

By: Representatives White, Karriem, Taylor,  
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To: Judiciary B

## HOUSE BILL NO. 1352

1 AN ACT TO CREATE THE CRIMINAL JUSTICE REFORM ACT; TO AMEND  
2 SECTIONS 9-23-1, 9-23-3, 9-23-5, 9-23-7, 9-23-9, 9-23-11, 9-23-13,  
3 9-23-15, 9-23-17, 9-23-19, 9-23-21 AND 9-23-23, MISSISSIPPI CODE  
4 OF 1972, WHICH PROVIDE FOR THE ELIGIBILITY OF DRUG COURTS, TO  
5 CHANGE THE REFERENCE OF DRUG COURTS TO "INTERVENTION COURTS"; TO  
6 INCLUDE MENTAL HEALTH COURTS, VETERANS COURTS AND OTHER  
7 INTERVENTION COURTS UNDER THE AUTHORITY OF THE INTERVENTION COURTS  
8 ADVISORY COMMITTEE; TO REVISE THE MEMBERSHIP OF THE INTERVENTION  
9 COURTS ADVISORY COMMITTEE; TO AMEND SECTION 9-25-1, MISSISSIPPI  
10 CODE OF 1972, WHICH PROVIDES FOR VETERANS COURTS, TO CONFORM TO  
11 THE PRECEDING SECTION; TO AMEND SECTIONS 9-27-1, 9-27-3, 9-27-7,  
12 9-27-9, 9-27-11, 9-27-15, 9-27-17 AND 9-27-19, MISSISSIPPI CODE OF  
13 1972, WHICH PROVIDE FOR THE RIVERS MCGRAW MENTAL HEALTH PROGRAM,  
14 TO CONFORM TO THE PRECEDING SECTIONS BY REMOVING THE WORD "PILOT"  
15 THROUGHOUT; TO REPEAL SECTIONS 9-27-13 AND 9-27-21, MISSISSIPPI  
16 CODE OF 1972, WHICH REGULATE PILOT PROGRAMS FOR MENTAL HEALTH  
17 DIVERSION COURTS; TO BRING FORWARD SECTION 9-27-5, MISSISSIPPI  
18 CODE OF 1972, WHICH PROVIDES DEFINITIONS FOR MENTAL HEALTH COURTS,  
19 FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTIONS 47-5-138,  
20 47-7-3.1, 47-7-33.1, 47-7-34 AND 47-7-9, MISSISSIPPI CODE OF 1972,  
21 WHICH PROVIDE FOR EARNED TIME ALLOWANCE, INMATE CASE PLANS, INMATE  
22 DISCHARGE PLANS AND POST RELEASE SUPERVISION, FOR PURPOSE OF  
23 AMENDMENT; TO BRING FORWARD SECTION 63-1-216, MISSISSIPPI CODE OF  
24 1972, WHICH PROVIDES FOR SUSPENSION OF DRIVER'S LICENSES UNDER  
25 CERTAIN CONDITIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS  
26 25-3-35, 43-21-357, 63-11-31.1, 99-3-45 AND 99-19-73, MISSISSIPPI  
27 CODE OF 1972, TO CONFORM TO THIS ACT; TO AMEND SECTION 63-1-51,  
28 MISSISSIPPI CODE OF 1972, TO REMOVE THE OFFENSE OF CONTEMPT FOR  
29 FAILURE TO PAY A FINE OR FEE OR FAILURE TO RESPOND TO A SUMMONS OR  
30 CITATION RELATING TO A TRAFFIC VIOLATION AS A GROUNDS FOR REVOKING  
31 A PERSON'S DRIVER'S LICENSE; TO AMEND SECTION 63-1-53, MISSISSIPPI  
32 CODE OF 1972, TO PROVIDE THAT AFTER CERTAIN NOTICE IS GIVEN TO A  
33 PERSON WHO FAILS TO TIMELY PAY ANY FINES, FEES OR ASSESSMENTS  
34 RELATING TO A TRAFFIC VIOLATION WITHIN 90 DAYS OF RECEIVING THE



35 NOTICE, THE PERSON SHALL BE SUBJECT TO HAVING THE FINES, FEES OR  
36 ASSESSMENTS COLLECTED BY A COURT RATHER THAN HAVING HIS OR HER  
37 DRIVER'S LICENSE SUSPENDED; TO AMEND SECTION 63-1-52, MISSISSIPPI  
38 CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO AMEND  
39 SECTION 63-1-71, MISSISSIPPI CODE OF 1972, TO REMOVE THE  
40 REQUIREMENT THAT A PERSON'S DRIVER'S LICENSE BE SUSPENDED FOR A  
41 CONTROLLED SUBSTANCE VIOLATION THAT IS UNRELATED TO OPERATING A  
42 MOTOR VEHICLE; TO AMEND SECTION 63-1-46, MISSISSIPPI CODE OF 1972,  
43 TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION 99-19-71,  
44 MISSISSIPPI CODE OF 1972, TO REVISE THE ELIGIBILITY FOR  
45 EXPUNGEMENT; TO AMEND SECTIONS 9-11-15, 9-23-23, 21-23-7 AND  
46 63-11-30, MISSISSIPPI CODE OF 1972, WHICH REFER TO THE AUTHORITY  
47 TO EXPUNGE, TO CONFORM TO THE PRECEDING SECTION; TO PROVIDE THAT  
48 AN OCCUPATIONAL LICENSING BOARD SHALL NOT AUTOMATICALLY BAR AN  
49 INDIVIDUAL FROM OBTAINING A LICENSE BECAUSE OF A CONVICTION FOR A  
50 NONVIOLENT CRIME THAT OCCURRED MORE THAN THREE YEARS BEFORE THE  
51 APPLICATION FOR SUCH LICENSE; TO CREATE THE "PROGRAMS TO REDUCE  
52 RECIDIVISM FUND"; AND FOR RELATED PURPOSES.

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

54 **SECTION 1.** This act shall be known and may be cited as the  
55 "Criminal Justice Reform Act."

56 **SECTION 2.** Section 9-23-1, Mississippi Code of 1972, is  
57 amended as follows:

58 9-23-1. This chapter shall be known and may be cited as the  
59 "Alyce Griffin Clarke \* \* \*Drug Intervention Court Act."

60 **SECTION 3.** Section 9-23-3, Mississippi Code of 1972, is  
61 amended as follows:

62 9-23-3. (1) The Legislature of Mississippi recognizes the  
63 critical need for judicial intervention to reduce the incidence of  
64 alcohol and drug use, alcohol and drug addiction, and crimes  
65 committed as a result of alcohol and drug use and alcohol and drug  
66 addiction. It is the intent of the Legislature to facilitate  
67 local \* \* \*drug intervention court alternative orders adaptable to  
68 chancery, circuit, county, youth, municipal and justice courts.



69           (2) The goals of the \* \* \*~~drug~~ intervention courts under  
70 this chapter include the following:

71           (a) To reduce alcoholism and other drug dependencies  
72 among adult and juvenile offenders and defendants and among  
73 respondents in juvenile petitions for abuse, neglect or both;

74           (b) To reduce criminal and delinquent recidivism and  
75 the incidence of child abuse and neglect;

76           (c) To reduce the alcohol-related and other  
77 drug-related court workload;

78           (d) To increase personal, familial and societal  
79 accountability of adult and juvenile offenders and defendants and  
80 respondents in juvenile petitions for abuse, neglect or both;

81           (e) To promote effective interaction and use of  
82 resources among criminal and juvenile justice personnel, child  
83 protective services personnel and community agencies; and

84           (f) To use corrections resources more effectively by  
85 redirecting prison-bound offenders whose criminal conduct is  
86 driven in part by drug and alcohol dependence to intensive  
87 supervision and clinical treatment available in the \* \* \*~~drug~~  
88 intervention court.

89           **SECTION 4.** Section 9-23-5, Mississippi Code of 1972, is  
90 amended as follows:

91           9-23-5. For the purposes of this chapter, the following  
92 words and phrases shall have the meanings ascribed unless the  
93 context clearly requires otherwise:



94 (a) "Chemical" tests means the analysis of an  
95 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)  
96 saliva, (vi) urine, or (vii) other bodily substance to determine  
97 the presence of alcohol or a controlled substance.

98 (b) "Crime of violence" means an offense listed in  
99 Section 97-3-2.

100 (c) " \* \* \* ~~Drug~~ Intervention court" means an immediate  
101 and highly structured intervention process for substance abuse  
102 treatment of eligible defendants or juveniles that:

103 (i) Brings together substance abuse professionals,  
104 local social programs and intensive judicial monitoring; and

105 (ii) Follows the key components of \* \* \* ~~drug~~  
106 intervention courts published by the \* \* \* ~~Drug~~ Intervention Court  
107 Program Office of the United States Department of Justice.

108 (d) "Evidence-based practices" means supervision  
109 policies, procedures and practices that scientific research  
110 demonstrates reduce recidivism.

111 (e) "Risk and needs assessment" means the use of an  
112 actuarial assessment tool validated on a Mississippi corrections  
113 population to determine a person's risk to reoffend and the  
114 characteristics that, if addressed, reduce the risk to reoffend.

115 **SECTION 5.** Section 9-23-7, Mississippi Code of 1972, is  
116 amended as follows:

117 9-23-7. The Administrative Office of Courts shall be  
118 responsible for certification and monitoring of local \* \* \* ~~drug~~



119 intervention courts according to standards promulgated by the  
120 State \* \* \*~~Drug~~ Intervention Courts Advisory Committee.

121 **SECTION 6.** Section 9-23-9, Mississippi Code of 1972, is  
122 amended as follows:

123 9-23-9. (1) The State \* \* \*~~Drug~~ Intervention Courts  
124 Advisory Committee is established to develop and periodically  
125 update proposed statewide evaluation plans and models for  
126 monitoring all critical aspects of \* \* \*~~drug~~ intervention courts,  
127 mental health courts, veterans courts and other intervention  
128 courts that may be created hereafter. The committee must provide  
129 the proposed evaluation plans to the Chief Justice and the  
130 Administrative Office of Courts, the Governor, Lieutenant Governor  
131 and Speaker of the House of Representatives. \* \* \* ~~The committee~~  
132 ~~shall be chaired by the Director of the Administrative Office of~~  
133 ~~Courts and~~ The committee shall consist of \* \* \*~~not less than seven~~  
134 ~~(7) members nor more than~~ a total of eleven (11)  
135 members \* \* \*~~appointed by the Supreme Court and broadly~~  
136 ~~representative of the courts, law enforcement, corrections,~~  
137 ~~juvenile justice, child protective services and substance abuse~~  
138 ~~treatment communities.~~ The Director of the Administrative Office  
139 of Courts shall be the chair. Nine (9) members shall be  
140 appointed, with one (1) member appointed by each of the following:  
141 Chief Justice of Supreme Court, Commissioner of Corrections,  
142 Attorney General, Commissioner of Department of Public Safety,  
143 State Public Defender, Director of Department of Human Services,



144 Director of Department of Mental Health, Director of the Veterans  
145 Affairs Board and the State Auditor. One (1) additional member  
146 shall be a person in recovery or remission from addiction or  
147 mental illness appointed by the Governor.

148 (2) The State \* \* \*~~Drug~~ Drug Intervention Courts Advisory  
149 Committee may also make recommendations to the Chief Justice, the  
150 Director of the Administrative Office of Courts and state  
151 officials concerning improvements to \* \* \*~~drug~~ drug intervention court  
152 policies and procedures including the \* \* \*~~drug~~ drug intervention court  
153 certification process. The committee may make suggestions as to  
154 the criteria for eligibility, and other procedural and substantive  
155 guidelines for \* \* \*~~drug~~ drug intervention court operation.

156 (3) The State \* \* \*~~Drug~~ Drug Intervention Courts Advisory  
157 Committee shall act as arbiter of disputes arising out of the  
158 operation of \* \* \*~~drug~~ drug intervention courts established under this  
159 chapter and make recommendations to improve the \* \* \*~~drug~~  
160 intervention courts; it shall also make recommendations to the  
161 Supreme Court necessary and incident to compliance with  
162 established rules.

163 (4) The State \* \* \*~~Drug~~ Drug Intervention Courts Advisory  
164 Committee shall establish through rules and regulations a viable  
165 and fiscally responsible plan to expand the number of adult and  
166 juvenile \* \* \*~~drug~~ drug intervention court programs operating in  
167 Mississippi. These rules and regulations shall include plans to



168 increase participation in existing and future programs while  
169 maintaining their voluntary nature.

170 (5) The State \* \* \* ~~Drug~~ Drug Intervention Courts Advisory  
171 Committee shall receive and review the monthly reports submitted  
172 to the Administrative Office of Courts by each certified \* \* \* ~~drug~~  
173 intervention court and provide comments and make recommendations,  
174 as necessary, to the Chief Justice and the Director of the  
175 Administrative Office of Courts.

176 **SECTION 7.** Section 9-23-11, Mississippi Code of 1972, is  
177 amended as follows:

178 9-23-11. (1) The Administrative Office of Courts shall  
179 establish, implement and operate a uniform certification process  
180 for all \* \* \* ~~drug~~ intervention courts and other problem-solving  
181 courts including juvenile courts, veterans courts or any other  
182 court designed to adjudicate criminal actions involving an  
183 identified classification of criminal defendant to ensure funding  
184 for \* \* \* ~~drug~~ intervention courts supports effective and proven  
185 practices that reduce recidivism and substance dependency among  
186 their participants.

187 (2) The Administrative Office of Courts shall establish a  
188 certification process that ensures any new or existing \* \* \* ~~drug~~  
189 intervention court meets minimum standards for \* \* \* ~~drug~~  
190 intervention court operation.

191 (a) These standards shall include, but are not limited  
192 to:



193 (i) The use of evidence-based practices including,  
194 but not limited to, the use of a valid and reliable risk and needs  
195 assessment tool to identify participants and deliver appropriate  
196 interventions;

197 (ii) Targeting medium to high risk offenders for  
198 participation;

199 (iii) The use of current, evidence-based  
200 interventions proven to reduce dependency on drugs or alcohol, or  
201 both;

202 (iv) Frequent testing for alcohol or drugs;

203 (v) Coordinated strategy between all \* \* \*~~drug~~  
204 intervention court program personnel involving the use of  
205 graduated clinical interventions;

206 (vi) Ongoing judicial interaction with each  
207 participant; and

208 (vii) Monitoring and evaluation of \* \* \*~~drug~~  
209 intervention court program implementation and outcomes through  
210 data collection and reporting.

211 (b) \* \* \* ~~Drug~~ Intervention court certification  
212 applications shall include:

213 (i) A description of the need for the \* \* \*~~drug~~  
214 intervention court;

215 (ii) The targeted population for the \* \* \*~~drug~~  
216 intervention court;





217 (iii) The eligibility criteria for \* \* \*~~drug~~  
218 intervention court participants;

219 (iv) A description of the process for identifying  
220 appropriate participants including the use of a risk and needs  
221 assessment and a clinical assessment;

222 (v) A description of the \* \* \*~~drug~~ intervention  
223 court intervention components including anticipated budget and  
224 implementation plan;

225 (vi) The data collection plan which shall include  
226 collecting the following data:

227 1. Total number of participants;

228 2. Total number of successful participants;

229 3. Total number of unsuccessful participants  
230 and the reason why each participant did not complete the program;

231 4. Total number of participants who were  
232 arrested for a new criminal offense while in the \* \* \*~~drug~~  
233 intervention court program;

234 5. Total number of participants who were  
235 convicted of a new felony or misdemeanor offense while in  
236 the \* \* \*~~drug~~ intervention court program;

237 6. Total number of participants who committed  
238 at least one (1) violation while in the \* \* \*~~drug~~ intervention  
239 court program and the resulting sanction(s);



240 7. Results of the initial risk and needs  
241 assessment or other clinical assessment conducted on each  
242 participant; \* \* \*and

243 8. Total number of applications for screening  
244 by race, gender, offense(s) charged indigence and if not accepted  
245 the reason for nonacceptance; and

246 \* \* \*~~8~~.9. Any other data or information as  
247 required by the Administrative Office of Courts.

248 (c) Every \* \* \*~~drug~~ intervention court shall be  
249 certified under the following schedule:

250 (i) An \* \* \*~~drug~~ intervention court application  
251 submitted after July 1, 2014, shall require certification of  
252 the \* \* \*~~drug~~ intervention court based on the proposed \* \* \*~~drug~~  
253 intervention court plan;

254 (ii) An \* \* \*~~drug~~ intervention court established  
255 after July 1, 2014, shall be recertified after its second year of  
256 funded operation;

257 (iii) An \* \* \*~~drug~~ intervention court in existence  
258 on July 1, 2014, must submit a certification petition within one  
259 (1) year of July 1, 2014, and be certified pursuant to the  
260 requirements of this section prior to expending \* \* \*~~drug~~  
261 intervention court resources budgeted for fiscal year 2016; and

262 (iv) All \* \* \*~~drug~~ intervention courts shall  
263 submit a re-certification petition every two (2) years to the  
264 Administrative Office of Courts after the initial certification.



265 (3) All certified \* \* \*~~drug~~ intervention courts shall  
266 measure successful completion of the \* \* \*~~drug~~ intervention court  
267 based on those participants who complete the program without a new  
268 criminal conviction.

269 (4) (a) All certified \* \* \*~~drug~~ intervention courts must  
270 collect and submit to the Administrative Office of Courts each  
271 month, the following data:

272 (i) Total number of participants at the beginning  
273 of the month;

274 (ii) Total number of participants at the end of  
275 the month;

276 (iii) Total number of participants who began the  
277 program in the month;

278 (iv) Total number of participants who successfully  
279 completed the \* \* \*~~drug~~ intervention court in the month;

280 (v) Total number of participants who left the  
281 program in the month;

282 (vi) Total number of participants who were  
283 arrested for a new criminal offense while in the \* \* \*~~drug~~  
284 intervention court program in the month;

285 (vii) Total number of participants who were  
286 convicted for a new criminal arrest while in the \* \* \*~~drug~~  
287 intervention court program in the month; and



288 (viii) Total number of participants who committed  
289 at least one (1) violation while in the \* \* \*drug intervention  
290 court program and any resulting sanction(s).

291 (b) By August 1, 2015, and each year thereafter, the  
292 Administrative Office of Courts shall report to the PEER Committee  
293 the information in subsection (4)(a) of this section in a  
294 sortable, electronic format.

295 (5) All certified \* \* \*drug intervention courts may  
296 individually establish rules and may make special orders and rules  
297 as necessary that do not conflict with the rules promulgated by  
298 the Supreme Court or the Administrative Office of Courts.

299 (6) A certified \* \* \*drug intervention court may appoint the  
300 full- or part-time employees it deems necessary for the work of  
301 the \* \* \*drug intervention court and shall fix the compensation of  
302 those employees. Such employees shall serve at the will and  
303 pleasure of the judge or the judge's designee.

304 (7) The Administrative Office of Courts shall promulgate  
305 rules and regulations to carry out the certification and  
306 re-certification process and make any other policies not  
307 inconsistent with this section to carry out this process.

308 (8) A certified \* \* \*drug intervention court established  
309 under this chapter is subject to the regulatory powers of the  
310 Administrative Office of Courts as set forth in Section 9-23-17.

