

House Amendments to Senate Bill No. 2841

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

24 **SECTION 1.** Section 63-1-71, Mississippi Code of 1972, is
25 amended as follows:
26 63-1-71. (1) * * * Notwithstanding the provisions of
27 Section 63-11-30(2) (a) and in addition to any penalty authorized
28 by the Uniform Controlled Substances Law or any other statute
29 indicating the dispositions that can be ordered for an
30 adjudication of delinquency, every person convicted of driving
31 under the influence of a controlled substance, or entering a plea
32 of nolo contendere thereto, or adjudicated delinquent therefor, in
33 a court of this state, and every person convicted of driving under
34 the influence of a controlled substance, or entering a plea of
35 nolo contendere thereto, or adjudicated delinquent therefor, under
36 the laws of the United States, another state, a territory or
37 possession of the United States, the District of Columbia or the
38 Commonwealth of Puerto Rico, shall forthwith forfeit his right to
39 operate a motor vehicle over the highways of this state for a
40 period of not less than six (6) months. In the case of any person

41 who at the time of the imposition of sentence does not have a
42 driver's license or is less than fifteen (15) years of age, the
43 period of the suspension of driving privileges authorized herein
44 shall commence on the day the sentence is imposed and shall run
45 for a period of not less than six (6) months after the day the
46 person obtains a driver's license or reaches the age of fifteen
47 (15) years. If the driving privilege of any person is under
48 revocation or suspension at the time of any conviction or
49 adjudication of delinquency for * * * driving under the influence
50 of a controlled substance, the revocation or suspension period
51 imposed herein shall commence as of the date of termination of the
52 existing revocation or suspension.

53 (2) The court in this state before whom any person is
54 convicted of or adjudicated delinquent for * * * driving under the
55 influence of a controlled substance shall collect forthwith the
56 Mississippi driver's license of the person and forward such
57 license to the Department of Public Safety along with a report
58 indicating the first and last day of the suspension or revocation
59 period imposed pursuant to this section. If the court is for any
60 reason unable to collect the license of the person, the court
61 shall cause a report of the conviction or adjudication of
62 delinquency to be filed with the Commissioner of Public Safety.
63 That report shall include the complete name, address, date of
64 birth, eye color and sex of the person and shall indicate the
65 first and last day of the suspension or revocation period imposed
66 by the court pursuant to this section. The court shall inform the

67 person orally and in writing that if the person is convicted of
68 personally operating a motor vehicle during the period of license
69 suspension or revocation imposed pursuant to this section, the
70 person shall, upon conviction, be subject to the penalties set
71 forth in Section 63-11-40. A person shall be required to
72 acknowledge receipt of the written notice in writing. Failure to
73 receive a written notice or failure to acknowledge in writing the
74 receipt of a written notice shall not be a defense to a subsequent
75 charge of a violation of Section 63-11-40. If the person is the
76 holder of a driver's license from another jurisdiction, the court
77 shall not collect the license but shall notify forthwith the
78 Commissioner of Public Safety who shall notify the appropriate
79 officials in the licensing jurisdiction. The court shall,
80 however, in accordance with the provisions of this section, revoke
81 the person's nonresident driving privilege in this state.

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

93 to any other court costs or fees required for the filing of
94 petitions.

95 **SECTION 2.** Section 63-1-46, Mississippi Code of 1972, is
96 brought forward as follows:

97 63-1-46. (1) (a) Except as otherwise provided in this
98 section, a fee of One Hundred Dollars (\$100.00) shall be charged
99 for the reinstatement of a license issued under this article to
100 every person whose license has been validly suspended, revoked or
101 cancelled.

102 (b) The funds received under the provisions of this
103 subsection shall be distributed as follows:

104 (i) Twenty-five Dollars (\$25.00) shall be
105 deposited into the State General Fund in accordance with Section
106 45-1-23;

107 (ii) Twenty-five Dollars (\$25.00) shall be paid to
108 the Board of Trustees of the Public Employees' Retirement System
109 for funding the Mississippi Highway Safety Patrol Retirement
110 System as provided under Section 25-13-7;

111 (iii) Twenty-five Dollars (\$25.00) shall be
112 deposited into the special fund created in Section 63-1-45(3) for
113 purchases of equipment by the Mississippi Highway Safety Patrol;
114 and

115 (iv) Twenty-five Dollars (\$25.00) shall be
116 deposited into the Interlock Device Fund created in Section
117 63-11-33.

118 (2) (a) A fee of One Hundred Seventy-five Dollars (\$175.00)
119 shall be charged for the reinstatement of a license issued under
120 this article to every person whose license has been validly
121 suspended or revoked under the provisions of the Mississippi
122 Implied Consent Law or as a result of a conviction of a violation
123 of the Uniform Controlled Substances Law under the provisions of
124 Section 63-1-71.

