * * * determination of
121 indigence is made. An offender shall make the initial payment
122 within * * * ninety (90) days after being released from
123 imprisonment unless a * * * determination of indigence is made.
124 A * * * determination of indigence shall be granted by the



125 sentencing court or the Department of Corrections to any
126 individual meeting the requirements in subsection (3) of this
127 section. * * * The commissioner or his designee shall deposit
128 Fifty Dollars (\$50.00) of each payment received into a special
129 fund in the State Treasury, which is hereby created, to be known
130 as the Community Service Revolving Fund. Expenditures from this
131 fund shall be made for: (a) the establishment of restitution and
132 satellite centers; and (b) the establishment, administration and
133 operation of the department's Drug Identification Program and the
134 intensive and field supervision program. The Fifty Dollars
135 (\$50.00) may be used for salaries and to purchase equipment,
136 supplies and vehicles to be used by the Community Services
137 Division in the performance of its duties. Expenditures for the
138 purposes established in this section may be made from the fund
139 upon requisition by the commissioner, or his designee.

140 Of the remaining amount, Three Dollars (\$3.00) of each
141 payment shall be deposited into the Crime Victims' Compensation
142 Fund created in Section 99-41-29, and Two Dollars (\$2.00) shall be
143 deposited into the Training Revolving Fund created pursuant to
144 Section 47-7-51. When a person is convicted of a felony in this
145 state, in addition to any other sentence it may impose, the court
146 may, in its discretion, order the offender to pay a state
147 assessment not to exceed the greater of One Thousand Dollars
148 (\$1,000.00) or the maximum fine that may be imposed for the



149 offense, into the Crime Victims' Compensation Fund created
150 pursuant to Section 99-41-29.

151 Any federal funds made available to the department for
152 training or for training facilities, equipment or services shall
153 be deposited into the Correctional Training Revolving Fund created
154 in Section 47-7-51. The funds deposited in this account shall be
155 used to support an expansion of the department's training program
156 to include the renovation of facilities for training purposes,
157 purchase of equipment and contracting of training services with
158 community colleges in the state.

159 No offender shall be required to make this payment for a
160 period of time longer than ten (10) years.

161 (2) The offender may be imprisoned until the payments are
162 made if the offender is financially able to make the payments and
163 the court in the county where the offender resides so finds,
164 subject to the limitations hereinafter set out. The offender
165 shall not be imprisoned if the offender is financially unable to
166 make the payments and so states to the court in writing, under
167 oath, and * * * a finding of indigence is made by the court in
168 writing.

169 (3) When determining whether a person is indigent, the
170 Department of Corrections' Community Corrections Division or the
171 court shall use the current Federal Poverty Guidelines and there
172 shall be a presumption of indigence when a defendant's income is
173 at or below one hundred twenty-five percent (125%) of the Federal



174 Poverty Guidelines, subject to a review of his or her assets. An
175 offender at or below one hundred twenty-five percent (125%) of the
176 Federal Poverty Guidelines without substantial liquid assets
177 available to pay fines, fees, and costs shall be deemed indigent.
178 In determining whether an offender has substantial liquid assets,
179 up to Ten Thousand Dollars (\$10,000.00) in tangible personal
180 property, including motor vehicles, household goods, or any other
181 assets exempted from seizure under execution or attachment, as
182 provided under Section 85-3-1, shall not be considered. If the
183 offender is above one hundred twenty-five percent (125%) of the
184 Federal Poverty Guidelines, an individualized assessment of his or
185 her ability to pay based on the totality of the circumstances
186 shall be made, including, but not limited to, the offender's
187 disposable income, financial obligations and liquid assets. If a
188 determination of indigence is not made and it is determined that
189 the defendant could have made payment but refused to do so, the
190 case file shall include a written explanation of the basis for the
191 determination. In court, such finding shall be included in the
192 court's order.

193 (4) Absent a finding of willful nonpayment using a
194 determination of indigence, a probationer or parolee's failure to
195 pay the monthly fees in arrears shall not be deemed a violation of
196 a condition of parole or probation, and the participant shall not
197 be revoked for failure to pay the monthly fees in arrears.



198 (* * *5) This section shall stand repealed from and after
199 June 30, * * * 2021.

200 **SECTION 4.** Section 47-7-40, Mississippi Code of 1972, is
201 amended as follows:

202 47-7-40. (1) The commissioner shall establish rules and
203 regulations for implementing the earned-discharge program that
204 allows offenders on probation and parole to reduce the period of
205 supervision for complying with conditions of probation. The
206 department shall have the authority to award earned-discharge
207 credits to all offenders placed on probation, parole, or
208 post-release supervision who are in compliance with the terms and
209 conditions of supervision. An offender serving a Mississippi
210 sentence for an eligible offense in any jurisdiction under the
211 Interstate Compact for Adult Offender Supervision shall be
212 eligible for earned-discharge credits under this section.
213 Offenders shall not be denied earned-discharge credits solely
214 based on nonpayment of fees or fines if a determination of
215 indigence can be made according to the guidelines in Section
216 47-7-49.

217 (2) For each full calendar month of compliance with the
218 conditions of supervision, earned-discharge credits equal to the
219 number of days in that month shall be deducted from the offender's
220 sentence discharge date. Credits begin to accrue for eligible
221 offenders after the first full calendar month of compliance
222 supervision conditions. For the purposes of this section, an



223 offender is deemed to be in compliance with the conditions of
224 supervision if there was no violation of the conditions of
225 supervision.

226 (3) No earned-discharge credits may accrue for a calendar
227 month in which a violation report has been submitted, the offender
228 has absconded from supervision, the offender is serving a term of
229 imprisonment in a technical violation center, or for the months
230 between the submission of the violation report and the final
231 action on the violation report by the court or the board.

232 (4) Earned-discharge credits shall be applied to the
233 sentence within thirty (30) days of the end of the month in which
234 the credits were earned. At least every six (6) months, an
235 offender who is serving a sentence eligible for earned-discharge
236 credits shall be notified of the current sentence discharge date.

237 (5) Once the combination of time served on probation, parole
238 or post-release supervision, and earned-discharge credits satisfy
239 the term of probation, parole, or post-release supervision, the
240 board or sentencing court shall order final discharge of the
241 offender. No less than sixty (60) days prior to the date of final
242 discharge, the department shall notify the sentencing court and
243 the board of the impending discharge.

244 (6) The department shall provide semiannually to the
245 Oversight Task Force the number and percentage of offenders who
246 qualify for earned discharge in one or more months of the year and
247 the average amount of credits earned within the year.



248 **SECTION 5.** This act shall take effect and be in force from
249 and after its passage.