311 **SECTION 8.** Section 9-23-13, Mississippi Code of 1972, is  
312 amended as follows:



313 9-23-13. (1) An \* \* \*drug intervention court's alcohol and  
314 drug intervention component shall provide for eligible  
315 individuals, either directly or through referrals, a range of  
316 necessary court intervention services, including, but not limited  
317 to, the following:

318 (a) Screening using a valid and reliable assessment  
319 tool effective for identifying alcohol and drug dependent persons  
320 for eligibility and appropriate services;

321 (b) Clinical assessment, for a DUI offense, if the  
322 person has two (2) or more DUI convictions, the court shall order  
323 the person to undergo an assessment that uses a standardized  
324 evidence-based instrument performed by a physician to determine  
325 whether he or she has a diagnosis for alcohol dependence and would  
326 likely benefit from a medication-assisted treatment indicated and  
327 approved for the treatment of alcohol dependence by the United  
328 States Food and Drug Administration, as specified in the most  
329 recent Diagnostic and Statistical Manual of Mental Disorders  
330 published by the American Psychiatric Association. Upon  
331 considering the results of the assessment, the court shall refer  
332 the person to a rehabilitative program that offers one or more  
333 forms of medications approved for the treatment of alcohol  
334 dependence by the United States Food and Drug Administration;

335 (c) Education;

336 (d) Referral;

337 (e) Service coordination and case management; and



338 (f) Counseling and rehabilitative care.

339 (2) Any inpatient treatment or inpatient detoxification  
340 program ordered by the court shall be certified by the Department  
341 of Mental Health, other appropriate state agency or the equivalent  
342 agency of another state.

343 (3) All intervention courts shall make available the option  
344 for participants to use medication-assisted treatment while  
345 participating in the programs of the court in accordance with the  
346 recommendations of the National Drug Court Institute to combat the  
347 opioid epidemic.

348 **SECTION 9.** Section 9-23-15, Mississippi Code of 1972, is  
349 amended as follows:

350 9-23-15. (1) In order to be eligible for alternative  
351 sentencing through a local \* \* \* ~~drug~~ intervention court, the  
352 participant must satisfy each of the following criteria:

353 (a) The participant cannot have any felony convictions  
354 for any offenses that are crimes of violence as defined in Section  
355 97-3-2 within the previous ten (10) years.

356 (b) The crime before the court cannot be a crime of  
357 violence as defined in Section 97-3-2.

358 (c) Other criminal proceedings alleging commission of a  
359 crime of violence cannot be pending against the participant.

360 (d) The participant cannot be currently charged with  
361 burglary of a dwelling under Section 97-17-23(2) or 97-17-37.



362 (e) The crime before the court cannot be a charge of  
363 driving under the influence of alcohol or any other drug or drugs  
364 that resulted in the death of a person.

365 (f) The crime charged cannot be one of trafficking in  
366 controlled substances under Section 41-29-139(f), nor can the  
367 participant have a prior conviction for same.

368 (2) Participation in the services of an alcohol and drug  
369 intervention component shall be open only to the individuals over  
370 whom the court has jurisdiction, except that the court may agree  
371 to provide the services for individuals referred from  
372 another \* \* \*~~drug~~ intervention court. In cases transferred from  
373 another jurisdiction, the receiving judge shall act as a special  
374 master and make recommendations to the sentencing judge.

375 (3) (a) As a condition of participation in a \* \* \*~~drug~~  
376 intervention court, a participant may be required to undergo a  
377 chemical test or a series of chemical tests as specified by  
378 the \* \* \*~~drug~~ intervention court. A participant is liable for the  
379 costs of all chemical tests required under this section,  
380 regardless of whether the costs are paid to the \* \* \*~~drug~~  
381 intervention court or the laboratory; however, if testing is  
382 available from other sources or the program itself, the judge may  
383 waive any fees for testing. The judge shall waive all fees if the  
384 applicant is determined to be indigent.



385 (b) A laboratory that performs a chemical test under  
386 this section shall report the results of the test to the \* \* \*~~drug~~  
387 intervention court.

388 (4) A person does not have a right to participate  
389 in \* \* \*~~drug~~ intervention court under this chapter. The court  
390 having jurisdiction over a person for a matter before the court  
391 shall have the final determination about whether the person may  
392 participate in \* \* \*~~drug~~ intervention court under this chapter.  
393 However, any person meeting the eligibility criteria in subsection  
394 (1) of this section shall, upon request, be screened for admission  
395 to intervention court.

396 **SECTION 10.** Section 9-23-17, Mississippi Code of 1972, is  
397 amended as follows:

398 9-23-17. With regard to any \* \* \*~~drug~~ intervention  
399 court \* \* \*~~established under this chapter~~, the Administrative  
400 Office of Courts shall do the following:

401 (a) Certify and re-certify \* \* \*~~drug~~ intervention court  
402 applications that meet standards established by the Administrative  
403 Office of Courts in accordance with this chapter.

404 (b) Ensure that the structure of the intervention  
405 component complies with rules adopted under this section and  
406 applicable federal regulations.

407 (c) Revoke the authorization of a program upon a  
408 determination that the program does not comply with rules adopted  
409 under this section and applicable federal regulations.





410 (d) Make agreements and contracts to effectuate the  
411 purposes of this chapter with:

412 (i) Another department, authority or agency of the  
413 state;

414 (ii) Another state;

415 (iii) The federal government;

416 (iv) A state-supported or private university; or

417 (v) A public or private agency, foundation,  
418 corporation or individual.

419 (e) Directly, or by contract, approve and certify any  
420 intervention component established under this chapter.

421 (f) Require, as a condition of operation, that  
422 each \* \* \*~~drug~~ intervention court created or funded under this  
423 chapter be certified by the Administrative Office of Courts.

424 (g) Collect monthly data reports submitted by all  
425 certified \* \* \*~~drug~~ intervention courts, provide those reports to  
426 the State \* \* \*~~Drug~~ Intervention Courts Advisory Committee,  
427 compile an annual report summarizing the data collected and the  
428 outcomes achieved by all certified \* \* \*~~drug~~ intervention courts  
429 and submit the annual report to the Oversight Task Force.

430 (h) Every three (3) years contract with an external  
431 evaluator to conduct an evaluation of the effectiveness of  
432 the \* \* \*~~drug~~ intervention court program, both statewide and  
433 individual \* \* \*~~drug~~ intervention court programs, in complying



434 with the key components of the \* \* \*~~drug~~ intervention courts  
435 adopted by the National Association of Drug Court Professionals.

436 (i) Adopt rules to implement this chapter.

437 **SECTION 11.** Section 9-23-19, Mississippi Code of 1972, is  
438 amended as follows:

439 9-23-19. (1) All monies received from any source by  
440 the \* \* \*~~drug~~ intervention court shall be accumulated in a fund to  
441 be used only for \* \* \*~~drug~~ intervention court purposes. Any funds  
442 remaining in this fund at the end of a fiscal year shall not lapse  
443 into any general fund, but shall be retained in the \* \* \*~~drug~~  
444 Intervention Court Fund for the funding of further activities by  
445 the \* \* \*~~drug~~ intervention court.

446 (2) An \* \* \*~~drug~~ intervention court may apply for and  
447 receive the following:

448 (a) Gifts, bequests and donations from private sources.

449 (b) Grant and contract money from governmental sources.

450 (c) Other forms of financial assistance approved by the  
451 court to supplement the budget of the \* \* \*~~drug~~ intervention  
452 court.

453 (3) The costs of participation in an alcohol and drug  
454 intervention program required by the certified \* \* \*~~drug~~  
455 intervention court may be paid by the participant or out of user  
456 fees or such other state, federal or private funds that may, from  
457 time to time, be made available.



458 (4) The court may assess such reasonable and appropriate  
459 fees to be paid to the local \* \* \*~~drug~~ Intervention Court Fund for  
460 participation in an alcohol or drug intervention program; however  
461 all fees shall be waived if the applicant is determined to be  
462 indigent.

463 **SECTION 12.** Section 9-23-21, Mississippi Code of 1972, is  
464 amended as follows:

465 9-23-21. The director and members of the professional and  
466 administrative staff of the \* \* \*~~drug~~ intervention court who  
467 perform duties in good faith under this chapter are immune from  
468 civil liability for:

469 (a) Acts or omissions in providing services under this  
470 chapter; and

471 (b) The reasonable exercise of discretion in  
472 determining eligibility to participate in the \* \* \*~~drug~~  
473 intervention court.

474 **SECTION 13.** Section 9-23-23, Mississippi Code of 1972, is  
475 amended as follows:

476 9-23-23. If the participant completes all requirements  
477 imposed upon him by the \* \* \*~~drug~~ intervention  
478 court, \* \* \*~~including the payment of fines and fees assessed,~~ the  
479 charge and prosecution shall be dismissed. If the defendant or  
480 participant was sentenced at the time of entry of plea of guilty,  
481 the successful completion of the \* \* \*~~drug~~ intervention court  
482 order and other requirements of probation or suspension of



483 sentence will result in the record of the criminal conviction or  
484 adjudication being expunged. However, no expunction of any  
485 implied consent violation shall be allowed.

486 **SECTION 14.** Section 9-25-1, Mississippi Code of 1972, is  
487 amended as follows:

488 9-25-1. (1) The Legislature recognizes that our military  
489 veterans have provided an invaluable service to our country. In  
490 doing so, many may have suffered the effects of, including, but  
491 not limited to, post-traumatic stress disorder, traumatic brain  
492 injury and depression, and may also suffer drug and alcohol  
493 dependency or addiction and co-occurring mental illness and  
494 substance abuse problems. As a result of this, some veterans come  
495 into contact with the criminal justice system and are charged with  
496 felony offenses. There is a critical need for the justice system  
497 to recognize these veterans, provide accountability for their  
498 wrongdoing, provide for the safety of the public, and provide for  
499 the treatment of our veterans. It is the intent of the  
500 Legislature to create a framework for which specialized veterans  
501 treatment courts may be established at the circuit court level and  
502 at the discretion of the circuit court judge.

503 (2) **Authorization.** A circuit court judge may establish a  
504 Veterans Treatment Court program. The Veterans Treatment Court  
505 may, at the discretion of the circuit court judge, be a separate  
506 court program or as a component of an existing \* \* \*~~drug~~  
507 intervention court program. At the discretion of the circuit



508 court judge, the Veterans Treatment Court may be operated in one  
509 (1) county within the circuit court district, and allow veteran  
510 participants from all counties within the circuit court district  
511 to participate.

512 (3) **Eligibility.** (a) In order to be eligible to  
513 participate in a Veterans Treatment Court program established  
514 under this section, the attorney representing the state must  
515 consent to the defendant's participation in the program. Further,  
516 the court in which the criminal case is pending must have found  
517 that the defendant is a veteran of the United States Armed Forces  
518 as defined in Title 38 USCS.

519 (b) Participation in the services of an alcohol and  
520 drug intervention component shall only be open to the individuals  
521 over whom the court has jurisdiction, except that the court may  
522 agree to provide the services for individuals referred from  
523 another Veterans Treatment Court. In cases transferred from  
524 another jurisdiction, the receiving judge shall act as a special  
525 master and make recommendations to the sentencing judge.

526 (c) (i) As a condition of participation in a Veterans  
527 Treatment Court, a participant may be required to undergo a  
528 chemical test or a series of chemical tests as specified by the  
529 Veterans Treatment Court program. A participant may be held  
530 liable for costs associated with all chemical tests required under  
531 this section. However, a judge may waive any fees for testing.



532 (ii) A laboratory that performs chemical tests  
533 under this section shall report the results of the tests to the  
534 Veterans Treatment Courts.

535 (d) A person does not have the right to participate in  
536 a Veterans Treatment Court program under this chapter. The court  
537 having jurisdiction over a person for a matter before the court  
538 shall have the final determination about whether the person may  
539 participate in the Veterans Treatment Court program.

540 (e) A defendant shall be excluded from participating in  
541 a Veterans Treatment Court program if any one (1) of the following  
542 applies:

543 (i) The crime before the court is a crime of  
544 violence as set forth in paragraph (c) of this subsection.

545 (ii) The defendant does not demonstrate a  
546 willingness to participate in a treatment program.

547 (iii) The defendant has been previously convicted  
548 of a felony crime of violence including, but not limited to:  
549 murder, rape, sexual battery, statutory rape of a child under the  
550 age of sixteen (16), armed robbery, arson, aggravated kidnapping,  
551 aggravated assault, stalking, or any offense involving the  
552 discharge of a firearm or where serious bodily injury or death  
553 resulted to any person.

554 (f) The court in which the criminal case is pending  
555 shall allow an eligible defendant to choose whether to proceed



556 through the Veterans Treatment Court program or otherwise through  
557 the justice system.

558 (g) Proof of matters under this section may be  
559 submitted to the court in which the criminal case is pending in  
560 any form the court determines to be appropriate, including  
561 military service and medical records, previous determinations of a  
562 disability by a veteran's organization or by the United States  
563 Department of Veterans Affairs, testimony or affidavits of other  
564 veterans or service members, and prior determinations of  
565 eligibility for benefits by any state or county veterans office.

566 (4) **Administrative Office of Courts.** With regard to any  
567 Veterans Treatment Court established under this chapter, the  
568 Administrative Office of Courts may do the following:

569 (a) Ensure that the structure of the intervention  
570 component complies with rules adopted under this chapter and  
571 applicable federal regulations.

572 (b) Revoke the authorization of a program upon a  
573 determination that the program does not comply with rules adopted  
574 under this chapter and applicable federal regulations.

575 (c) Enter into agreements and contracts to effectuate  
576 the purposes of this chapter with:

577 (i) Another department, authority, or agency of  
578 the state;

579 (ii) Another state;

580 (iii) The federal government;



581 (iv) A state-supported or private university; or  
582 (v) A public or private agency, foundation,  
583 corporation, or individual.

584 (d) Directly, or by contract, approve and certify any  
585 intervention component established under this chapter.

586 (e) Require, as a condition of operation, that each  
587 veterans court created or funded under this chapter be certified  
588 by the Administrative Office of Courts.

589 (f) Adopt rules to implement this chapter.

590 (5) **State \* \* \*~~Drug~~ Intervention Court Advisory Committee.**

591 (a) The State \* \* \*~~Drug~~ Intervention Court Advisory Committee  
592 shall be responsible for developing statewide rules and policies  
593 as they relate to Veterans Treatment Court programs.

594 (b) The State \* \* \*~~Drug~~ Intervention Court Advisory  
595 Committee may also make recommendations to the Chief Justice, the  
596 Director of the Administrative Office of Courts and state  
597 officials concerning improvements to Veterans Treatment Court  
598 policies and procedures.

599 (c) The State \* \* \*~~Drug~~ Intervention Court Advisory  
600 Committee shall act as an arbiter of disputes arising out of the  
601 operation of Veterans Treatment Court programs established under  
602 this chapter and make recommendations to improve the Veterans  
603 Treatment Court programs.

604 (6) **Funding for Veterans Treatment Courts.** (a) All monies  
605 received from any source by the Veterans Treatment Court program





606 shall be accumulated in a fund to be used only for Veterans  
607 Treatment Court purposes. Any funds remaining in this fund at the  
608 end of the fiscal year shall not lapse into the General Fund, but  
609 shall be retained in the Veterans Treatment Court fund for the  
610 funding of further activities by the Veterans Treatment Court  
611 program.

612 (b) A Veterans Treatment Court program may apply for  
613 and receive the following:

614 (i) Gifts, bequests and donations from private  
615 sources.

616 (ii) Grant and contract money from governmental  
617 sources.

618 (iii) Other forms of financial assistance approved  
619 by the court to supplement the budget of the Veterans Treatment  
620 Court program.

621 (7) **Immunity.** The coordinator and members of the  
622 professional and administrative staff of the Veterans Treatment  
623 Court program who perform duties in good faith under this chapter  
624 are immune from civil liability for:

625 (a) Acts or omissions in providing services under this  
626 chapter; and

627 (b) The reasonable exercise of discretion in  
628 determining eligibility to participate in the Veterans Treatment  
629 Court program.



630 (8) This section shall be codified as a separate article in  
631 Title 9, Mississippi Code of 1972.

632 **SECTION 15.** Section 9-27-1, Mississippi Code of 1972, is  
633 amended as follows:

634 9-27-1. This chapter shall be known and may be cited as the  
635 Rivers McGraw Mental Health Diversion \* \* \*~~Pilot~~ Program Act.

636 **SECTION 16.** Section 9-27-3, Mississippi Code of 1972, is  
637 amended as follows:

638 9-27-3. (1) The Legislature recognizes the critical need  
639 for judicial intervention to establish court processes and  
640 procedures that are more responsive to the needs of defendants  
641 with mental illnesses, while maintaining public safety and the  
642 integrity of the court process. \* \* \*~~It is the intent of the~~  
643 ~~Legislature to facilitate pilot programs for local mental health~~  
644 ~~diversion program alternatives in several pilot circuit court~~  
645 ~~districts that will be adaptable to chancery, circuit, county,~~  
646 ~~youth, municipal and justice courts.~~

647 (2) The goals of the mental health diversion \* \* \*~~pilot~~  
648 programs under this chapter include the following:

649 (a) Reduce the number of future criminal justice  
650 contacts among offenders with mental illnesses;

651 (b) Reduce the inappropriate institutionalization of  
652 people with mental illnesses;

653 (c) Improve the mental health and well-being of  
654 defendants who come in contact with the criminal justice system;



655 (d) Improve linkages between the criminal justice  
656 system and the mental health system;  
657 (e) Expedite case processing;  
658 (f) Protect public safety;  
659 (g) Establish linkages with other state and local  
660 agencies and programs that target people with mental illnesses in  
661 order to maximize the delivery of services; and  
662 (h) To use corrections resources more effectively by  
663 redirecting prison-bound offenders whose criminal conduct is  
664 driven in part by mental illnesses to intensive supervision and  
665 clinical treatment available in the mental health  
666 diversion \* \* \*~~pilot~~ program.

667 **SECTION 17.** Section 9-27-5, Mississippi Code of 1972, is  
668 brought forward as follows:

669 9-27-5. For the purposes of this chapter, the following  
670 words and phrases shall have the meanings ascribed unless the  
671 context clearly requires otherwise:

672 (a) "Chemical tests" means the analysis of an  
673 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)  
674 saliva, (vi) urine, or (vii) other bodily substance to determine  
675 the presence of alcohol or a controlled substance.

676 (b) "Mental health diversion program" means an  
677 immediate and highly structured intervention process for mental  
678 health treatment of eligible defendants or juveniles that:



679 (i) Brings together mental health professionals,  
680 local social programs and intensive judicial monitoring; and

681 (ii) Follows the key components of the mental  
682 health court curriculum published by the Bureau of Justice of the  
683 United States Department of Justice.

684 (c) "Evidence-based practices" means supervision  
685 policies, procedures and practices that scientific research  
686 demonstrates reduce recidivism.

687 (d) "Risk and needs assessment" means the use of an  
688 actuarial assessment tool validated on a Mississippi corrections  
689 population to determine a person's risk to reoffend and the  
690 characteristics that, if addressed, reduce the risk to reoffend.

691 **SECTION 18.** Section 9-27-7, Mississippi Code of 1972, is  
692 amended as follows:

693 9-27-7. (1) The Administrative Office of Courts is the  
694 repository for reports filed by \* \* \* ~~pilot~~ programs established  
695 under this chapter. The goal of the \* \* \* ~~pilot~~ programs is to  
696 support effective and proven practices that reduce recidivism and  
697 provide treatment for participants.

698 (2) \* \* \* ~~Pilot~~ Programs must adhere to the standards  
699 established in this chapter.

700 (a) These standards shall include, but are not limited  
701 to:

702 (i) The use of evidence-based practices including,  
703 but not limited to, the use of a valid and reliable risk and needs



704 assessment tool to identify participants and deliver appropriate  
705 treatments;

706 (ii) Targeting medium- to high-risk offenders for  
707 participation;

708 (iii) The use of current, evidence-based  
709 interventions proven to provide mental health treatment;

710 (iv) Coordinated strategy between all mental  
711 health diversion \* \* \* ~~pilot~~ program personnel;

712 (v) Ongoing judicial interaction with each  
713 participant; and

714 (vi) Monitoring and evaluation of mental health  
715 diversion \* \* \* ~~pilot~~ program implementation and outcomes through  
716 data collection and reporting.