125 (b) The funds received under the provisions of this
126 subsection shall be distributed as follows:

127 (i) One Hundred Dollars (\$100.00) shall be
128 deposited into the State General Fund in accordance with Section
129 45-1-23;

130 (ii) Twenty-five Dollars (\$25.00) shall be paid to
131 the Board of Trustees of the Public Employees' Retirement System
132 for funding the Mississippi Highway Safety Patrol Retirement
133 System as provided under Section 25-13-7;

134 (iii) Twenty-five Dollars (\$25.00) shall be
135 deposited into the special fund created in Section 63-1-45(3) for
136 purchases of equipment by the Mississippi Highway Safety Patrol;
137 and

138 (iv) Twenty-five Dollars (\$25.00) shall be
139 deposited into the Interlock Device Fund created in Section
140 63-11-33.

141 (3) (a) A fee of Twenty-five Dollars (\$25.00) shall be
142 charged for the reinstatement of a license issued under this
143 article to every person whose license has been validly suspended

144 for nonpayment of child support under the provisions of Sections
145 93-11-151 through 93-11-163. The funds received under the
146 provisions of this subsection shall be deposited into the State
147 General Fund in accordance with Section 45-1-23.

148 (b) The procedure for the reinstatement of a license
149 issued under this article that has been suspended for being out of
150 compliance with an order for support, as defined in Section
151 93-11-153, and the payment of any fees for the reinstatement of a
152 license suspended for that purpose, shall be governed by Section
153 93-11-157 or 93-11-163, as the case may be.

154 (4) A fee of Twenty-five Dollars (\$25.00) will be charged
155 for the reinstatement of a license that was suspended due to
156 payment by a draft or other instrument that is dishonored by the
157 payor.

158 (5) All reinstatement fees charged under this section shall
159 be in addition to the fees prescribed in Section 63-1-43.

160 **SECTION 3.** Section 9-23-13, Mississippi Code of 1972, is
161 amended as follows:

162 9-23-13. (1) A drug court's alcohol and drug intervention
163 component shall provide for eligible individuals, either directly
164 or through referrals, a range of necessary court intervention
165 services, including, but not limited to, the following:

166 (a) Screening using a valid and reliable assessment
167 tool effective for identifying alcohol and drug dependent persons
168 for eligibility and appropriate services;

169 (b) Clinical assessment;

- 170 (c) Education;
- 171 (d) Referral;
- 172 (e) Service coordination and case management; and
- 173 (f) Counseling and rehabilitative care.

174 (2) Any inpatient treatment or inpatient detoxification
175 program ordered by the court shall be certified by the Department
176 of Mental Health, other appropriate state agency or the equivalent
177 agency of another state.

178 (3) In accordance with the recommendations of the National
179 Drug Court Institute to combat the opioid epidemic, all drug
180 courts shall make available the option for participants to use
181 medication-assisted treatment while participating in the drug
182 court program.

183 **SECTION 4.** Section 47-7-33, Mississippi Code of 1972, is
184 amended as follows:

185 47-7-33. (1) When it appears to the satisfaction of any
186 circuit court or county court in the State of Mississippi having
187 original jurisdiction over criminal actions, or to the judge
188 thereof, that the ends of justice and the best interest of the
189 public, as well as the defendant, will be served thereby, such
190 court, in termtime or in vacation, shall have the power, after
191 conviction or a plea of guilty, except in a case where a death
192 sentence or life imprisonment is the maximum penalty which may be
193 imposed, to suspend the imposition or execution of sentence, and
194 place the defendant on probation as herein provided * * *. In
195 placing any defendant on probation, the court, or judge, shall

196 direct that such defendant be under the supervision of the
197 Department of Corrections.

198 (2) When any circuit or county court places an offender on
199 probation, the court shall give notice to the Mississippi
200 Department of Corrections within fifteen (15) days of the court's
201 decision to place the offender on probation. Notice shall be
202 delivered to the central office of the Mississippi Department of
203 Corrections and to the regional office of the department which
204 will be providing supervision to the offender on probation.

205 (3) When any circuit court or county court places a person
206 on probation in accordance with the provisions of this section and
207 that person is ordered to make any payments to his family, if any
208 member of his family whom he is ordered to support is receiving
209 public assistance through the State Department of Human Services,
210 the court shall order him to make such payments to the county
211 welfare officer of the county rendering public assistance to his
212 family, for the sole use and benefit of said family.