717 (b) \* \* \* ~~Pilot~~ Programs must implement a data  
718 collection plan, which shall include collecting the following  
719 data:

720 (i) Total number of participants;

721 (ii) Total number of successful participants;

722 (iii) Total number of unsuccessful participants

723 and the reason why each participant did not complete the program;

724 (iv) Total number of participants who were

725 arrested for a new criminal offense while in the program;

726 (v) Total number of participants who were

727 convicted of a new felony or misdemeanor offense while in the

728 program;



729 (vi) Total number of participants who committed at  
730 least one (1) violation while in the program and the resulting  
731 sanction(s);

732 (vii) Results of the initial risk and needs  
733 assessment or other clinical assessment conducted on each  
734 participant; and

735 (viii) Any other data or information as required  
736 by the Administrative Office of Courts.

737 (3) All mental health diversion \* \* \* ~~pilot~~ programs must  
738 measure successful completion of the program based on those  
739 participants who complete the program without a new criminal  
740 conviction.

741 (4) (a) \* \* \* ~~Pilot~~ Programs must collect and submit to the  
742 Administrative Office of Courts each month, the following data:

743 (i) Total number of participants at the beginning  
744 of the month;

745 (ii) Total number of participants at the end of  
746 the month;

747 (iii) Total number of participants who began the  
748 program in the month;

749 (iv) Total number of participants who successfully  
750 completed the program in the month;

751 (v) Total number of participants who left the  
752 program in the month;



753 (vi) Total number of participants who were  
754 arrested for a new criminal offense while in the program in the  
755 month;

756 (vii) Total number of participants who were  
757 convicted for a new criminal arrest while in the program in the  
758 month; and

759 (viii) Total number of participants who committed  
760 at least one (1) violation while in the program and any resulting  
761 sanction(s).

762 (b) By August 1, 2018, and each year thereafter, the  
763 Administrative Office of Courts shall report to the PEER Committee  
764 the information in subsection (4)(a) of this section in a  
765 sortable, electronic format.

766 (5) Mental health diversion \* \* \*~~pilot~~ programs may  
767 individually establish rules and may make special orders and rules  
768 as necessary that do not conflict with rules promulgated by the  
769 Supreme Court or the Administrative Office of Courts.

770 (6) A mental health diversion \* \* \*~~pilot~~ program may appoint  
771 the full or part-time employees it deems necessary for the work of  
772 the mental health diversion \* \* \*~~pilot~~ program and shall fix the  
773 compensation of those employees, who shall serve at the will and  
774 pleasure of the senior circuit court judge.

775 (7) A mental health diversion \* \* \*~~pilot~~ program established  
776 under this chapter is subject to the regulatory powers of the  
777 Administrative Office of Courts as set forth in Section 9-27-13.



778           **SECTION 19.** Section 9-27-9, Mississippi Code of 1972, is  
779 amended as follows:

780           9-27-9. (1) A mental health diversion \* \* \*~~pilot~~ program's  
781 mental health intervention component shall provide for eligible  
782 individuals, either directly or through referrals, a range of  
783 necessary court treatment services, including, but not limited to,  
784 the following:

785                   (a) Screening using a valid and reliable assessment  
786 tool effective for identifying persons affected by mental health  
787 issues for eligibility and appropriate services;

788                   (b) Clinical assessment;

789                   (c) Education;

790                   (d) Referral;

791                   (e) Service coordination and case management; and

792                   (f) Counseling and rehabilitative care.

793           (2) Any inpatient treatment ordered by the court shall be  
794 certified by the Department of Mental Health, other appropriate  
795 state agency or the equivalent agency of another state.

796           **SECTION 20.** Section 9-27-11, Mississippi Code of 1972, is  
797 amended as follows:

798           9-27-11. (1) In order to be eligible for alternative  
799 sentencing through a local mental health diversion \* \* \*~~pilot~~  
800 program, the participant must satisfy each of the following  
801 criteria:





802           (a) The participant cannot have any felony convictions  
803 for any offenses that are crimes of violence as defined in Section  
804 97-3-2, other than burglary under Section 97-17-23(1), within the  
805 previous ten (10) years.

806           (b) The crime before the court cannot be a crime of  
807 violence as defined in Section 97-3-2, other than burglary under  
808 Section 97-17-23(1).

809           (c) Other criminal proceedings alleging commission of a  
810 crime of violence other than burglary under Section 97-17-23(1)  
811 cannot be pending against the participant.

812           (d) The crime before the court cannot be a charge of  
813 driving under the influence of alcohol or any other substance that  
814 resulted in the death of a person. In addition, persons who are  
815 ineligible for nonadjudication under Section 63-11-30 shall be  
816 ineligible to participate in a mental health diversion program.

817           (e) The crime charged cannot be one of trafficking in  
818 controlled substances under Section 41-29-139(f), nor can the  
819 participant have a prior conviction for same.

820           (2) Participation in the services of a mental health  
821 treatment component shall be open only to the individuals over  
822 whom the court has jurisdiction, except that the court may agree  
823 to provide the services for individuals referred from another  
824 mental health diversion program. In cases transferred from  
825 another jurisdiction, the receiving judge shall act as a special  
826 master and make recommendations to the sentencing judge.



827 (3) (a) As a condition of participation in a mental health  
828 diversion program, a participant may be required to undergo a  
829 chemical test or a series of chemical tests as specified by the  
830 program. A participant is liable for the costs of all chemical  
831 tests required under this section, regardless of whether the costs  
832 are paid to the mental health diversion program or the laboratory;  
833 however, if testing is available from other sources or the program  
834 itself, the judge may waive any fees for testing. Also, fees  
835 shall be waived if the applicant is determined to be indigent.

836 (b) A laboratory that performs a chemical test under  
837 this section shall report the results of the test to the mental  
838 health diversion program.

839 (4) A person does not have a right to participate in a  
840 mental health diversion program under this chapter. The court  
841 having jurisdiction over a person for a matter before the court  
842 shall have the final determination about whether the person may  
843 participate in the mental health diversion program under this  
844 chapter. However, any person meeting the eligibility criteria in  
845 subsection (1) of this section, shall, upon request, be screened  
846 for admission into the program.

847 **SECTION 21.** Section 9-27-15, Mississippi Code of 1972, is  
848 amended as follows:

849 9-27-15. (1) All monies received from any source by a  
850 mental health diversion \* \* \*~~pilot~~ program shall be accumulated in  
851 a local fund to be used only for mental health



852 diversion \* \* ~~\*pilot~~ program purposes. Any funds remaining in a  
853 local fund at the end of a fiscal year shall not lapse into any  
854 general fund, but shall be retained in the mental health  
855 diversion \* \* ~~\*pilot~~ program fund for the funding of further  
856 activities by the mental health diversion \* \* ~~\*pilot~~  
857 program. \* \* ~~\*Any funds remaining in a local fund at the time of~~  
858 ~~repeal of this chapter shall lapse into the appropriate county's~~  
859 ~~general fund.~~

860 (2) A mental health diversion \* \* ~~\*pilot~~ program may apply  
861 for and receive the following:

862 (a) Gifts, bequests and donations from private sources.

863 (b) Grant and contract monies from governmental  
864 sources.

865 (c) Other forms of financial assistance approved by the  
866 court to supplement the budget of the mental health  
867 diversion \* \* ~~\*pilot~~ program.

868 (3) The costs of participation in a mental health treatment  
869 program required by the mental health diversion \* \* ~~\*pilot~~ program  
870 may be paid by the participant or out of user fees or such other  
871 state, federal or private funds that may, from time to time, be  
872 made available.

873 (4) The court may assess reasonable and appropriate fees to  
874 be paid to the local mental health diversion \* \* ~~\*pilot~~ program  
875 fund for participation in a mental health treatment program;



876 however all fees shall be waived if the applicant is determined to  
877 be indigent.

878 **SECTION 22.** Section 9-27-17, Mississippi Code of 1972, is  
879 amended as follows:

880 9-27-17. The director and members of the professional and  
881 administrative staff of the mental health diversion program who  
882 perform duties in good faith under this chapter are immune from  
883 civil liability for:

884 (a) Acts or omissions in providing services under this  
885 chapter; and

886 (b) The reasonable exercise of discretion in  
887 determining eligibility to participate in the mental health  
888 diversion \* \* \*~~pilot~~ program.

889 **SECTION 23.** Section 9-27-19, Mississippi Code of 1972, is  
890 amended as follows:

891 9-27-19. If the participant completes all requirements  
892 imposed upon him by the mental health diversion \* \* \*~~pilot~~  
893 program, \* \* \*~~including the payment of fines and fees assessed,~~  
894 the charge and prosecution shall be dismissed. If the defendant  
895 or participant was sentenced at the time of entry of a plea of  
896 guilty, the successful completion of the mental health  
897 diversion \* \* \*~~pilot~~ program order and other requirements of  
898 probation or suspension of sentence will result in the record of  
899 the criminal conviction or adjudication being expunged.



900           **SECTION 24.** Sections 9-27-13 and 9-27-21, Mississippi Code  
901 of 1972, which regulate pilot programs for mental health diversion  
902 courts, are repealed.

903           **SECTION 25.** Section 47-5-138, Mississippi Code of 1972, is  
904 brought forward as follows:

905           47-5-138. (1) The department may promulgate rules and  
906 regulations to carry out an earned time allowance program based on  
907 the good conduct and performance of an inmate. An inmate is  
908 eligible to receive an earned time allowance of one-half (1/2) of  
909 the period of confinement imposed by the court except those  
910 inmates excluded by law. When an inmate is committed to the  
911 custody of the department, the department shall determine a  
912 conditional earned time release date by subtracting the earned  
913 time allowance from an inmate's term of sentence. This subsection  
914 does not apply to any sentence imposed after June 30, 1995.

915           (2) An inmate may forfeit all or part of his earned time  
916 allowance for a serious violation of rules. No forfeiture of the  
917 earned time allowance shall be effective except upon approval of  
918 the commissioner, or his designee, and forfeited earned time may  
919 not be restored.

920           (3) (a) For the purposes of this subsection, "final order"  
921 means an order of a state or federal court that dismisses a  
922 lawsuit brought by an inmate while the inmate was in the custody  
923 of the Department of Corrections as frivolous, malicious or for  
924 failure to state a claim upon which relief could be granted.



925 (b) On receipt of a final order, the department shall  
926 forfeit:

927 (i) Sixty (60) days of an inmate's accrued earned  
928 time if the department has received one (1) final order as defined  
929 herein;

930 (ii) One hundred twenty (120) days of an inmate's  
931 accrued earned time if the department has received two (2) final  
932 orders as defined herein;

933 (iii) One hundred eighty (180) days of an inmate's  
934 accrued earned time if the department has received three (3) or  
935 more final orders as defined herein.

936 (c) The department may not restore earned time  
937 forfeited under this subsection.

938 (4) An inmate who meets the good conduct and performance  
939 requirements of the earned time allowance program may be released  
940 on his conditional earned time release date.

941 (5) For any sentence imposed after June 30, 1995, an inmate  
942 may receive an earned time allowance of four and one-half (4-1/2)  
943 days for each thirty (30) days served if the department determines  
944 that the inmate has complied with the good conduct and performance  
945 requirements of the earned time allowance program. The earned  
946 time allowance under this subsection shall not exceed fifteen  
947 percent (15%) of an inmate's term of sentence; however, beginning  
948 July 1, 2006, no person under the age of twenty-one (21) who has  
949 committed a nonviolent offense, and who is under the jurisdiction



950 of the Department of Corrections, shall be subject to the fifteen  
951 percent (15%) limitation for earned time allowances as described  
952 in this subsection (5).

953 (6) Any inmate, who is released before the expiration of his  
954 term of sentence under this section, shall be placed under earned  
955 release supervision until the expiration of the term of sentence.  
956 The inmate shall retain inmate status and remain under the  
957 jurisdiction of the department. The period of earned release  
958 supervision shall be conducted in the same manner as a period of  
959 supervised parole. The department shall develop rules, terms and  
960 conditions for the earned release supervision program. The  
961 commissioner shall designate the appropriate hearing officer  
962 within the department to conduct revocation hearings for inmates  
963 violating the conditions of earned release supervision.

964 (7) If the earned release supervision is revoked, the inmate  
965 shall serve the remainder of the sentence, but the time the inmate  
966 served on earned release supervision before revocation, shall be  
967 applied to reduce his sentence.

968 **SECTION 26.** Section 47-7-3.1, Mississippi Code of 1972, is  
969 brought forward as follows:

970 47-7-3.1. (1) In consultation with the Parole Board, the  
971 department shall develop a case plan for all parole eligible  
972 inmates to guide an inmate's rehabilitation while in the  
973 department's custody and to reduce the likelihood of recidivism  
974 after release.



975           (2) Within ninety (90) days of admission, the department  
976 shall complete a case plan on all inmates which shall include, but  
977 not limited to:

978                 (a) Programming and treatment requirements based on the  
979 results of a risk and needs assessment;

980                 (b) Any programming or treatment requirements contained  
981 in the sentencing order; and

982                 (c) General behavior requirements in accordance with  
983 the rules and policies of the department.

984           (3) The department shall provide the inmate with a written  
985 copy of the case plan and the inmate's caseworker shall explain  
986 the conditions set forth in the case plan.

987                 (a) Within ninety (90) days of admission, the  
988 caseworker shall notify the inmate of their parole eligibility  
989 date as calculated in accordance with Section 47-7-3(3);

990                 (b) At the time a parole-eligible inmate receives the  
991 case plan, the department shall send the case plan to the Parole  
992 Board for approval.

993           (4) The department shall ensure that the case plan is  
994 achievable prior to inmate's parole eligibility date.

995           (5) The caseworker shall meet with the inmate every eight  
996 (8) weeks from the date the offender received the case plan to  
997 review the inmate's case plan progress.

998           (6) Every four (4) months the department shall  
999 electronically submit a progress report on each parole-eligible





1000 inmate's case plan to the Parole Board. The board may meet to  
1001 review an inmate's case plan and may provide written input to the  
1002 caseworker on the inmate's progress toward completion of the case  
1003 plan.

1004 (7) The Parole Board shall provide semiannually to the  
1005 Oversight Task Force the number of parole hearings held, the  
1006 number of prisoners released to parole without a hearing and the  
1007 number of parolees released after a hearing.

1008 **SECTION 27.** Section 47-7-33.1, Mississippi Code of 1972, is  
1009 brought forward as follows:

1010 47-7-33.1. (1) The department shall create a discharge plan  
1011 for any offender returning to the community, regardless of whether  
1012 the person will discharge from the custody of the department, or  
1013 is released on parole, pardon, or otherwise. At least ninety (90)  
1014 days prior to an offender's earliest release date, the  
1015 commissioner shall conduct a pre-release assessment and complete a  
1016 written discharge plan based on the assessment results. The  
1017 discharge plan for parole eligible offenders shall be sent to the  
1018 parole board at least thirty (30) days prior to the offender's  
1019 parole eligibility date for approval. The board may suggest  
1020 changes to the plan that it deems necessary to ensure a successful  
1021 transition.

1022 (2) The pre-release assessment shall identify whether an  
1023 inmate requires assistance obtaining the following basic needs  
1024 upon release: transportation, clothing and food, financial



1025 resources, identification documents, housing, employment,  
1026 education, health care and support systems. The discharge plan  
1027 shall include information necessary to address these needs and the  
1028 steps being taken by the department to assist in this process.

1029 Based on the findings of the assessment, the commissioner shall:

1030 (a) Arrange transportation for inmates from the  
1031 correctional facility to their release destination;

1032 (b) Ensure inmates have clean, seasonally appropriate  
1033 clothing, and provide inmates with a list of food providers and  
1034 other basic resources immediately accessible upon release;

1035 (c) Ensure inmates have a driver's license or a  
1036 state-issued identification card that is not a Department of  
1037 Corrections identification card;

1038 (d) Assist inmates in identifying safe, affordable  
1039 housing upon release. If accommodations are not available,  
1040 determine whether temporary housing is available for at least ten  
1041 (10) days after release. If temporary housing is not available,  
1042 the discharge plan shall reflect that satisfactory housing has not  
1043 been established and the person may be a candidate for  
1044 transitional reentry center placement;

1045 (e) Refer inmates without secured employment to  
1046 employment opportunities;

1047 (f) Provide inmates with contact information of a  
1048 health care facility/provider in the community in which they plan  
1049 to reside;



1050 (g) Notify family members of the release date and  
1051 release plan, if inmate agrees; and

1052 (h) Refer inmates to a community or a faith-based  
1053 organization that can offer support within the first twenty-four  
1054 (24) hours of release;

1055 (3) A written discharge plan shall be provided to the  
1056 offender and supervising probation officer or parole officer, if  
1057 applicable.

1058 (4) A discharge plan created for a parole-eligible offender  
1059 shall also include supervision conditions and the intensity of  
1060 supervision based on the assessed risk to recidivate and whether  
1061 there is a need for transitional housing. The board shall approve  
1062 discharge plans before an offender is released on parole pursuant  
1063 to this chapter.

1064 **SECTION 28.** Section 47-7-34, Mississippi Code of 1972, is  
1065 brought forward as follows:

1066 47-7-34. (1) When a court imposes a sentence upon a  
1067 conviction for any felony committed after June 30, 1995, the  
1068 court, in addition to any other punishment imposed if the other  
1069 punishment includes a term of incarceration in a state or local  
1070 correctional facility, may impose a term of post-release  
1071 supervision. However, the total number of years of incarceration  
1072 plus the total number of years of post-release supervision shall  
1073 not exceed the maximum sentence authorized to be imposed by law  
1074 for the felony committed. The defendant shall be placed under



1075 post-release supervision upon release from the term of  
1076 incarceration. The period of supervision shall be established by  
1077 the court.

1078 (2) The period of post-release supervision shall be  
1079 conducted in the same manner as a like period of supervised  
1080 probation, including a requirement that the defendant shall abide  
1081 by any terms and conditions as the court may establish. Failure  
1082 to successfully abide by the terms and conditions shall be grounds  
1083 to terminate the period of post-release supervision and to  
1084 recommit the defendant to the correctional facility from which he  
1085 was previously released. Procedures for termination and  
1086 recommitment shall be conducted in the same manner as procedures  
1087 for the revocation of probation and imposition of a suspended  
1088 sentence as required pursuant to Section 47-7-37.

1089 (3) Post-release supervision programs shall be operated  
1090 through the probation and parole unit of the Division of Community  
1091 Corrections of the department. The maximum amount of time that  
1092 the Mississippi Department of Corrections may supervise an  
1093 offender on the post-release supervision program is five (5)  
1094 years.

1095 **SECTION 29.** Section 47-7-9, Mississippi Code of 1972, is  
1096 brought forward as follows:

1097 47-7-9. (1) The circuit judges and county judges in the  
1098 districts to which Division of Community Corrections personnel  
1099 have been assigned shall have the power to request of the



1100 department transfer or removal of the division personnel from  
1101 their court.

1102 (2) (a) Division personnel shall investigate all cases  
1103 referred to them for investigation by the board, the division or  
1104 by any court in which they are authorized to serve. They shall  
1105 furnish to each person released under their supervision a written  
1106 statement of the conditions of probation, parole, earned-release  
1107 supervision, post-release supervision or suspension and shall  
1108 instruct the person regarding the same. They shall administer a  
1109 risk and needs assessment on each person under their supervision  
1110 to measure criminal risk factors and individual needs. They shall  
1111 use the results of the risk and needs assessment to guide  
1112 supervision responses consistent with evidence-based practices as  
1113 to the level of supervision and the practices used to reduce  
1114 recidivism. They shall develop a supervision plan for each person  
1115 assessed as moderate to high risk to reoffend. They shall keep  
1116 informed concerning the conduct and conditions of persons under  
1117 their supervision and use all suitable methods that are consistent  
1118 with evidence-based practices to aid and encourage them and to  
1119 bring about improvements in their conduct and condition and to  
1120 reduce the risk of recidivism. They shall keep detailed records  
1121 of their work and shall make such reports in writing as the court  
1122 or the board may require.



1123           (b) Division personnel shall complete annual training  
1124 on evidence-based practices and criminal risk factors, as well as  
1125 instructions on how to target these factors to reduce recidivism.

1126           (c) The division personnel duly assigned to court  
1127 districts are hereby vested with all the powers of police officers  
1128 or sheriffs to make arrests or perform any other duties required  
1129 of policemen or sheriffs which may be incident to the division  
1130 personnel responsibilities. All probation and parole officers  
1131 hired on or after July 1, 1994, will be placed in the Law  
1132 Enforcement Officers Training Program and will be required to meet  
1133 the standards outlined by that program.

1134           (d) It is the intention of the Legislature that insofar  
1135 as practicable the case load of each division personnel  
1136 supervising offenders in the community (hereinafter field  
1137 supervisor) shall not exceed the number of cases that may be  
1138 adequately handled.

1139           (3) (a) Division personnel shall be provided to perform  
1140 investigation for the court as provided in this subsection.  
1141 Division personnel shall conduct presentence investigations on all  
1142 persons convicted of a felony in any circuit court of the state,  
1143 prior to sentencing and at the request of the circuit court judge  
1144 of the court of conviction. The presentence evaluation report  
1145 shall consist of a complete record of the offender's criminal  
1146 history, educational level, employment history, psychological  
1147 condition and such other information as the department or judge



1148 may deem necessary. Division personnel shall also prepare written  
1149 victim impact statements at the request of the sentencing judge as  
1150 provided in Section 99-19-157.

1151 (b) In order that offenders in the custody of the  
1152 department on July 1, 1976, may benefit from the kind of  
1153 evaluations authorized in this section, an evaluation report to  
1154 consist of the information required hereinabove, supplemented by  
1155 an examination of an offender's record while in custody, shall be  
1156 compiled by the division upon all offenders in the custody of the  
1157 department on July 1, 1976. After a study of such reports by the  
1158 State Parole Board those cases which the board believes would  
1159 merit some type of executive clemency shall be submitted by the  
1160 board to the Governor with its recommendation for the appropriate  
1161 executive action.

1162 (c) The department is authorized to accept gifts,  
1163 grants and subsidies to conduct this activity.

1164 **SECTION 30.** Section 63-1-216, Mississippi Code of 1972, is  
1165 brought forward as follows:

1166 63-1-216. (1) (a) A person shall be disqualified from  
1167 driving a commercial motor vehicle for a period of one (1) year if  
1168 the person's license or permit to drive has been administratively  
1169 suspended under Section 63-11-23 or the person has been convicted  
1170 of a first violation of:

1171 (i) Operating, attempting to operate, or being in  
1172 actual physical control of a commercial motor vehicle on a highway



1173 with an alcohol concentration of four one-hundredths percent  
1174 (0.04%) or more, or under the influence as provided in Section  
1175 63-11-30;

1176 (ii) Failure to stop and render aid as required  
1177 under the laws of this state in the event of a motor vehicle  
1178 accident resulting in the death or personal injury of another;

1179 (iii) Using a motor vehicle in the commission of  
1180 any offense under state or federal law that is punishable by  
1181 imprisonment for a term exceeding one (1) year;

1182 (iv) Refusal to submit to a test to determine the  
1183 operator's alcohol concentration, as provided in Title 63, Chapter  
1184 11, Mississippi Code of 1972;

1185 (v) Operating, attempting to operate, or being in  
1186 actual physical control of a motor vehicle on a highway with an  
1187 alcohol concentration of eight one-hundredths percent (0.08%) or  
1188 more, or under the influence of intoxicating liquor or other  
1189 substance, as provided in Section 63-11-30;

1190 (vi) Operating, attempting to operate, or being in  
1191 actual physical control of a motor vehicle on a highway when the  
1192 person is under the influence of any other drug or under the  
1193 combined influence of alcohol and any other drug to a degree which  
1194 renders the person incapable of driving safely as provided in  
1195 Section 63-11-30;





1196 (vii) Operating or attempting to operate a  
1197 commercial motor vehicle while the license is revoked, suspended,  
1198 cancelled, or disqualified;

1199 (viii) Operating a commercial motor vehicle in a  
1200 negligent manner resulting in a fatal injury.

1201 (b) A person shall be disqualified from driving a  
1202 commercial motor vehicle for three (3) years if convicted of a  
1203 violation listed in subsection (1) of this section, if the  
1204 violation occurred while transporting a hazardous material  
1205 required to be placarded.

1206 (c) A person shall be disqualified from driving a  
1207 commercial motor vehicle for life if convicted of two (2) or more  
1208 violations or a combination of them listed in subsection (1) of  
1209 this section arising from two (2) or more separate occurrences.

1210 (d) A person shall be disqualified from driving a  
1211 commercial motor vehicle for a period of sixty (60) days if  
1212 convicted of two (2) serious traffic violations, or one hundred  
1213 twenty (120) days if convicted of three (3) serious traffic  
1214 violations, arising from separate incidents occurring within a  
1215 three-year period. A disqualification for three (3) serious  
1216 traffic violations must be imposed consecutively to any other  
1217 previous period of disqualification.

1218 (e) A person shall be disqualified from driving a  
1219 commercial motor vehicle for life if the person uses a motor  
1220 vehicle in the commission of any offense under state or federal



1221 law that is punishable by imprisonment for a term exceeding one  
1222 (1) year involving the manufacture, distribution, or dispensing of  
1223 a regulated drug, or possession with intent to manufacture,  
1224 distribute, or dispense a regulated drug and for which the person  
1225 was convicted.

1226 (f) A person who is disqualified from driving a  
1227 commercial motor vehicle shall surrender the person's Mississippi  
1228 commercial driver's license no later than the effective date of  
1229 the disqualification. Upon receipt of the person's commercial  
1230 driver's license, that person, if otherwise eligible, may apply  
1231 for a non-CDL, and upon payment of sufficient fees receive the  
1232 driver's license.

1233 (g) The commissioner shall adopt rules establishing  
1234 guidelines, including conditions, under which a disqualification  
1235 for life under this section, except for a disqualification issued  
1236 pursuant to paragraph (e) of this subsection, may be reduced to a  
1237 period of not less than ten (10) years.

1238 (h) A person shall be disqualified from driving a  
1239 commercial motor vehicle for a period of sixty (60) days if the  
1240 driver is convicted of a first violation of a railroad-highway  
1241 grade crossing violation.

1242 (i) A person shall be disqualified from driving a  
1243 commercial motor vehicle for a period of one hundred twenty (120)  
1244 days if, during any three-year period, the driver is convicted of



1245 a second railroad-highway grade crossing violation in a separate  
1246 incident.

1247 (j) A person shall be disqualified from driving a  
1248 commercial motor vehicle for a period of one (1) year if, during  
1249 any three-year period, the driver is convicted of a third or  
1250 subsequent railroad-highway grade crossing violation in separate  
1251 incidents.

1252 (k) A person who is simultaneously subject to a  
1253 disqualification issued by the administrator of the Federal Motor  
1254 Carrier Safety Administration pursuant to 49 CFR, Part 383.52 and  
1255 a disqualification under any other provision of this section shall  
1256 serve those disqualification periods concurrently.

1257 (2) (a) A person's privilege to operate a commercial motor  
1258 vehicle in the State of Mississippi shall be suspended for one (1)  
1259 year, if:

1260 (i) The person is convicted of a first violation  
1261 of operating, attempting to operate or being in actual physical  
1262 control of a commercial motor vehicle on a highway with an alcohol  
1263 concentration of four one-hundredths percent (0.04%) or more, or  
1264 under the influence, as provided in Section 63-11-30; and

1265 (ii) The person's commercial driver's license is  
1266 issued by a state or country that does not issue commercial  
1267 driver's licenses and disqualify persons in accordance with 49  
1268 CFR, Parts 383 and 384.



1269           (b) A person's privilege to operate a commercial motor  
1270 vehicle in the State of Mississippi shall be suspended for three  
1271 (3) years if the person is convicted of violating subsection (1)  
1272 of this section, and the violation occurred while the person was  
1273 transporting a hazardous material required to be placarded.

1274           (c) A person's privilege to operate a commercial motor  
1275 vehicle in the State of Mississippi shall be suspended for life if  
1276 the person is convicted a second time of violating subsection (1)  
1277 of this section, and both convictions arise out of separate  
1278 occurrences.

1279           (d) A person's privilege to operate a commercial motor  
1280 vehicle in the State of Mississippi shall be suspended for sixty  
1281 (60) days if the person is convicted of two (2) serious traffic  
1282 violations, or for one hundred twenty (120) days if the person is  
1283 convicted of three (3) serious traffic violations, arising from  
1284 separate incidents occurring within a three-year period.

1285           (e) A person's privilege to operate a commercial motor  
1286 vehicle in the State of Mississippi shall be suspended for life if  
1287 the person uses a commercial motor vehicle in the commission of  
1288 any offense under state or federal law that is punishable by  
1289 imprisonment for a term exceeding one (1) year, involving the  
1290 manufacture, distribution, or dispensing of a regulated drug, or  
1291 possession with intent to manufacture, distribute, or dispense a  
1292 regulated drug, and for which the person was convicted.



1293 (f) In addition to the reasons specified in this  
1294 section for suspension of the commercial driver's license, the  
1295 commissioner shall be authorized to suspend the commercial  
1296 driver's license of any person for being out of compliance with an  
1297 order for support, as defined in Section 93-11-153. The procedure  
1298 for suspension of a commercial driver's license for being out of  
1299 compliance with an order for support, and the procedure for the  
1300 reissuance or reinstatement of a commercial driver's license  
1301 suspended for that purpose, and the payment of any fees for the  
1302 reissuance or reinstatement of a commercial driver's license  
1303 suspended for that purpose, shall be governed by Section 93-11-157  
1304 or 93-11-163, as the case may be. If there is any conflict  
1305 between any provision of Section 93-11-157 or 93-11-163 and any  
1306 provision of this article, the provisions of Section 93-11-157 or  
1307 93-11-163, as the case may be, shall control.

1308 **SECTION 31.** Section 25-3-35, Mississippi Code of 1972, is  
1309 amended as follows:

1310 25-3-35. (1) The annual salaries of the following judges  
1311 are fixed as follows:

1312 **From and after January 1, 2013, through December 31, 2013:**

1313 Chief Justice of the Supreme Court.....\$126,292.50  
1314 Presiding Justices of the Supreme Court, each..... 123,600.75  
1315 Associate Justices of the Supreme Court, each..... 122,460.00

1316 **From and after January 1, 2014, through December 31, 2014:**

1317 Chief Justice of the Supreme Court.....\$137,195.00



1318 Presiding Justices of the Supreme Court, each..... 134,011.50

1319 Associate Justices of the Supreme Court, each..... 132,390.00

1320 **From and after January 1, 2015, through December 31, 2015:**

1321 Chief Justice of the Supreme Court.....\$148,097.50

1322 Presiding Justices of the Supreme Court, each..... 144,422.25

1323 Associate Justices of the Supreme Court, each..... 142,320.00

1324 **From and after January 1, 2016:**

1325 Chief Justice of the Supreme Court.....\$159,000.00

1326 Presiding Justices of the Supreme Court, each..... 154,833.00

1327 Associate Justices of the Supreme Court, each..... 152,250.00

1328 There are imposed upon the Supreme Court justices the extra duties  
1329 of taking all necessary action to promote judicial education in  
1330 schools, \* \* \*~~drug~~ intervention courts, electronic filing and case  
1331 management systems as developed by the Administrative Office of  
1332 Courts, or such other additional duties as may be assigned by the  
1333 Chief Justice of the Supreme Court. For such extra services each  
1334 justice, from and after January 1, 2013, shall receive a sum  
1335 sufficient to aggregate, per annum, the salaries set forth in this  
1336 subsection (1).

1337 The fixed salaries in this subsection (1) shall be paid from  
1338 the State General Fund and from the Judicial System Operation Fund  
1339 created under Section 9-21-45. No less than: One Hundred Fifteen  
1340 Thousand Three Hundred Ninety Dollars (\$115,390.00) of the Chief  
1341 Justice's salary in this subsection (1), One Hundred Thirteen  
1342 Thousand One Hundred Ninety Dollars (\$113,190.00) of the salary of



1343 a presiding justice in this subsection (1), and One Hundred Twelve  
1344 Thousand Five Hundred Thirty Dollars (\$112,530.00) of the salary  
1345 of an associate justice in this subsection (1) shall be paid from  
1346 general fund monies; in addition, the Legislature shall  
1347 appropriate annually from the Judicial System Operation Fund a sum  
1348 sufficient to increase the salary of the Chief Justice, a  
1349 presiding justice and an associate justice to the levels set forth  
1350 in this subsection (1).

1351 The fixed salaries as specified in this subsection (1) shall  
1352 be the exclusive and total compensation which can be reported to  
1353 the Public Employees' Retirement System for retirement purposes;  
1354 however, any judge in office on December 31, 2003, may continue to  
1355 report his expense allowance as part of his compensation for  
1356 retirement purposes.

1357 (2) The annual salaries of the judges of the Court of  
1358 Appeals of Mississippi are fixed as follows:

1359	<b>From and after January 1, 2013, through December 31, 2013:</b>	
1360	Chief Judge of the Court of Appeals.....	\$117,992.00
1361	Associate Judges of the Court of Appeals, each....	114,994.25
1362	<b>From and after January 1, 2014, through December 31, 2014:</b>	
1363	Chief Judge of the Court of Appeals.....	\$127,854.00
1364	Associate Judges of the Court of Appeals, each....	124,938.50
1365	<b>From and after January 1, 2015, through December 31, 2015:</b>	
1366	Chief Judge of the Court of Appeals.....	\$137,716.00
1367	Associate Judges of the Court of Appeals, each....	134,882.75



1368 **From and after January 1, 2016:**

1369 Chief Judge of the Court of Appeals.....\$147,578.00  
1370 Associate Judges of the Court of Appeals, each.... 144,827.00

1371 From and after January 1, 2013, each judge shall receive a  
1372 sum sufficient to aggregate, per annum, the salaries set forth in  
1373 this subsection (2).

1374 The fixed salaries in this subsection (2) shall be paid from  
1375 the State General Fund and from the Judicial System Operation Fund  
1376 created under Section 9-21-45. No less than One Hundred Eight  
1377 Thousand One Hundred Thirty Dollars (\$108,130.00) of the Chief  
1378 Judge's salary in this subsection (2) shall be paid from general  
1379 fund monies; in addition, the Legislature shall appropriate  
1380 annually from the Judicial System Operation Fund a sum sufficient  
1381 to increase the Chief Judge's salary to the level set forth in  
1382 this subsection (2). No less than One Hundred Five Thousand Fifty  
1383 Dollars (\$105,050.00) of the salary of an associate judge in this  
1384 subsection (2) shall be paid from general fund monies; in  
1385 addition, the Legislature shall appropriate annually from the  
1386 Judicial System Operation Fund a sum sufficient to increase the  
1387 salary of an associate judge to the level set forth in this  
1388 subsection (2).

1389 The fixed salaries as specified in this subsection (2) shall  
1390 be the exclusive and total compensation which can be reported to  
1391 the Public Employees' Retirement System for retirement purposes;  
1392 however, any judge in office on December 31, 2003, may continue to





1393 report his expense allowance as part of his compensation for  
1394 retirement purposes.

1395 (3) The annual salaries of the chancery and circuit court  
1396 judges are fixed as follows:

1397 **From and after January 1, 2013, through December 31, 2013:**

1398 Chancery Judges, each.....\$112,127.50

1399 Circuit Judges, each..... 112,127.50

1400 **From and after January 1, 2014, through December 31, 2014:**

1401 Chancery Judges, each.....\$120,085.00

1402 Circuit Judges, each..... 120,085.00

1403 **From and after January 1, 2015, through December 31, 2015:**

1404 Chancery Judges, each.....\$128,042.50

1405 Circuit Judges, each..... 128,042.50

1406 **From and after January 1, 2016:**

1407 Chancery Judges, each.....\$136,000.00

1408 Circuit Judges, each..... 136,000.00

1409 In addition to their present official duties, the circuit and  
1410 chancery judges shall take necessary action to promote judicial  
1411 education in schools, \* \* \*~~drug~~ intervention courts, electronic  
1412 filing and case management systems as developed by the  
1413 Administrative Office of Courts, or such other additional duties  
1414 as may be assigned by the Chief Justice of the Supreme Court. For  
1415 such extra services each judge, from and after January 1, 2013,  
1416 shall receive a sum sufficient to aggregate, per annum, the  
1417 salaries set forth in this subsection (3).

1418           The fixed salaries in this subsection (3) shall be paid from  
1419 the State General Fund and from the Judicial System Operation Fund  
1420 created under Section 9-21-45. No less than One Hundred Four  
1421 Thousand One Hundred Seventy Dollars (\$104,170.00) of the salary  
1422 of a chancery or circuit Judge in this subsection (3) shall be  
1423 paid from general fund monies; in addition, the Legislature shall  
1424 appropriate annually from the Judicial System Operation Fund a sum  
1425 sufficient to increase the salary of a chancery or circuit judge  
1426 to the levels set forth in this subsection (3).

1427           (4) From and after January 1, 2019, and every four (4) years  
1428 thereafter, the annual salaries of the judges in subsections (1),  
1429 (2) and (3) shall be fixed at the level of compensation  
1430 recommended by the State Personnel Board according to the board's  
1431 most recent report on judicial salaries, as required under Section  
1432 25-9-115, to the extent that sufficient funds are available. The  
1433 annual salaries fixed in accordance with this subsection (4) shall  
1434 not become effective until the commencement of the next  
1435 immediately succeeding term of office.

1436           (5) The Supreme Court shall prepare a payroll for chancery  
1437 judges and circuit judges and submit such payroll to the  
1438 Department of Finance and Administration.

1439           (6) The annual salary of the full-time district attorneys  
1440 shall be:

1441           **From and after January 1, 2013, through December 31, 2013:**



1442 One Hundred Three Thousand Three Hundred Twenty-two Dollars  
1443 (\$103,322.00).

1444 **From and after January 1, 2014, through December 31, 2014:**

1445 One Hundred Ten Thousand Eight Hundred Forty-eight Dollars  
1446 (\$110,848.00).

1447 **From and after January 1, 2015, through December 31, 2015:**

1448 One Hundred Eighteen Thousand Three Hundred Seventy-four  
1449 Dollars (\$118,374.00).

1450 **From and after January 1, 2016:**

1451 One Hundred Twenty-five Thousand Nine Hundred Dollars  
1452 (\$125,900.00).

1453 (7) The annual salary of the full-time legal assistants  
1454 shall be not less than Fifteen Thousand Dollars (\$15,000.00) nor  
1455 more than eighty percent (80%) of the salary of the district  
1456 attorney for legal assistants who have been licensed to practice  
1457 law for five (5) years or less; eighty-five percent (85%) of the  
1458 salary of the district attorney for legal assistants who have been  
1459 licensed to practice law for at least five (5) years but less than  
1460 fifteen (15) years; and ninety percent (90%) of the salary of the  
1461 district attorney for legal assistants who have been licensed to  
1462 practice law for at least fifteen (15) years or more.