213 **SECTION 5.** Section 47-7-49, Mississippi Code of 1972, is
214 amended as follows:

215 47-7-49. (1) Any offender on probation, parole,
216 earned-release supervision, post-release supervision, earned
217 probation or any other offender under the field supervision of the
218 Community Services Division of the department shall pay to the
219 department the sum of Fifty-five Dollars (\$55.00) per month by
220 certified check or money order unless a * * * determination of
221 indigence is made. An offender shall make the initial payment

222 within thirty (30) days after being released from imprisonment
223 unless a * * * determination of indigence is made. A * * *
224 determination of indigence shall be granted by the sentencing
225 court or the Department of Corrections to any individual meeting
226 the requirements in subsection (3) of this section. * * * The
227 commissioner or his designee shall deposit Fifty Dollars (\$50.00)
228 of each payment received into a special fund in the State
229 Treasury, which is hereby created, to be known as the Community
230 Service Revolving Fund. Expenditures from this fund shall be made
231 for: (a) the establishment of restitution and satellite centers;
232 and (b) the establishment, administration and operation of the
233 department's Drug Identification Program and the intensive and
234 field supervision program. The Fifty Dollars (\$50.00) may be used
235 for salaries and to purchase equipment, supplies and vehicles to
236 be used by the Community Services Division in the performance of
237 its duties. Expenditures for the purposes established in this
238 section may be made from the fund upon requisition by the
239 commissioner, or his designee.

240 Of the remaining amount, Three Dollars (\$3.00) of each
241 payment shall be deposited into the Crime Victims' Compensation
242 Fund created in Section 99-41-29, and Two Dollars (\$2.00) shall be
243 deposited into the Training Revolving Fund created pursuant to
244 Section 47-7-51. When a person is convicted of a felony in this
245 state, in addition to any other sentence it may impose, the court
246 may, in its discretion, order the offender to pay a state
247 assessment not to exceed the greater of One Thousand Dollars

248 (\$1,000.00) or the maximum fine that may be imposed for the
249 offense, into the Crime Victims' Compensation Fund created
250 pursuant to Section 99-41-29.

251 Any federal funds made available to the department for
252 training or for training facilities, equipment or services shall
253 be deposited into the Correctional Training Revolving Fund created
254 in Section 47-7-51. The funds deposited in this account shall be
255 used to support an expansion of the department's training program
256 to include the renovation of facilities for training purposes,
257 purchase of equipment and contracting of training services with
258 community colleges in the state.

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

261 (2) The offender may be imprisoned until the payments are
262 made if the offender is financially able to make the payments and
263 the court in the county where the offender resides so finds,
264 subject to the limitations hereinafter set out. The offender
265 shall not be imprisoned if the offender is financially unable to
266 make the payments * * * and a finding of indigence is made by the
267 court in writing, under oath, and the court so finds.

268 (3) When determining whether a person is indigent, the
269 Department of Corrections' Community Corrections Division or the
270 court shall use the current Federal Poverty Guidelines and there
271 shall be a presumption of indigence when a defendant's income is
272 at or below one hundred twenty-five percent (125%) of the Federal
273 Poverty Guidelines, subject to a review of his or her assets. An

274 offender at or below one hundred twenty-five percent (125%) of the
275 Federal Poverty Guidelines without substantial liquid assets
276 available to pay fines, fees, and costs shall be deemed indigent.
277 In determining whether an offender has substantial liquid assets,
278 up to Ten Thousand Dollars (\$10,000.00) in tangible personal
279 property, including motor vehicles, household goods, or any other
280 assets exempted from seizure under execution or attachment shall
281 not be considered, as provided under Section 85-3-1. If the
282 offender is above one hundred twenty-five percent (125%) of the
283 Federal Poverty Guidelines, an individualized assessment of his or
284 her ability to pay based on the totality of the circumstances
285 shall be made, including, but not limited to, the offender's
286 disposable income, financial obligations and liquid assets. If a
287 determination of indigence is not made, and it is determined that
288 the defendant could have made payment but refused to do so, the
289 case file shall include a written explanation of the basis for the
290 determination. In court, such finding shall be included in the
291 court's order.

292 (4) Absent a finding of willful nonpayment using a
293 determination of indigence, a probationer or parolee's failure to
294 pay the monthly fees in arrearage shall not be deemed a violation
295 of a condition of parole or probation, and the participant shall
296 not be revoked for failure to pay the monthly fees in arrearage.