1463 **SECTION 32.** Section 43-21-357, Mississippi Code of 1972, is  
1464 amended as follows:

1465 43-21-357. (1) After receiving a report, the youth court  
1466 intake unit shall promptly make a preliminary inquiry to determine



1467 whether the interest of the child, other children in the same  
1468 environment or the public requires the youth court to take further  
1469 action. As part of the preliminary inquiry, the youth court  
1470 intake unit may request or the youth court may order the  
1471 Department of Human Services, the Department of Youth Services,  
1472 any successor agency or any other qualified public employee to  
1473 make an investigation or report concerning the child and any other  
1474 children in the same environment, and present the findings thereof  
1475 to the youth court intake unit. If the youth court intake unit  
1476 receives a neglect or abuse report, the youth court intake unit  
1477 shall immediately forward the complaint to the Department of Human  
1478 Services to promptly make an investigation or report concerning  
1479 the child and any other children in the same environment and  
1480 promptly present the findings thereof to the youth court intake  
1481 unit. If it appears from the preliminary inquiry that the child  
1482 or other children in the same environment are within the  
1483 jurisdiction of the court, the youth court intake unit shall  
1484 recommend to the youth court:

1485 (a) That the youth court take no action;

1486 (b) That an informal adjustment be made;

1487 (c) The Department of Human Services, Division of  
1488 Family and Children Services, monitor the child, family and other  
1489 children in the same environment;

1490 (d) That the child is warned or counseled informally;



1491 (e) That the child be referred to the youth  
1492 court \* \* \*~~drug~~ intervention court; or  
1493 (f) That a petition be filed.  
1494 (2) The youth court shall then, without a hearing:  
1495 (a) Order that no action be taken;  
1496 (b) Order that an informal adjustment be made;  
1497 (c) Order that the Department of Human Services,  
1498 Division of Family and Children Services, monitor the child,  
1499 family and other children in the same environment;

1500 (d) Order that the child is warned or counseled  
1501 informally;

1502 (e) That the child be referred to the youth \* \* \*~~drug~~  
1503 intervention court; or

1504 (f) Order that a petition be filed.

1505 (3) If the preliminary inquiry discloses that a child needs  
1506 emergency medical treatment, the judge may order the necessary  
1507 treatment.

1508 **SECTION 33.** Section 63-11-31.1, Mississippi Code of 1972, is  
1509 amended as follows:

1510 63-11-31.1. (1) The Mississippi Forensics Laboratory shall  
1511 promulgate rules and regulations for court-ordered drug testing of  
1512 DUI/other drug violators and shall approve which vendors are  
1513 eligible to be utilized by the trial courts when ordering  
1514 defendants to undergo drug testing as a condition of continuing to  
1515 exercise the privilege to drive. The Forensics Laboratory may



1516 assess fees to the vendors, and shall prescribe the maximum costs  
1517 to the offender for drug testing. The Forensics Laboratory may  
1518 seek the advice of the State \* \* \* Drug Intervention Court Advisory  
1519 Committee in fulfilling these duties.

1520 (2) The Forensics Laboratory must evaluate proposals made by  
1521 prospective vendors for acceptability, including, without  
1522 limitation, the following factors:

1523 (a) A description of the method used for assessment;

1524 (b) The frequency with which the offender will be  
1525 tested;

1526 (c) The procedure used by the vendor to ensure the  
1527 accuracy of the test results;

1528 (d) The length of time allowed the offender to provide  
1529 a biological sample after being given notice;

1530 (e) The frequency with which the vendor will make  
1531 reports to the court;

1532 (f) The list of approved sites for the collection of  
1533 biological samples for testing.

1534 (3) The Forensics Laboratory must promulgate regulations for  
1535 the program and for vendors, including at a minimum:

1536 (a) That the offender must pay the cost of the testing  
1537 program or, if the court finds the offender to be indigent, that  
1538 the cost be paid from the Interlock Device Fund.

1539 (b) How indigent funds will be accessed by the vendors,  
1540 and the maximum cost to the offender or the fund.



1541 (4) The Forensics Laboratory will provide the list of  
1542 approved vendors, subject to continuous updating, to the  
1543 Mississippi Judicial College for dissemination to the trial  
1544 courts.

1545 **SECTION 34.** Section 99-3-45, Mississippi Code of 1972, is  
1546 amended as follows:

1547 99-3-45. A person under the age of twenty-one (21) who is  
1548 released under either Section 99-3-17 or 99-3-18 following arrest  
1549 must be given notice:

1550 (a) That the person is allowed to call a parent,  
1551 guardian or custodian in addition to any other opportunity to call  
1552 that has been afforded to such person; and

1553 (b) That \* \* \*~~drug~~ Intervention Court and other  
1554 pretrial diversion programs may be available for many offenses.

1555 **SECTION 35.** Section 99-19-73, Mississippi Code of 1972, is  
1556 amended as follows:

1557 99-19-73. (1) **Traffic violations.** In addition to any  
1558 monetary penalties and any other penalties imposed by law, there  
1559 shall be imposed and collected the following state assessment from  
1560 each person upon whom a court imposes a fine or other penalty for  
1561 any violation in Title 63, Mississippi Code of 1972, except  
1562 offenses relating to the Mississippi Implied Consent Law (Section  
1563 63-11-1 et seq.) and offenses relating to vehicular parking or  
1564 registration:

1565 FUND AMOUNT



1566 State Court Education Fund..... [Deleted]

1567 State Prosecutor Education Fund..... [Deleted]

1568 Vulnerable Persons Training,  
1569       Investigation and Prosecution Trust Fund..... [Deleted]

1570 Child Support Prosecution Trust Fund..... [Deleted]

1571 Driver Training Penalty Assessment Fund..... [Deleted]

1572 Law Enforcement Officers Training Fund..... [Deleted]

1573 Spinal Cord and Head Injury Trust Fund  
1574       (for all moving violations)..... [Deleted]

1575 Emergency Medical Services Operating Fund..... [Deleted]

1576 Mississippi Leadership Council on Aging Fund..... [Deleted]

1577 Law Enforcement Officers and Fire Fighters  
1578       Death Benefits Trust Fund..... [Deleted]

1579 Law Enforcement Officers and Fire Fighters  
1580       Disability Benefits Trust Fund..... [Deleted]

1581 State Prosecutor Compensation Fund for the purpose  
1582       of providing additional compensation for  
1583       district attorneys and their legal assistants..... [Deleted]

1584 Crisis Intervention Mental Health Fund..... [Deleted]

1585 \* \* \* ~~Drug~~ Intervention Court Fund..... [Deleted]

1586 Judicial Performance Fund..... [Deleted]

1587 Capital Defense Counsel Fund..... [Deleted]

1588 Indigent Appeals Fund..... [Deleted]

1589 Capital Post-Conviction Counsel Fund..... [Deleted]

1590 Victims of Domestic Violence Fund..... [Deleted]





1591 Public Defenders Education Fund.....[Deleted]  
 1592 Domestic Violence Training Fund.....[Deleted]  
 1593 Attorney General's Cyber Crime Unit.....[Deleted]  
 1594 Children's Safe Center Fund.....[Deleted]  
 1595 DuBard School for Language Disorders Fund.....[Deleted]  
 1596 Children's Advocacy Centers Fund.....[Deleted]  
 1597 Judicial System Operation Fund.....[Deleted]  
 1598 GENERAL FUND.....\$ 90.50

1599 (2) **Implied Consent Law violations.** In addition to any  
 1600 monetary penalties and any other penalties imposed by law, there  
 1601 shall be imposed and collected the following state assessment from  
 1602 each person upon whom a court imposes a fine or any other penalty  
 1603 for any violation of the Mississippi Implied Consent Law (Section  
 1604 63-11-1 et seq.):

FUND	AMOUNT
1606 Crime Victims' Compensation Fund.....	[Deleted]
1607 State Court Education Fund.....	[Deleted]
1608 State Prosecutor Education Fund.....	[Deleted]
1609 Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	[Deleted]
1611 Child Support Prosecution Trust Fund.....	[Deleted]
1612 Driver Training Penalty Assessment Fund.....	[Deleted]
1613 Law Enforcement Officers Training Fund.....	[Deleted]
1614 Emergency Medical Services Operating Fund.....	[Deleted]
1615 Mississippi Alcohol Safety Education Program Fund.....	[Deleted]



1616 Federal-State Alcohol Program Fund.....[Deleted]

1617 Mississippi Forensics Laboratory

1618       Implied Consent Law Fund.....[Deleted]

1619 Spinal Cord and Head Injury Trust Fund.....[Deleted]

1620 Capital Defense Counsel Fund.....[Deleted]

1621 Indigent Appeals Fund.....[Deleted]

1622 Capital Post-Conviction Counsel Fund.....[Deleted]

1623 Victims of Domestic Violence Fund.....[Deleted]

1624 Law Enforcement Officers and Fire Fighters

1625       Death Benefits Trust Fund.....[Deleted]

1626 Law Enforcement Officers and Fire Fighters

1627       Disability Benefits Trust Fund.....[Deleted]

1628 State Prosecutor Compensation Fund for the purpose

1629       of providing additional compensation for

1630       district attorneys and their legal assistants.....[Deleted]

1631 Crisis Intervention Mental Health Fund.....[Deleted]

1632   \* \* \*~~Drug~~ Intervention Court Fund.....[Deleted]

1633 Statewide Victims' Information and

1634       Notification System Fund.....[Deleted]

1635 Public Defenders Education Fund.....[Deleted]

1636 Domestic Violence Training Fund.....[Deleted]

1637 Attorney General's Cyber Crime Unit.....[Deleted]

1638       GENERAL FUND.....\$ 243.50

1639       (3) **Game and Fish Law violations.** In addition to any

1640 monetary penalties and any other penalties imposed by law, there



1641 shall be imposed and collected the following state assessment from  
1642 each person upon whom a court imposes a fine or other penalty for  
1643 any violation of the game and fish statutes or regulations of this  
1644 state:

1645	FUND	AMOUNT
1646	State Court Education Fund.....	[Deleted]
1647	State Prosecutor Education Fund.....	[Deleted]
1648	Vulnerable Persons Training, 1649 Investigation and Prosecution Trust Fund.....	[Deleted]
1650	Law Enforcement Officers Training Fund.....	[Deleted]
1651	Hunter Education and Training Program Fund.....	[Deleted]
1652	Law Enforcement Officers and Fire Fighters 1653 Death Benefits Trust Fund.....	[Deleted]
1654	Law Enforcement Officers and Fire Fighters 1655 Disability Benefits Trust Fund.....	[Deleted]
1656	State Prosecutor Compensation Fund for the purpose 1657 of providing additional compensation for district 1658 attorneys and their legal assistants.....	[Deleted]
1659	Crisis Intervention Mental Health Fund.....	[Deleted]
1660	* * * <del>Drug</del> <u>Intervention</u> Court Fund.....	[Deleted]
1661	Capital Defense Counsel Fund.....	[Deleted]
1662	Indigent Appeals Fund.....	[Deleted]
1663	Capital Post-Conviction Counsel Fund.....	[Deleted]
1664	Victims of Domestic Violence Fund.....	[Deleted]
1665	Public Defenders Education Fund.....	[Deleted]



1666 Domestic Violence Training Fund.....[Deleted]  
1667 Attorney General's Cyber Crime Unit.....[Deleted]  
1668 GENERAL FUND.....\$ 89.00

1669 (4) [Deleted]

1670 (5) **Speeding, reckless and careless driving violations.** In  
1671 addition to any assessment imposed under subsection (1) or (2) of  
1672 this section, there shall be imposed and collected the following  
1673 state assessment from each person upon whom a court imposes a fine  
1674 or other penalty for driving a vehicle on a road or highway:

1675 (a) At a speed that exceeds the posted speed limit by  
1676 at least ten (10) miles per hour but not more than twenty (20)  
1677 miles per hour.....\$10.00

1678 (b) At a speed that exceeds the posted speed limit by  
1679 at least twenty (20) miles per hour but not more than thirty (30)  
1680 miles per hour.....\$20.00

1681 (c) At a speed that exceeds the posted speed limit by  
1682 thirty (30) miles per hour or more.....\$30.00

1683 (d) In violation of Section 63-3-1201, which is the  
1684 offense of reckless driving.....\$10.00

1685 (e) In violation of Section 63-3-1213, which is the  
1686 offense of careless driving.....\$10.00

1687 All assessments collected under this subsection shall be  
1688 deposited into the State General Fund.

1689 (6) **Other misdemeanors.** In addition to any monetary  
1690 penalties and any other penalties imposed by law, there shall be

1691 imposed and collected the following state assessment from each  
1692 person upon whom a court imposes a fine or other penalty for any  
1693 misdemeanor violation not specified in subsection (1), (2) or (3)  
1694 of this section, except offenses relating to vehicular parking or  
1695 registration:

1696	FUND	AMOUNT
1697	Crime Victims' Compensation Fund.....	[\$Deleted]
1698	State Court Education Fund.....	[Deleted]
1699	State Prosecutor Education Fund.....	[Deleted]
1700	Vulnerable Persons Training, Investigation	
1701	and Prosecution Trust Fund.....	[Deleted]
1702	Child Support Prosecution Trust Fund.....	[Deleted]
1703	Law Enforcement Officers Training Fund.....	[Deleted]
1704	Capital Defense Counsel Fund.....	[Deleted]
1705	Indigent Appeals Fund.....	[Deleted]
1706	Capital Post-Conviction Counsel Fund.....	[Deleted]
1707	Victims of Domestic Violence Fund.....	[Deleted]
1708	State Crime Stoppers Fund.....	[Deleted]
1709	Law Enforcement Officers and Fire Fighters	
1710	Death Benefits Trust Fund.....	[Deleted]
1711	Law Enforcement Officers and Fire Fighters	
1712	Disability Benefits Trust Fund.....	[Deleted]
1713	State Prosecutor Compensation Fund for the purpose	
1714	of providing additional compensation for	
1715	district attorneys and their legal assistants.....	[Deleted]



1716 Crisis Intervention Mental Health Fund.....[Deleted]

1717 \* \* \*~~Drug~~ Intervention Court Fund.....[Deleted]

1718 Judicial Performance Fund.....[Deleted]

1719 Statewide Victims' Information and

1720 Notification System Fund.....[Deleted]

1721 Public Defenders Education Fund.....[Deleted]

1722 Domestic Violence Training Fund.....[Deleted]

1723 Attorney General's Cyber Crime Unit.....[Deleted]

1724 Information Exchange Network Fund.....[Deleted]

1725 Motorcycle Officer Training Fund.....[Deleted]

1726 Civil Legal Assistance Fund.....[Deleted]

1727 Justice Court Collections Fund.....[Deleted]

1728 Municipal Court Collections Fund.....[Deleted]

1729 GENERAL FUND.....\$121.75

1730 (7) **Other felonies.** In addition to any monetary penalties

1731 and any other penalties imposed by law, there shall be imposed and

1732 collected the following state assessment from each person upon

1733 whom a court imposes a fine or other penalty for any felony

1734 violation not specified in subsection (1), (2) or (3) of this

1735 section:

1736 FUND	AMOUNT
1737 Crime Victims' Compensation Fund.....	\$[Deleted]
1738 State Court Education Fund.....	[Deleted]
1739 State Prosecutor Education Fund.....	[Deleted]
1740 Vulnerable Persons Training, Investigation	



1741 and Prosecution Trust Fund.....[Deleted]

1742 Child Support Prosecution Trust Fund.....[Deleted]

1743 Law Enforcement Officers Training Fund.....[Deleted]

1744 Capital Defense Counsel Fund.....[Deleted]

1745 Indigent Appeals Fund.....[Deleted]

1746 Capital Post-Conviction Counsel Fund.....[Deleted]

1747 Victims of Domestic Violence Fund.....[Deleted]

1748 Criminal Justice Fund.....[Deleted]

1749 Law Enforcement Officers and Fire Fighters

1750 Death Benefits Trust Fund.....[Deleted]

1751 Law Enforcement Officers and Fire Fighters

1752 Disability Benefits Trust Fund.....[Deleted]

1753 State Prosecutor Compensation Fund for the purpose

1754 of providing additional compensation for

1755 district attorneys and their legal assistants.....[Deleted]

1756 Crisis Intervention Mental Health Fund.....[Deleted]

1757 \* \* \*~~Drug~~ Intervention Court Fund.....[Deleted]

1758 Statewide Victims' Information and

1759 Notification System Fund.....[Deleted]

1760 Public Defenders Education Fund.....[Deleted]

1761 Domestic Violence Training Fund.....[Deleted]

1762 Attorney General's Cyber Crime Unit.....[Deleted]

1763 Forensics Laboratory DNA Identification System Fund.....[Deleted]

1764 GENERAL FUND.....\$280.50

1765 (8) **Additional assessments on certain violations:**



1766 (a) **Railroad crossing violations.** In addition to any  
1767 monetary penalties and any other penalties imposed by law, there  
1768 shall be imposed and collected the following state assessment in  
1769 addition to all other state assessments due under this section  
1770 from each person upon whom a court imposes a fine or other penalty  
1771 for any violation involving railroad crossings under Section  
1772 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013 or 77-9-249:

1773 Operation Lifesaver Fund.....\$25.00

1774 (b) **Drug violations.** In addition to any monetary  
1775 penalties and any other penalties imposed by law, there shall be  
1776 imposed and collected the following state assessment in addition  
1777 to all other state assessments due under this section from each  
1778 person upon whom a court imposes a fine or other penalty for any  
1779 violation of Section 41-29-139:

1780 Drug Evidence Disposition Fund.....\$25.00

1781 (c) **Motor vehicle liability insurance violations.** In  
1782 addition to any monetary penalties and any other penalties imposed  
1783 by law, there shall be imposed and collected the following state  
1784 assessment in addition to all other state assessments due under  
1785 this section from each person upon whom a court imposes a fine or  
1786 other penalty for any violation of Section 63-15-4(4) or Section  
1787 63-16-13(1):

1788 Uninsured Motorist Identification Fund:

1789 First offense.....\$200.00

1790 Second offense.....\$300.00





1791 Third or subsequent offense.....\$400.00

1792 (9) If a fine or other penalty imposed is suspended, in  
1793 whole or in part, such suspension shall not affect the state  
1794 assessment under this section. No state assessment imposed under  
1795 the provisions of this section may be suspended or reduced by the  
1796 court.

1797 (10) (a) After a determination by the court of the amount  
1798 due, it shall be the duty of the clerk of the court to promptly  
1799 collect all state assessments imposed under the provisions of this  
1800 section. The state assessments imposed under the provisions of  
1801 this section may not be paid by personal check.

1802 (b) It shall be the duty of the chancery clerk of each  
1803 county to deposit all state assessments collected in the circuit,  
1804 county and justice courts in the county on a monthly basis with  
1805 the State Treasurer pursuant to appropriate procedures established  
1806 by the State Auditor. The chancery clerk shall make a monthly  
1807 lump-sum deposit of the total state assessments collected in the  
1808 circuit, county and justice courts in the county under this  
1809 section, and shall report to the Department of Finance and  
1810 Administration the total number of violations under each  
1811 subsection for which state assessments were collected in the  
1812 circuit, county and justice courts in the county during that  
1813 month.

1814 (c) It shall be the duty of the municipal clerk of each  
1815 municipality to deposit all the state assessments collected in the



1816 municipal court in the municipality on a monthly basis with the  
1817 State Treasurer pursuant to appropriate procedures established by  
1818 the State Auditor. The municipal clerk shall make a monthly  
1819 lump-sum deposit of the total state assessments collected in the  
1820 municipal court in the municipality under this section, and shall  
1821 report to the Department of Finance and Administration the total  
1822 number of violations under each subsection for which state  
1823 assessments were collected in the municipal court in the  
1824 municipality during that month.

1825 (11) It shall be the duty of the Department of Finance and  
1826 Administration to deposit on a monthly basis all state assessments  
1827 into the State General Fund or proper special fund in the State  
1828 Treasury. The Department of Finance and Administration shall  
1829 issue regulations providing for the proper allocation of these  
1830 funds.

1831 (12) The State Auditor shall establish by regulation  
1832 procedures for refunds of state assessments, including refunds  
1833 associated with assessments imposed before July 1, 1990, and  
1834 refunds after appeals in which the defendant's conviction is  
1835 reversed. The Auditor shall provide in the regulations for  
1836 certification of eligibility for refunds and may require the  
1837 defendant seeking a refund to submit a verified copy of a court  
1838 order or abstract by which the defendant is entitled to a refund.  
1839 All refunds of state assessments shall be made in accordance with  
1840 the procedures established by the Auditor.



1841           **SECTION 36.** Section 63-1-51, Mississippi Code of 1972, is  
1842 amended as follows:

1843           63-1-51. (1) It shall be the duty of the court clerk, upon  
1844 conviction of any person holding a license issued pursuant to this  
1845 article where the penalty for a traffic violation is as much as  
1846 Ten Dollars (\$10.00), to mail a copy of abstract of the court  
1847 record or provide an electronically or computer generated copy of  
1848 abstract of the court record immediately to the commissioner at  
1849 Jackson, Mississippi, showing the date of conviction, penalty,  
1850 etc., so that a record of same may be made by the Department of  
1851 Public Safety. The commissioner shall forthwith revoke the  
1852 license of any person for a period of one (1) year upon receiving  
1853 a duly certified record of each person's convictions of any of the  
1854 following offenses when such conviction has become final:

1855           (a) Manslaughter or negligent homicide resulting from  
1856 the operation of a motor vehicle;

1857           (b) Any felony in the commission of which a motor  
1858 vehicle is used;

1859           (c) Failure to stop and render aid as required under  
1860 the laws of this state in event of a motor vehicle accident  
1861 resulting in the death or personal injury of another;

1862           (d) Perjury or the willful making of a false affidavit  
1863 or statement under oath to the department under this article or  
1864 under any other law relating to the ownership or operation of  
1865 motor vehicles; or



1866 (e) Conviction, or forfeiture of bail not vacated, upon  
1867 three (3) charges of reckless driving committed within a period of  
1868 twelve (12) months \* \* \*.

1869 \* \* \* ~~(f) Contempt for failure to pay a fine or fee or~~  
1870 ~~to respond to a summons or citation pursuant to a charge of a~~  
1871 ~~violation of this title.~~

1872 (2) The commissioner shall revoke the license issued  
1873 pursuant to this article of any person convicted of negligent  
1874 homicide, in addition to any penalty now provided by law.

1875 (3) In addition to the reasons specified in this section,  
1876 the commissioner shall be authorized to suspend the license issued  
1877 to any person pursuant to this article for being out of compliance  
1878 with an order for support, as defined in Section 93-11-153. The  
1879 procedure for suspension of a license for being out of compliance  
1880 with an order for support, and the procedure for the reissuance or  
1881 reinstatement of a license suspended for that purpose, and the  
1882 payment of any fees for the reissuance or reinstatement of a  
1883 license suspended for that purpose, shall be governed by Section  
1884 93-11-157 or 93-11-163, as the case may be. If there is any  
1885 conflict between any provision of Section 93-11-157 or 93-11-163  
1886 and any provision of this article, the provisions of Section  
1887 93-11-157 or 93-11-163, as the case may be, shall control.

1888 **SECTION 37.** Section 63-1-53, Mississippi Code of 1972, is  
1889 amended as follows:



1890           63-1-53. (1) \* \* \* ~~Upon failure of any person to respond~~  
1891 ~~timely and properly to a summons or citation charging such person~~  
1892 ~~with any violation of this title, or Upon failure of any person to~~  
1893 ~~pay timely any fine, fee or assessment levied as a result of any~~  
1894 ~~violation of this title, the clerk of the court shall give written~~  
1895 ~~notice to such person by United States first-class mail at his~~  
1896 ~~last known address advising such person that, if within \* \* \*~~ten~~~~  
1897 ~~(10) ninety (90) days after such notice is deposited in the mail,~~  
1898 ~~the person \* \* \*~~has not properly responded to the summons or~~~~  
1899 ~~citation or has not paid the entire amount of all fines, fees and~~  
1900 ~~assessments levied, then the court will \* \* \*~~give notice thereof~~~~  
1901 ~~to the Commissioner of Public Safety and the commissioner may~~  
1902 ~~suspend the driver's license of such person. The actual cost~~  
1903 ~~incurred by the court in the giving of such notice may be added to~~  
1904 ~~any other court costs assessed in such case. If within ten (10)~~  
1905 ~~days after the notice is given in accordance with this subsection~~  
1906 ~~such person has not satisfactorily disposed of the matter pending~~  
1907 ~~before the court, then the clerk of the court immediately shall~~  
1908 ~~mail a copy of the abstract of the court record, along with a~~  
1909 ~~certified copy of the notice given under this subsection, to the~~  
1910 ~~commissioner, and the commissioner may suspend the driver's~~  
1911 ~~license of such person as authorized under subsections (2) and (3)~~  
1912 ~~of this section pursue collection as for any other delinquent~~  
1913 ~~payment, and shall be entitled to collection of all additional~~  
1914 ~~fees in accordance with subsection (4) of this section.~~



1915 (2) The commissioner is hereby authorized to suspend the  
1916 license of an operator without preliminary hearing upon a showing  
1917 by his records or other sufficient evidence that the licensee:

1918 (a) Has committed an offense for which mandatory  
1919 revocation of license is required upon conviction except under the  
1920 provisions of the Mississippi Implied Consent Law;

1921 (b) Has been involved as a driver in any accident  
1922 resulting in the death or personal injury of another or serious  
1923 property damage;

1924 (c) Is an habitually reckless or negligent driver of a  
1925 motor vehicle;

1926 (d) Has been convicted with such frequency of serious  
1927 offenses against traffic regulations governing the movement of  
1928 vehicles as to indicate a disrespect for traffic laws and a  
1929 disregard for the safety of other persons on the highways;

1930 (e) Is incompetent to drive a motor vehicle;

1931 (f) Has permitted an unlawful or fraudulent use of such  
1932 license;

1933 (g) Has committed an offense in another state which if  
1934 committed in this state would be grounds for suspension or  
1935 revocation; or

1936 (h) \* \* \* ~~Has failed to pay any fine, fee or other~~  
1937 ~~assessment levied as a result of any violation of this title;~~

1938 ~~\_\_\_\_\_ (i) Has failed to respond to a summons or citation~~  
1939 ~~which charged a violation of this title; or~~



1940 ~~—————(j)——~~ Has committed a violation for which mandatory  
1941 revocation of license is required upon conviction, entering a plea  
1942 of nolo contendere to, or adjudication of delinquency, pursuant to  
1943 the provisions of subsection (1) of Section 63-1-71.

1944 (3) Notice that a person's license is suspended or will be  
1945 suspended under subsection (2) of this section shall be given by  
1946 the commissioner in the manner and at the time provided for under  
1947 Section 63-1-52, and upon such person's request, he shall be  
1948 afforded an opportunity for a hearing as early as practicable, but  
1949 not to exceed twenty (20) days after receipt of such request in  
1950 the county wherein the licensee resides unless the department and  
1951 the licensee agree that such hearing may be held in some other  
1952 county. Upon such hearing the commissioner, or his duly  
1953 authorized agent, may administer oaths and may issue subpoenas for  
1954 the attendance of witnesses and the production of relevant books  
1955 and papers and may require a reexamination of the licensee. Upon  
1956 such hearing the commissioner shall either rescind any order of  
1957 suspension or, good cause appearing therefor, may extend any  
1958 suspension of such license or revoke such license.

1959 (4) If a licensee has not paid all cash appearance bonds  
1960 authorized under Section 99-19-3 or all fines, fees or other  
1961 assessments levied as a result of a violation of this title within  
1962 ninety (90) days \* \* \*~~after the commissioner has suspended the~~  
1963 ~~license of a person under subsection (2) (i) of this section of~~  
1964 receiving notice of the licensee's failure to pay all fines, fees



1965 or other assessments as provided in subsection (1) of this  
1966 section, the court is authorized to pursue collection under  
1967 Section 21-17-1(6) or 19-3-41(2) as for any other delinquent  
1968 payment, and shall be entitled to collection of all additional  
1969 fees authorized under those sections.

1970 **SECTION 38.** Section 63-1-52, Mississippi Code of 1972, is  
1971 amended as follows:

1972 63-1-52. (1) Whenever the Commissioner of Public Safety  
1973 suspends, cancels or revokes the driver's license or driving  
1974 privileges of any person, notice of the suspension, cancellation  
1975 or revocation shall be given to such person by the commissioner,  
1976 or his duly authorized agent, in the manner provided in subsection  
1977 (2) of this section and at the time provided in subsection (3) of  
1978 this section or in the manner and at the time provided in  
1979 subsection (4) of this section.

1980 (2) Notice shall be given in the following manner:

1981 (a) In writing, (i) by United States Certificate of  
1982 Mail; or (ii) by personal service at the person's address as it  
1983 appears on the driving record maintained by the Department of  
1984 Public Safety or at the person's last-known address; or (iii) by  
1985 personal notice being given by any law enforcement officer of this  
1986 state or any duly authorized agent of the Commissioner of Public  
1987 Safety on forms prescribed and furnished by the Commissioner of  
1988 Public Safety; whenever a person's driver's license or driving  
1989 privileges are suspended, revoked or cancelled in accordance with





1990 the Mississippi Driver License Compact Law, the Mississippi  
1991 Implied Consent Law, the Mississippi Motor Vehicle Safety  
1992 Responsibility Law or \* \* \*~~paragraphs~~ subsection (2) (c), (2) (d),  
1993 (2) (e) or (2) (f) of Section 63-1-53.

1994 (b) In writing, by United States first class mail,  
1995 whenever a person's driver's license or driving privileges are  
1996 suspended, revoked or cancelled in accordance with the Mississippi  
1997 Commercial Driver's License Law, the Youth Court Law, Chapter 23  
1998 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section  
1999 63-1-51, \* \* \*~~paragraph~~ subsection (2) (g), (2) (h) or (2) (i) of  
2000 Section 63-1-53 or Section 63-9-25.

2001 (3) Notice shall be given at the following time:

2002 (a) Before suspension, revocation or cancellation,  
2003 whenever a person's driver's license or driving privileges are  
2004 suspended, revoked or cancelled in accordance with the Mississippi  
2005 Driver License Compact Law, the Mississippi Motor Vehicle Safety  
2006 Responsibility Law or \* \* \*~~paragraph~~ subsection (2) (c), (2) (d),  
2007 (2) (e) or (2) (f) of Section 63-1-53.

2008 (b) Unless otherwise specifically provided for by law,  
2009 at the time of suspension, revocation or cancellation, whenever a  
2010 person's driver's license or driving privileges are suspended,  
2011 revoked or cancelled in accordance with the Mississippi Commercial  
2012 Driver's License Law, the Mississippi Implied Consent Law, the  
2013 Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972,  
2014 Section 63-1-45, Section 63-1-51, \* \* \*~~paragraph~~ subsection



2015 (2) (g) \* \* \*, ~~(2) (h) or (2) (i)~~ of Section 63-1-53 or Section  
2016 63-9-25.

2017 (4) Whenever the Commissioner of Public Safety suspends,  
2018 revokes or cancels the driver's license or driving privileges of  
2019 any person in accordance with some provision of law other than a  
2020 provision of law referred to in subsections (2) and (3) of this  
2021 section, and the manner and time for giving notice is not provided  
2022 for in such law, then notice of such suspension, revocation or  
2023 cancellation shall be given in the manner and at the time provided  
2024 for under \* \* \* ~~paragraph~~ subsections (2) (b) and (3) (b) of this  
2025 section.

2026 **SECTION 39.** Section 63-1-71, Mississippi Code of 1972, is  
2027 amended as follows:

2028 63-1-71. (1) \* \* \* ~~In addition to any penalty authorized by~~  
2029 ~~the Uniform Controlled Substances Law or any other statute~~  
2030 ~~indicating the dispositions that can be ordered for an~~  
2031 ~~adjudication of delinquency, every person convicted of, or~~  
2032 ~~entering a plea of nolo contendere to, or adjudicated delinquent~~  
2033 ~~in a court of this state for a violation of any offense defined in~~  
2034 ~~the Uniform Controlled Substances Law, and every person convicted~~  
2035 ~~of, or entering a plea of nolo contendere to, or adjudicated~~  
2036 ~~delinquent under the laws of the United States, another state, a~~  
2037 ~~territory or possession of the United States, the District of~~  
2038 ~~Columbia or the Commonwealth of Puerto Rico of a violation for the~~  
2039 ~~use, distribution, possession, manufacture, sale, barter, transfer~~



2040 ~~or dispensing of a "controlled substance," "counterfeit~~  
2041 ~~substance," "narcotic drug" or "drug," as such terms are defined~~  
2042 ~~under Section 41-29-105, shall forthwith forfeit his right to~~  
2043 ~~operate a motor vehicle over the highways of this state for a~~  
2044 ~~period of six (6) months.~~ Notwithstanding the provisions of  
2045 Section 63-11-30(2) (a) and in addition to any penalty authorized  
2046 by the Uniform Controlled Substances Law or any other statute  
2047 indicating the dispositions that can be ordered for an  
2048 adjudication of delinquency, every person convicted of driving  
2049 under the influence of a controlled substance, or entering a plea  
2050 of nolo contendere thereto, or adjudicated delinquent therefor, in  
2051 a court of this state, and every person convicted of driving under  
2052 the influence of a controlled substance, or entering a plea of  
2053 nolo contendere thereto, or adjudicated delinquent therefor, under  
2054 the laws of the United States, another state, a territory or  
2055 possession of the United States, the District of Columbia or the  
2056 Commonwealth of Puerto Rico, shall forthwith forfeit his right to  
2057 operate a motor vehicle over the highways of this state for a  
2058 period of not less than six (6) months. In the case of any person  
2059 who at the time of the imposition of sentence does not have a  
2060 driver's license or is less than fifteen (15) years of age, the  
2061 period of the suspension of driving privileges authorized herein  
2062 shall commence on the day the sentence is imposed and shall run  
2063 for a period of not less than six (6) months after the day the  
2064 person obtains a driver's license or reaches the age of fifteen



2065 (15) years. If the driving privilege of any person is under  
2066 revocation or suspension at the time of any conviction or  
2067 adjudication of delinquency for \* \* \*~~a violation of any offense~~  
2068 ~~defined in the Uniform Controlled Substances Law~~ driving under the  
2069 influence of a controlled substance, the revocation or suspension  
2070 period imposed herein shall commence as of the date of termination  
2071 of the existing revocation or suspension.

2072 (2) The court in this state before whom any person is  
2073 convicted of or adjudicated delinquent for \* \* \*~~a violation of an~~  
2074 ~~offense under subsection (1) of this section~~ driving under the  
2075 influence of a controlled substance shall collect forthwith the  
2076 Mississippi driver's license of the person and forward such  
2077 license to the Department of Public Safety along with a report  
2078 indicating the first and last day of the suspension or revocation  
2079 period imposed pursuant to this section. If the court is for any  
2080 reason unable to collect the license of the person, the court  
2081 shall cause a report of the conviction or adjudication of  
2082 delinquency to be filed with the Commissioner of Public Safety.  
2083 That report shall include the complete name, address, date of  
2084 birth, eye color and sex of the person and shall indicate the  
2085 first and last day of the suspension or revocation period imposed  
2086 by the court pursuant to this section. The court shall inform the  
2087 person orally and in writing that if the person is convicted of  
2088 personally operating a motor vehicle during the period of license  
2089 suspension or revocation imposed pursuant to this section, the



2090 person shall, upon conviction, be subject to the penalties set  
2091 forth in Section 63-11-40. A person shall be required to  
2092 acknowledge receipt of the written notice in writing. Failure to  
2093 receive a written notice or failure to acknowledge in writing the  
2094 receipt of a written notice shall not be a defense to a subsequent  
2095 charge of a violation of Section 63-11-40. If the person is the  
2096 holder of a driver's license from another jurisdiction, the court  
2097 shall not collect the license but shall notify forthwith the  
2098 Commissioner of Public Safety who shall notify the appropriate  
2099 officials in the licensing jurisdiction. The court shall,  
2100 however, in accordance with the provisions of this section, revoke  
2101 the person's nonresident driving privilege in this state.

2102 (3) The county court or circuit court having jurisdiction,  
2103 on petition, may reduce the suspension of driving privileges under  
2104 this section if the denial of which would constitute a hardship on  
2105 the offender. When the petition is filed, such person shall pay  
2106 to the circuit clerk of the court where the petition is filed a  
2107 fee of Twenty Dollars (\$20.00) for each year, or portion thereof,  
2108 of license revocation or suspension remaining under the original  
2109 sentence, which shall be deposited into the State General Fund to  
2110 the credit of a special fund hereby created in the State Treasury  
2111 to be used for alcohol or drug abuse treatment and education, upon  
2112 appropriation by the Legislature. This fee shall be in addition  
2113 to any other court costs or fees required for the filing of  
2114 petitions.



2115           **SECTION 40.** Section 63-1-46, Mississippi Code of 1972, is  
2116 amended as follows:

2117           63-1-46. (1) (a) Except as otherwise provided in this  
2118 section, a fee of One Hundred Dollars (\$100.00) shall be charged  
2119 for the reinstatement of a license issued under this article to  
2120 every person whose license has been validly suspended, revoked or  
2121 cancelled.

2122                   (b) The funds received under the provisions of this  
2123 subsection shall be distributed as follows:

2124                           (i) Twenty-five Dollars (\$25.00) shall be  
2125 deposited into the State General Fund in accordance with Section  
2126 45-1-23;

2127                           (ii) Twenty-five Dollars (\$25.00) shall be paid to  
2128 the Board of Trustees of the Public Employees' Retirement System  
2129 for funding the Mississippi Highway Safety Patrol Retirement  
2130 System as provided under Section 25-13-7;

2131                           (iii) Twenty-five Dollars (\$25.00) shall be  
2132 deposited into the special fund created in Section 63-1-45(3) for  
2133 purchases of equipment by the Mississippi Highway Safety Patrol;  
2134 and

2135                           (iv) Twenty-five Dollars (\$25.00) shall be  
2136 deposited into the Interlock Device Fund created in Section  
2137 63-11-33.

2138           (2) (a) A fee of One Hundred Seventy-five Dollars (\$175.00)  
2139 shall be charged for the reinstatement of a license issued under



2140 this article to every person whose license has been validly  
2141 suspended or revoked under the provisions of the Mississippi  
2142 Implied Consent Law or as a result of a conviction of \* \* \*~~a~~  
2143 ~~violation of the Uniform Controlled Substances Law~~ driving under  
2144 the influence of a controlled substance under the provisions of  
2145 Section 63-1-71.