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

299 **SECTION 6.** Section 47-7-40, Mississippi Code of 1972, is
300 amended as follows:

301 47-7-40. (1) The commissioner shall establish rules and
302 regulations for implementing the earned-discharge program that
303 allows offenders on probation and parole to reduce the period of
304 supervision for complying with conditions of probation. The
305 department shall have the authority to award earned-discharge
306 credits to all offenders placed on probation, parole, or
307 post-release supervision who are in compliance with the terms and
308 conditions of supervision. An offender serving a Mississippi
309 sentence for an eligible offense in any jurisdiction under the
310 Interstate Compact for Adult Offender Supervision shall be
311 eligible for earned-discharge credits under this section.
312 Offenders shall not be denied earned-discharge credits solely
313 based on nonpayment of fees or fines if a determination of
314 indigence can be made according to the guidelines in Section
315 47-7-49.

316 (2) For each full calendar month of compliance with the
317 conditions of supervision, earned-discharge credits equal to the
318 number of days in that month shall be deducted from the offender's
319 sentence discharge date. Credits begin to accrue for eligible
320 offenders after the first full calendar month of compliance
321 supervision conditions. For the purposes of this section, an
322 offender is deemed to be in compliance with the conditions of
323 supervision if there was no violation of the conditions of
324 supervision.

325 (3) No earned-discharge credits may accrue for a calendar
326 month in which a violation report has been submitted, the offender
327 has absconded from supervision, the offender is serving a term of
328 imprisonment in a technical violation center, or for the months
329 between the submission of the violation report and the final
330 action on the violation report by the court or the board.

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

336 (5) Once the combination of time served on probation, parole
337 or post-release supervision, and earned-discharge credits satisfy
338 the term of probation, parole, or post-release supervision, the
339 board or sentencing court shall order final discharge of the
340 offender. No less than sixty (60) days prior to the date of final
341 discharge, the department shall notify the sentencing court and
342 the board of the impending discharge.

343 (6) The department shall provide semiannually to the
344 Oversight Task Force the number and percentage of offenders who
345 qualify for earned-discharge in one or more months of the year and
346 the average amount of credits earned within the year.

347 **SECTION 7.** (1) The court in which an individual was
348 convicted and where a certificate of rehabilitation has been
349 issued for such individual convicted of a crime, other than a
350 crime of violence, as prescribed under Section 97-3-2, the court

351 may order that the record of previous conviction for the
352 individual be removed if the court determines it is in the
353 interest of justice.

354 (2) Before a court may order that the record of previous
355 conviction for an individual be removed, as prescribed under
356 subsection (1) of this section, the court shall notify, within a
357 reasonable time, the district attorney or prosecuting attorney of
358 the county where an individual was convicted of a hearing for such
359 removal and shall provide the district attorney or prosecuting
360 attorney an opportunity to present any evidence pertaining to the
361 proposed removal of record of previous conviction for the
362 individual.

363 **SECTION 8.** This act shall take effect and be in force from
364 and after July 1, 2018, and shall stand repealed on June 29, 2018.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 BRING FORWARD SECTION 63-1-46, MISSISSIPPI CODE
5 OF 1972, WHICH RELATES TO FEES FOR THE REINSTATEMENT OF LICENSES
6 SUBSEQUENT TO SUSPENSION; TO AMEND SECTION 9-23-13, MISSISSIPPI
7 CODE OF 1972, TO REQUIRE ALL DRUG COURTS TO MAKE AVAILABLE THE
8 OPTION FOR PARTICIPANTS IN A DRUG COURT PROGRAM TO USE
9 MEDICATION-ASSISTED TREATMENT WHILE PARTICIPATING IN A DRUG COURT
10 PROGRAM; TO AMEND SECTION 47-7-33, MISSISSIPPI CODE OF 1972, TO
11 REMOVE THE PROHIBITION AGAINST CIRCUIT AND COUNTY COURT JUDGES
12 FROM SUSPENDING THE EXECUTION OF A SENTENCE OF IMPRISONMENT AFTER
13 A DEFENDANT HAS BEGUN SERVING HIS OR HER SENTENCE FOR A CRIME, AS
14 LONG AS SUCH CRIME DOES NOT IMPOSE A PENALTY FOR A LIFE SENTENCE
15 OR A DEATH SENTENCE; TO AMEND SECTION 47-7-49, MISSISSIPPI CODE OF
16 1972, TO PROVIDE CERTAIN CRITERIA FOR A DETERMINATION OF INDIGENCE
17 FOR AN OFFENDER WHO IS UNABLE TO PAY FIELD SUPERVISION FEES AND TO
18 EXTEND THE DATE OF REPEAL ON THIS SECTION; TO AMEND SECTION

19 47-7-40, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN OFFENDER
20 SHALL NOT BE DENIED EARNED-DISCHARGE CREDITS SOLELY BASED ON
21 NONPAYMENT OF FEES OR FINES IF A DETERMINATION OF INDIGENCE IS
22 MADE; AND FOR RELATED PURPOSES.

HR31\SB2841PH.J

Andrew Ketchings
Clerk of the House of Representatives