2146 (b) The funds received under the provisions of this  
2147 subsection shall be distributed as follows:

2148 (i) One Hundred Dollars (\$100.00) shall be  
2149 deposited into the State General Fund in accordance with Section  
2150 45-1-23;

2151 (ii) Twenty-five Dollars (\$25.00) shall be paid to  
2152 the Board of Trustees of the Public Employees' Retirement System  
2153 for funding the Mississippi Highway Safety Patrol Retirement  
2154 System as provided under Section 25-13-7;

2155 (iii) Twenty-five Dollars (\$25.00) shall be  
2156 deposited into the special fund created in Section 63-1-45(3) for  
2157 purchases of equipment by the Mississippi Highway Safety Patrol;  
2158 and

2159 (iv) Twenty-five Dollars (\$25.00) shall be  
2160 deposited into the Interlock Device Fund created in Section  
2161 63-11-33.

2162 (3) (a) A fee of Twenty-five Dollars (\$25.00) shall be  
2163 charged for the reinstatement of a license issued under this  
2164 article to every person whose license has been validly suspended



2165 for nonpayment of child support under the provisions of Sections  
2166 93-11-151 through 93-11-163. The funds received under the  
2167 provisions of this subsection shall be deposited into the State  
2168 General Fund in accordance with Section 45-1-23.

2169 (b) The procedure for the reinstatement of a license  
2170 issued under this article that has been suspended for being out of  
2171 compliance with an order for support, as defined in Section  
2172 93-11-153, and the payment of any fees for the reinstatement of a  
2173 license suspended for that purpose, shall be governed by Section  
2174 93-11-157 or 93-11-163, as the case may be.

2175 (4) A fee of Twenty-five Dollars (\$25.00) will be charged  
2176 for the reinstatement of a license that was suspended due to  
2177 payment by a draft or other instrument that is dishonored by the  
2178 payor.

2179 (5) All reinstatement fees charged under this section shall  
2180 be in addition to the fees prescribed in Section 63-1-43.

2181 **SECTION 41.** Section 99-19-71, Mississippi Code of 1972, is  
2182 amended as follows:

2183 99-19-71. (1) Any person who has been convicted of a  
2184 misdemeanor \* \* \* ~~that is not a traffic violation~~, and who is a  
2185 first offender, may petition the justice, county, circuit or  
2186 municipal court in which the conviction was had for an order to  
2187 expunge any such conviction from all public records.

2188 (2) (a) Except as otherwise provided in this  
2189 subsection, \* \* \* Any a person who has been convicted of \* \* \* ~~one~~





2190 ~~(1) of the following felonies~~ a felony may petition the court in  
2191 which the conviction was had for an order to expunge one (1)  
2192 conviction from all public records five (5) years after the  
2193 successful completion of all terms and conditions of the sentence  
2194 for the conviction \* \* \*: ~~a bad check offense under Section~~  
2195 ~~97-19-55; possession of a controlled substance or paraphernalia~~  
2196 ~~under Section 41-29-139(c) or (d); false pretense under Section~~  
2197 ~~97-19-39; larceny under Section 97-17-41; malicious mischief under~~  
2198 ~~Section 97-17-67; or shoplifting under Section 97-23-93~~ upon a  
2199 hearing as determined in the discretion of the court; however,  
2200 eligibility for expunction shall not apply to a felony classified  
2201 as a:

- 2202 (i) Crime of violence as provided in 97-3-2;  
2203 (ii) Arson, first degree as provided in Sections  
2204 97-17-1 and 97-17-13;  
2205 (iii) Trafficking in controlled substances as  
2206 provided in Section 41-29-139;  
2207 (iv) Third, fourth and subsequent offense DUI as  
2208 provided in Section 63-11-30(c) and (4);  
2209 (v) Felon in possession of a firearm as provided  
2210 in Section 97-35-5;  
2211 (vi) Failure to register as a sex offender as  
2212 provided in Section 43-33-33;  
2213 (vii) Voyeurism as provided in Section 97-29-61;  
2214 or



2215 (viii) Witness intimidation as provided in Section  
2216 97-9-113.

2217 A person is eligible for only one (1) felony expunction under  
2218 this paragraph. For purpose of section, the terms "one (1)  
2219 conviction" and "one (1) felony expunction" means and shall  
2220 include all convictions that arose from a common nucleus of  
2221 operative facts as determined in the discretion of the court.

2222 ~~\* \* \*(b) Any person who was under the age of twenty-one (21)~~  
2223 ~~years when he committed a felony may petition the court in which~~  
2224 ~~the conviction was had for an order to expunge one (1) conviction~~  
2225 ~~from all public records five (5) years after the successful~~  
2226 ~~completion of all terms and conditions of the sentence for the~~  
2227 ~~conviction; however, eligibility for expunction shall not apply to~~  
2228 ~~a felony classified as a crime of violence under Section 97-3-2~~  
2229 ~~and any felony that, in the determination of the circuit court, is~~  
2230 ~~related to the distribution of a controlled substance and in the~~  
2231 ~~court's discretion it should not be expunged. A person is~~  
2232 ~~eligible for only one (1) felony expunction under this paragraph.~~

2233 ( \* \* \*eb) The petitioner shall give ten (10) days'  
2234 written notice to the district attorney before any hearing on the  
2235 petition. In all cases, the court wherein the petition is filed  
2236 may grant the petition if the court determines, on the record or  
2237 in writing, that the applicant is rehabilitated from the offense  
2238 which is the subject of the petition. In those cases where the



2239 court denies the petition, the findings of the court in this  
2240 respect shall be identified specifically and not generally.

2241 (3) Upon entering an order of expunction under this section,  
2242 a nonpublic record thereof shall be retained by the Mississippi  
2243 Criminal Information Center solely for the purpose of determining  
2244 whether, in subsequent proceedings, the person is a first  
2245 offender. The order of expunction shall not preclude a district  
2246 attorney's office from retaining a nonpublic record thereof for  
2247 law enforcement purposes only. The existence of an order of  
2248 expunction shall not preclude an employer from asking a  
2249 prospective employee if the employee has had an order of  
2250 expunction entered on his behalf. The effect of the expunction  
2251 order shall be to restore the person, in the contemplation of the  
2252 law, to the status he occupied before any arrest or indictment for  
2253 which convicted. No person as to whom an expunction order has  
2254 been entered shall be held thereafter under any provision of law  
2255 to be guilty of perjury or to have otherwise given a false  
2256 statement by reason of his failure to recite or acknowledge such  
2257 arrest, indictment or conviction in response to any inquiry made  
2258 of him for any purpose other than the purpose of determining, in  
2259 any subsequent proceedings under this section, whether the person  
2260 is a first offender. A person as to whom an order has been  
2261 entered, upon request, shall be required to advise the court, in  
2262 camera, of the previous conviction and expunction in any legal  
2263 proceeding wherein the person has been called as a prospective



2264 juror. The court shall thereafter and before the selection of the  
2265 jury advise the attorneys representing the parties of the previous  
2266 conviction and expunction.

2267 (4) Upon petition therefor, a justice, county, circuit or  
2268 municipal court shall expunge the record of any case in which an  
2269 arrest was made, the person arrested was released and the case was  
2270 dismissed or the charges were dropped or there was no disposition  
2271 of such case.

2272 (5) No public official is eligible for expunction under this  
2273 section for any conviction related to his official duties.

2274 **SECTION 42.** Section 9-11-15, Mississippi Code of 1972, is  
2275 amended as follows:

2276 9-11-15. (1) Justice court judges shall hold regular terms  
2277 of their courts, at such times as they may appoint, not exceeding  
2278 two (2) and not less than one (1) in every month, at the  
2279 appropriate justice court courtroom established by the board of  
2280 supervisors; and they may continue to hold their courts from day  
2281 to day so long as business may require; and all process shall be  
2282 returnable, and all trials shall take place at such regular terms,  
2283 except where it is otherwise provided; but where the defendant is  
2284 a nonresident or transient person, and it shall be shown by the  
2285 oath of either party that a delay of the trial until the regular  
2286 term will be of material injury to him, it shall be lawful for the  
2287 judge to have the parties brought before him at any reasonable  
2288 time and hear the evidence and give judgment or where the



2289 defendant is a nonresident or transient person and the judge and  
2290 all parties agree, it shall be lawful for the judge to have the  
2291 parties brought before him on the day a citation is made and hear  
2292 the evidence and give judgment. Such court shall be a court of  
2293 record, with all the power incident to a court of record,  
2294 including power to fine in the amount of fine and length of  
2295 imprisonment as is authorized for a municipal court in Section  
2296 21-23-7(11) for contempt of court.

2297 (2) (a) In counties with a population of less than one  
2298 hundred fifty thousand (150,000), each justice court shall  
2299 designate at least one-half (1/2) day each month as a traffic  
2300 court day, sufficient to handle the traffic violations docket of  
2301 that court, and shall notify all appropriate law enforcement  
2302 agencies of the date or dates. On the day or days so designated,  
2303 the justice court shall give priority to all cases involving  
2304 traffic violations.

2305 (b) In counties with a population of one hundred fifty  
2306 thousand (150,000) or more, each justice court shall designate at  
2307 least one (1) day each month as a traffic court day, sufficient to  
2308 handle the traffic violations of that court, and shall notify all  
2309 appropriate law enforcement agencies of the date or dates. On the  
2310 day or days so designated, the justice court shall give priority  
2311 to all cases involving traffic violations. The one (1) day may be  
2312 one (1) whole day or it may be divided into half days as long as



2313 one-half (1/2) day is held in the morning and one-half (1/2) day  
2314 is held in the afternoon, in the discretion of the court.

2315 (3) The justice court may, in its discretion, upon prior  
2316 notice to the county prosecutor and upon a showing in open court  
2317 of rehabilitation, good conduct for a period of two (2) years  
2318 since the last conviction in any court and that the best interest  
2319 of society would be served, order the record of conviction of a  
2320 person of any or all misdemeanors in that court expunged, and upon  
2321 so doing, such person thereafter legally stands as though he or  
2322 she had never been convicted of the misdemeanor(s) and may  
2323 lawfully so respond to any query of prior convictions. This order  
2324 of expunction does not apply to the confidential records of law  
2325 enforcement agencies and has no effect on the driving record of a  
2326 person maintained under Title 63, Mississippi Code of 1972, or any  
2327 other provision of said Title 63.

2328 (4) Notwithstanding the provisions of subsection (3) of this  
2329 section, a person who was convicted in justice court of a  
2330 misdemeanor before reaching his twenty-third  
2331 birthday, \* \* \*~~excluding conviction for a traffic violation,~~ and  
2332 who is a first offender, may utilize the provisions of Section  
2333 99-19-71, to expunge such misdemeanor conviction.

2334 **SECTION 43.** Section 9-23-23, Mississippi Code of 1972, is  
2335 amended as follows:

2336 9-23-23. If the participant completes all requirements  
2337 imposed upon him by the drug court, including the payment of fines



2338 and fees assessed, the charge and prosecution shall be dismissed.  
2339 If the defendant or participant was sentenced at the time of entry  
2340 of plea of guilty, the successful completion of the drug court  
2341 order and other requirements of probation or suspension of  
2342 sentence will result in the record of the criminal conviction or  
2343 adjudication being expunged. However, except as otherwise  
2344 provided in Section 99-19-71, no expunction of any implied consent  
2345 violation shall be allowed.

2346         **SECTION 44.** Section 21-23-7, Mississippi Code of 1972, is  
2347 amended as follows:

2348         21-23-7. (1) The municipal judge shall hold court in a  
2349 public building designated by the governing authorities of the  
2350 municipality and may hold court every day except Sundays and legal  
2351 holidays if the business of the municipality so requires;  
2352 provided, however, the municipal judge may hold court outside the  
2353 boundaries of the municipality but not more than within a  
2354 sixty-mile radius of the municipality to handle preliminary  
2355 matters and criminal matters such as initial appearances and  
2356 felony preliminary hearings. The municipal judge may hold court  
2357 outside the boundaries of the municipality but not more than  
2358 within a one-mile radius of the municipality for any purpose. The  
2359 municipal judge shall have the jurisdiction to hear and determine,  
2360 without a jury and without a record of the testimony, all cases  
2361 charging violations of the municipal ordinances and state  
2362 misdemeanor laws made offenses against the municipality and to



2363 punish offenders therefor as may be prescribed by law. Except as  
2364 otherwise provided by law, criminal proceedings shall be brought  
2365 by sworn complaint filed in the municipal court. Such complaint  
2366 shall state the essential elements of the offense charged and the  
2367 statute or ordinance relied upon. Such complaint shall not be  
2368 required to conclude with a general averment that the offense is  
2369 against the peace and dignity of the state or in violation of the  
2370 ordinances of the municipality. He may sit as a committing court  
2371 in all felonies committed within the municipality, and he shall  
2372 have the power to bind over the accused to the grand jury or to  
2373 appear before the proper court having jurisdiction to try the  
2374 same, and to set the amount of bail or refuse bail and commit the  
2375 accused to jail in cases not bailable. The municipal judge is a  
2376 conservator of the peace within his municipality. He may conduct  
2377 preliminary hearings in all violations of the criminal laws of  
2378 this state occurring within the municipality, and any person  
2379 arrested for a violation of law within the municipality may be  
2380 brought before him for initial appearance. The municipal court  
2381 shall have jurisdiction of any case remanded to it by a circuit  
2382 court grand jury. The municipal court shall have civil  
2383 jurisdiction over actions filed pursuant to and as provided in  
2384 Title 93, Chapter 21, Mississippi Code of 1972, the Protection  
2385 from Domestic Abuse Act.

2386 (2) In the discretion of the court, where the objects of  
2387 justice would be more likely met, as an alternative to imposition





2388 or payment of fine and/or incarceration, the municipal judge shall  
2389 have the power to sentence convicted offenders to work on a public  
2390 service project where the court has established such a program of  
2391 public service by written guidelines filed with the clerk for  
2392 public record. Such programs shall provide for reasonable  
2393 supervision of the offender and the work shall be commensurate  
2394 with the fine and/or incarceration that would have ordinarily been  
2395 imposed. Such program of public service may be utilized in the  
2396 implementation of the provisions of Section 99-19-20, and public  
2397 service work thereunder may be supervised by persons other than  
2398 the sheriff.

2399 (3) The municipal judge may solemnize marriages, take oaths,  
2400 affidavits and acknowledgments, and issue orders, subpoenas,  
2401 summonses, citations, warrants for search and arrest upon a  
2402 finding of probable cause, and other such process under seal of  
2403 the court to any county or municipality, in a criminal case, to be  
2404 executed by the lawful authority of the county or the municipality  
2405 of the respondent, and enforce obedience thereto. The absence of  
2406 a seal shall not invalidate the process.

2407 (4) When a person shall be charged with an offense in  
2408 municipal court punishable by confinement, the municipal judge,  
2409 being satisfied that such person is an indigent person and is  
2410 unable to employ counsel, may, in the discretion of the court,  
2411 appoint counsel from the membership of The Mississippi Bar  
2412 residing in his county who shall represent him. Compensation for



2413 appointed counsel in criminal cases shall be approved and allowed  
2414 by the municipal judge and shall be paid by the municipality. The  
2415 maximum compensation shall not exceed Two Hundred Dollars  
2416 (\$200.00) for any one (1) case. The governing authorities of a  
2417 municipality may, in their discretion, appoint a public  
2418 defender(s) who must be a licensed attorney and who shall receive  
2419 a salary to be fixed by the governing authorities.

2420 (5) The municipal judge of any municipality is hereby  
2421 authorized to suspend the sentence and to suspend the execution of  
2422 the sentence, or any part thereof, on such terms as may be imposed  
2423 by the municipal judge. However, the suspension of imposition or  
2424 execution of a sentence hereunder may not be revoked after a  
2425 period of two (2) years. The municipal judge shall have the power  
2426 to establish and operate a probation program, dispute resolution  
2427 program and other practices or procedures appropriate to the  
2428 judiciary and designed to aid in the administration of justice.  
2429 Any such program shall be established by the court with written  
2430 policies and procedures filed with the clerk of the court for  
2431 public record. Subsequent to original sentencing, the municipal  
2432 judge, in misdemeanor cases, is hereby authorized to suspend  
2433 sentence and to suspend the execution of a sentence, or any part  
2434 thereof, on such terms as may be imposed by the municipal judge,  
2435 if (a) the judge or his or her predecessor was authorized to order  
2436 such suspension when the sentence was originally imposed; and (b)



2437 such conviction (i) has not been appealed; or (ii) has been  
2438 appealed and the appeal has been voluntarily dismissed.

2439 (6) Upon prior notice to the municipal prosecuting attorney  
2440 and upon a showing in open court of rehabilitation, good conduct  
2441 for a period of two (2) years since the last conviction in any  
2442 court and that the best interest of society would be served, the  
2443 court may, in its discretion, order the record of conviction of a  
2444 person of any or all misdemeanors in that court expunged, and upon  
2445 so doing the said person thereafter legally stands as though he  
2446 had never been convicted of the said misdemeanor(s) and may  
2447 lawfully so respond to any query of prior convictions. This order  
2448 of expunction does not apply to the confidential records of law  
2449 enforcement agencies and has no effect on the driving record of a  
2450 person maintained under Title 63, Mississippi Code of 1972, or any  
2451 other provision of said Title 63.

2452 (7) Notwithstanding the provisions of subsection (6) of this  
2453 section, a person who was convicted in municipal court of a  
2454 misdemeanor before reaching his twenty-third  
2455 birthday, \* \* \*~~excluding conviction for a traffic violation, and~~  
2456 and who is a first offender, may utilize the provisions of Section  
2457 99-19-71, to expunge such misdemeanor conviction.

2458 (8) In the discretion of the court, a plea of nolo  
2459 contendere may be entered to any charge in municipal court. Upon  
2460 the entry of a plea of nolo contendere the court shall convict the  
2461 defendant of the offense charged and shall proceed to sentence the



2462 defendant according to law. The judgment of the court shall  
2463 reflect that the conviction was on a plea of nolo contendere. An  
2464 appeal may be made from a conviction on a plea of nolo contendere  
2465 as in other cases.

2466 (9) Upon execution of a sworn complaint charging a  
2467 misdemeanor, the municipal court may, in its discretion and in  
2468 lieu of an arrest warrant, issue a citation requiring the  
2469 appearance of the defendant to answer the charge made against him.  
2470 On default of appearance, an arrest warrant may be issued for the  
2471 defendant. The clerk of the court or deputy clerk may issue such  
2472 citations.

2473 (10) The municipal court shall have the power to make rules  
2474 for the administration of the court's business, which rules, if  
2475 any, shall be in writing filed with the clerk of the court and  
2476 shall include the enactment of rules related to the court's  
2477 authority to issue domestic abuse protection orders pursuant to  
2478 Section 93-21-1 et seq.

2479 (11) The municipal court shall have the power to impose  
2480 punishment of a fine of not more than One Thousand Dollars  
2481 (\$1,000.00) or six (6) months imprisonment, or both, for contempt  
2482 of court. The municipal court may have the power to impose  
2483 reasonable costs of court, not in excess of the following:

2484 Dismissal of any affidavit, complaint or charge  
2485 in municipal court.....\$ 50.00  
2486 Suspension of a minor's driver's license in lieu of



2487 conviction.....\$ 50.00  
 2488 Service of scire facias or return "not found".....\$ 20.00  
 2489 Causing search warrant to issue or causing  
 2490 prosecution without reasonable cause or refusing to  
 2491 cooperate after initiating action.....\$ 100.00  
 2492 Certified copy of the court record.....\$ 5.00  
 2493 Service of arrest warrant for failure to answer  
 2494 citation or traffic summons.....\$ 25.00  
 2495 Jail cost per day - actual jail cost paid by the municipality but  
 2496 not to exceed..... \$ 35.00  
 2497 Service of court documents related to the filing  
 2498 of a petition or issuance of a protection from domestic  
 2499 abuse order under Title 93, Chapter 21, Mississippi  
 2500 Code of 1972 .....\$ 25.00  
 2501 Any other item of court cost.....\$ 50.00  
 2502 No filing fee or such cost shall be imposed for the bringing  
 2503 of an action in municipal court.  
 2504 (12) A municipal court judge shall not dismiss a criminal  
 2505 case but may transfer the case to the justice court of the county  
 2506 if the municipal court judge is prohibited from presiding over the  
 2507 case by the Canons of Judicial Conduct and provided that venue and  
 2508 jurisdiction are proper in the justice court. Upon transfer of  
 2509 any such case, the municipal court judge shall give the municipal  
 2510 court clerk a written order to transmit the affidavit or complaint  
 2511 and all other records and evidence in the court's possession to



2512 the justice court by certified mail or to instruct the arresting  
2513 officer to deliver such documents and records to the justice  
2514 court. There shall be no court costs charged for the transfer of  
2515 the case to the justice court.

2516 (13) A municipal court judge shall expunge the record of any  
2517 case in which an arrest was made, the person arrested was released  
2518 and the case was dismissed or the charges were dropped or there  
2519 was no disposition of such case.

2520 **SECTION 45.** Section 63-11-30, Mississippi Code of 1972, is  
2521 amended as follows:

2522 63-11-30. (1) It is unlawful for a person to drive or  
2523 otherwise operate a vehicle within this state if the person:

2524 (a) Is under the influence of intoxicating liquor;

2525 (b) Is under the influence of any other substance that  
2526 has impaired the person's ability to operate a motor vehicle;

2527 (c) Is under the influence of any drug or controlled  
2528 substance, the possession of which is unlawful under the  
2529 Mississippi Controlled Substances Law; or

2530 (d) Has an alcohol concentration in the person's blood,  
2531 based upon grams of alcohol per one hundred (100) milliliters of  
2532 blood, or grams of alcohol per two hundred ten (210) liters of  
2533 breath, as shown by a chemical analysis of the person's breath,  
2534 blood or urine administered as authorized by this chapter, of:



2535 (i) Eight one-hundredths percent (.08%) or more  
2536 for a person who is above the legal age to purchase alcoholic  
2537 beverages under state law;

2538 (ii) Two one-hundredths percent (.02%) or more for  
2539 a person who is below the legal age to purchase alcoholic  
2540 beverages under state law; or

2541 (iii) Four one-hundredths percent (.04%) or more  
2542 for a person operating a commercial motor vehicle.

2543 (2) Except as otherwise provided in subsection (3) of this  
2544 section (Zero Tolerance for Minors):

2545 (a) **First offense DUI.** (i) Upon conviction of any  
2546 person for the first offense of violating subsection (1) of this  
2547 section where chemical tests under Section 63-11-5 were given, or  
2548 where chemical test results are not available, the person shall be  
2549 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more  
2550 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
2551 than forty-eight (48) hours in jail, or both; the court shall  
2552 order the person to attend and complete an alcohol safety  
2553 education program as provided in Section 63-11-32 within six (6)  
2554 months of sentencing. The court may substitute attendance at a  
2555 victim impact panel instead of forty-eight (48) hours in jail.

2556 (ii) Suspension of commercial driving privileges  
2557 is governed by Section 63-1-216.

2558 (iii) A qualifying first offense may be  
2559 nonadjudicated by the court under subsection (14) of this section.



2560 The holder of a commercial driver's license or a commercial  
2561 learning permit at the time of the offense is ineligible for  
2562 nonadjudication.

2563 (iv) Eligibility for an interlock-restricted  
2564 license is governed by Section 63-11-31 and suspension of regular  
2565 driving privileges is governed by Section 63-11-23.

2566 (b) **Second offense DUI.** (i) Upon any second  
2567 conviction of any person violating subsection (1) of this section,  
2568 the offenses being committed within a period of five (5) years,  
2569 the person shall be guilty of a misdemeanor, fined not less than  
2570 Six Hundred Dollars (\$600.00) nor more than One Thousand Five  
2571 Hundred Dollars (\$1,500.00), shall be imprisoned not less than  
2572 five (5) days nor more than six (6) months and sentenced to  
2573 community service work for not less than ten (10) days nor more  
2574 than six (6) months. The minimum penalties shall not be suspended  
2575 or reduced by the court and no prosecutor shall offer any  
2576 suspension or sentence reduction as part of a plea bargain.

2577 (ii) Suspension of commercial driving privileges  
2578 is governed by Section 63-1-216.

2579 (iii) Eligibility for an interlock-restricted  
2580 license is governed by Section 63-11-31 and suspension of regular  
2581 driving privileges is governed by Section 63-11-23.

2582 (c) **Third offense DUI.** (i) For a third conviction of  
2583 a person for violating subsection (1) of this section, the  
2584 offenses being committed within a period of five (5) years, the





2585 person shall be guilty of a felony and fined not less than Two  
2586 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars  
2587 (\$5,000.00), and shall serve not less than one (1) year nor more  
2588 than five (5) years in the custody of the Department of  
2589 Corrections. For any offense that does not result in serious  
2590 injury or death to any person, the sentence of incarceration may  
2591 be served in the county jail rather than in the State Penitentiary  
2592 at the discretion of the circuit court judge. The minimum  
2593 penalties shall not be suspended or reduced by the court and no  
2594 prosecutor shall offer any suspension or sentence reduction as  
2595 part of a plea bargain.

2596 (ii) The suspension of commercial driving  
2597 privileges is governed by Section 63-1-216.

2598 (iii) The suspension of regular driving privileges  
2599 is governed by Section 63-11-23.

2600 (d) **Fourth and subsequent offense DUI.** (i) For any  
2601 fourth or subsequent conviction of a violation of subsection (1)  
2602 of this section, without regard to the time period within which  
2603 the violations occurred, the person shall be guilty of a felony  
2604 and fined not less than Three Thousand Dollars (\$3,000.00) nor  
2605 more than Ten Thousand Dollars (\$10,000.00), and shall serve not  
2606 less than two (2) years nor more than ten (10) years in the  
2607 custody of the Department of Corrections.

2608 (ii) The suspension of commercial driving  
2609 privileges is governed by Section 63-1-216.



2610 (iii) A person convicted of a fourth or subsequent  
2611 offense is ineligible to exercise the privilege to operate a motor  
2612 vehicle that is not equipped with an ignition-interlock device for  
2613 ten (10) years.

2614 (e) Any person convicted of a second or subsequent  
2615 violation of subsection (1) of this section shall receive an  
2616 in-depth diagnostic assessment, and if as a result of the  
2617 assessment is determined to be in need of treatment for alcohol or  
2618 drug abuse, the person must successfully complete treatment at a  
2619 program site certified by the Department of Mental Health. Each  
2620 person who receives a diagnostic assessment shall pay a fee  
2621 representing the cost of the assessment. Each person who  
2622 participates in a treatment program shall pay a fee representing  
2623 the cost of treatment.

2624 (f) The use of ignition-interlock devices is governed  
2625 by Section 63-11-31.

2626 (3) **Zero Tolerance for Minors.** (a) This subsection shall  
2627 be known and may be cited as Zero Tolerance for Minors. The  
2628 provisions of this subsection shall apply only when a person under  
2629 the age of twenty-one (21) years has a blood alcohol concentration  
2630 of two one-hundredths percent (.02%) or more, but lower than eight  
2631 one-hundredths percent (.08%). If the person's blood alcohol  
2632 concentration is eight one-hundredths percent (.08%) or more, the  
2633 provisions of subsection (2) shall apply.



2634 (b) (i) A person under the age of twenty-one (21) is  
2635 eligible for nonadjudication of a qualifying first offense by the  
2636 court pursuant to subsection (14) of this section.

2637 (ii) Upon conviction of any person under the age  
2638 of twenty-one (21) years for the first offense of violating  
2639 subsection (1) of this section where chemical tests provided for  
2640 under Section 63-11-5 were given, or where chemical test results  
2641 are not available, the person shall be fined Two Hundred Fifty  
2642 Dollars (\$250.00); the court shall order the person to attend and  
2643 complete an alcohol safety education program as provided in  
2644 Section 63-11-32 within six (6) months. The court may also  
2645 require attendance at a victim impact panel.

2646 (c) A person under the age of twenty-one (21) years who  
2647 is convicted of a second violation of subsection (1) of this  
2648 section, the offenses being committed within a period of five (5)  
2649 years, shall be fined not more than Five Hundred Dollars  
2650 (\$500.00).

2651 (d) A person under the age of twenty-one (21) years who  
2652 is convicted of a third or subsequent violation of subsection (1)  
2653 of this section, the offenses being committed within a period of  
2654 five (5) years, shall be fined not more than One Thousand Dollars  
2655 (\$1,000.00).

2656 (e) License suspension is governed by Section 63-11-23  
2657 and ignition interlock is governed by Section 63-11-31.



2658 (f) Any person under the age of twenty-one (21) years  
2659 convicted of a third or subsequent violation of subsection (1) of  
2660 this section must complete treatment of an alcohol or drug abuse  
2661 program at a site certified by the Department of Mental Health.

2662 (4) **DUI test refusal.** In addition to the other penalties  
2663 provided in this section, every person refusing a law enforcement  
2664 officer's request to submit to a chemical test of the person's  
2665 breath as provided in this chapter, or who was unconscious at the  
2666 time of a chemical test and refused to consent to the introduction  
2667 of the results of the test in any prosecution, shall suffer an  
2668 additional administrative suspension of driving privileges as set  
2669 forth in Section 63-11-23.

2670 (5) **Aggravated DUI.** (a) Every person who operates any  
2671 motor vehicle in violation of the provisions of subsection (1) of  
2672 this section and who in a negligent manner causes the death of  
2673 another or mutilates, disfigures, permanently disables or destroys  
2674 the tongue, eye, lip, nose or any other limb, organ or member of  
2675 another shall, upon conviction, be guilty of a separate felony for  
2676 each victim who suffers death, mutilation, disfigurement or other  
2677 injury and shall be committed to the custody of the State  
2678 Department of Corrections for a period of time of not less than  
2679 five (5) years and not to exceed twenty-five (25) years for each  
2680 death, mutilation, disfigurement or other injury, and the  
2681 imprisonment for the second or each subsequent conviction, in the  
2682 discretion of the court, shall commence either at the termination



2683 of the imprisonment for the preceding conviction or run  
2684 concurrently with the preceding conviction. Any person charged  
2685 with causing the death of another as described in this subsection  
2686 shall be required to post bail before being released after arrest.

2687 (b) A holder of a commercial driver's license who is  
2688 convicted of operating a commercial motor vehicle with an alcohol  
2689 concentration of eight one-hundredths percent (.08%) or more shall  
2690 be guilty of a felony and shall be committed to the custody of the  
2691 Department of Corrections for not less than two (2) years and not  
2692 more than ten (10) years.

2693 (c) The court shall order an ignition-interlock  
2694 restriction on the offender's privilege to drive as a condition of  
2695 probation or post-release supervision not to exceed five (5) years  
2696 unless a longer restriction is required under other law. The  
2697 ignition-interlock restriction shall not be applied to commercial  
2698 license privileges until the driver serves the full  
2699 disqualification period required by Section 63-1-216.

2700 (6) **DUI citations.** (a) Upon conviction of a violation of  
2701 subsection (1) of this section, the trial judge shall sign in the  
2702 place provided on the traffic ticket, citation or affidavit  
2703 stating that the person arrested either employed an attorney or  
2704 waived his right to an attorney after having been properly  
2705 advised. If the person arrested employed an attorney, the name,  
2706 address and telephone number of the attorney shall be written on  
2707 the ticket, citation or affidavit. The court clerk must



2708 immediately send a copy of the traffic ticket, citation or  
2709 affidavit, and any other pertinent documents concerning the  
2710 conviction or other order of the court, to the Department of  
2711 Public Safety as provided in Section 63-11-37.

2712 (b) A copy of the traffic ticket, citation or affidavit  
2713 and any other pertinent documents, having been attested as true  
2714 and correct by the Commissioner of Public Safety, or his designee,  
2715 shall be sufficient proof of the conviction for purposes of  
2716 determining the enhanced penalty for any subsequent convictions of  
2717 violations of subsection (1) of this section. The Department of  
2718 Public Safety shall maintain a central database for verification  
2719 of prior offenses and convictions.

2720 (7) **Out-of-state prior convictions.** Convictions in another  
2721 state, territory or possession of the United States, or under the  
2722 law of a federally recognized Native American tribe, of violations  
2723 for driving or operating a vehicle while under the influence of an  
2724 intoxicating liquor or while under the influence of any other  
2725 substance that has impaired the person's ability to operate a  
2726 motor vehicle occurring within five (5) years before an offense  
2727 shall be counted for the purposes of determining if a violation of  
2728 subsection (1) of this section is a second, third, fourth or  
2729 subsequent offense and the penalty that shall be imposed upon  
2730 conviction for a violation of subsection (1) of this section.

2731 (8) **Charging of subsequent offenses.** (a) For the purposes  
2732 of determining how to impose the sentence for a second, third,



2733 fourth or subsequent conviction under this section, the affidavit  
2734 or indictment shall not be required to enumerate previous  
2735 convictions. It shall only be necessary that the affidavit or  
2736 indictment states the number of times that the defendant has been  
2737 convicted and sentenced within the past five (5) years for a  
2738 second or third offense, or without a time limitation for a fourth  
2739 or subsequent offense, under this section to determine if an  
2740 enhanced penalty shall be imposed. The amount of fine and  
2741 imprisonment imposed in previous convictions shall not be  
2742 considered in calculating offenses to determine a second, third,  
2743 fourth or subsequent offense of this section.

2744 (b) Before a defendant enters a plea of guilty to an  
2745 offense under this section, law enforcement must submit  
2746 certification to the prosecutor that the defendant's driving  
2747 record, the confidential registry and National Crime Information  
2748 Center record have been searched for all prior convictions,  
2749 nonadjudications, pretrial diversions and arrests for driving or  
2750 operating a vehicle while under the influence of an intoxicating  
2751 liquor or while under the influence of any other substance that  
2752 has impaired the person's ability to operate a motor vehicle. The  
2753 results of the search must be included in the certification.

2754 (9) **License eligibility for underage offenders.** A person  
2755 who is under the legal age to obtain a license to operate a motor  
2756 vehicle at the time of the offense and who is convicted under this



2757 section shall not be eligible to receive a driver's license until  
2758 the person reaches the age of eighteen (18) years.

2759 (10) **License suspensions and restrictions to run**  
2760 **consecutively.** Suspension or restriction of driving privileges  
2761 for any person convicted of or nonadjudicated for violations of  
2762 subsection (1) of this section shall run consecutively to and not  
2763 concurrently with any other administrative license suspension.

2764 (11) **Ignition interlock.** If the court orders installation  
2765 and use of an ignition-interlock device as provided in Section  
2766 63-11-31 for every vehicle operated by a person convicted or  
2767 nonadjudicated under this section, each device shall be installed,  
2768 maintained and removed as provided in Section 63-11-31.

2769 (12) **DUI child endangerment.** A person over the age of  
2770 twenty-one (21) who violates subsection (1) of this section while  
2771 transporting in a motor vehicle a child under the age of sixteen  
2772 (16) years is guilty of the separate offense of endangering a  
2773 child by driving under the influence of alcohol or any other  
2774 substance which has impaired the person's ability to operate a  
2775 motor vehicle. The offense of endangering a child by driving  
2776 under the influence of alcohol or any other substance which has  
2777 impaired the person's ability to operate a motor vehicle shall not  
2778 be merged with an offense of violating subsection (1) of this  
2779 section for the purposes of prosecution and sentencing. An  
2780 offender who is convicted of a violation of this subsection shall  
2781 be punished as follows:





2782 (a) A person who commits a violation of this subsection  
2783 which does not result in the serious injury or death of a child  
2784 and which is a first conviction shall be guilty of a misdemeanor  
2785 and, upon conviction, shall be fined not more than One Thousand  
2786 Dollars (\$1,000.00) or shall be imprisoned for not more than  
2787 twelve (12) months, or both;

2788 (b) A person who commits a violation of this subsection  
2789 which does not result in the serious injury or death of a child  
2790 and which is a second conviction shall be guilty of a misdemeanor  
2791 and, upon conviction, shall be fined not less than One Thousand  
2792 Dollars (\$1,000.00) nor more than Five Thousand Dollars  
2793 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

2794 (c) A person who commits a violation of this subsection  
2795 which does not result in the serious injury or death of a child  
2796 and which is a third or subsequent conviction shall be guilty of a  
2797 felony and, upon conviction, shall be fined not less than Ten  
2798 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less  
2799 than one (1) year nor more than five (5) years, or both; and

2800 (d) A person who commits a violation of this subsection  
2801 which results in the serious injury or death of a child, without  
2802 regard to whether the offense was a first, second, third or  
2803 subsequent offense, shall be guilty of a felony and, upon  
2804 conviction, shall be punished by a fine of not less than Ten  
2805 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less  
2806 than five (5) years nor more than twenty-five (25) years.



2807           (13) **Expunction.** (a) Any person convicted under subsection  
2808 (2) or (3) of this section of a first or second offense of driving  
2809 under the influence \* \* \*~~and who was not the holder of a~~  
2810 ~~commercial driver's license or a commercial learning permit at the~~  
2811 ~~time of the offense~~ may petition the circuit court of the county  
2812 in which the conviction was had for an order to expunge the record  
2813 of the conviction at least five (5) years after successful  
2814 completion of all terms and conditions of the sentence imposed for  
2815 the conviction. Expunction under this subsection will only be  
2816 available to a person:

2817                   (i) Who has successfully completed all terms and  
2818 conditions of the sentence imposed for the conviction;

2819                   (ii) Who did not refuse to submit to a test of his  
2820 blood or breath;

2821                   (iii) Whose blood alcohol concentration tested  
2822 below sixteen one-hundredths percent (.16%) if test results are  
2823 available;

2824                   (iv) Who has not been convicted of and does not  
2825 have pending any other offense of driving under the influence;

2826                   (v) Who has provided the court with justification  
2827 as to why the conviction should be expunged; and

2828                   (vi) Who has not previously had a nonadjudication  
2829 or expunction of a violation of this section.

2830           (b) A person is eligible for only one (1) expunction  
2831 under this subsection, and the Department of Public Safety shall



2832 maintain a permanent confidential registry of all cases of  
2833 expunction under this subsection for the sole purpose of  
2834 determining a person's eligibility for expunction, for  
2835 nonadjudication, or as a first offender under this section. For  
2836 purposes of this section, "one (1) expunction" has the meaning as  
2837 defined in Section 99-19-71.

2838 (c) The court in its order of expunction shall state in  
2839 writing the justification for which the expunction was granted and  
2840 forward the order to the Department of Public Safety within five  
2841 (5) days of the entry of the order.

2842 (14) **Nonadjudication.** (a) For the purposes of this  
2843 chapter, "nonadjudication" means that the court withholds  
2844 adjudication of guilt and sentencing, either at the conclusion of  
2845 a trial on the merits or upon the entry of a plea of guilt by a  
2846 defendant, and places the defendant in a nonadjudication program  
2847 conditioned upon the successful completion of the requirements  
2848 imposed by the court under this subsection.

2849 (b) A person is eligible for nonadjudication of an  
2850 offense under this Section 63-11-30 only one (1) time under any  
2851 provision of a law that authorizes nonadjudication and only for an  
2852 offender:

2853 (i) Who has successfully completed all terms and  
2854 conditions imposed by the court after placement of the defendant  
2855 in a nonadjudication program;



2856 (ii) Who was not the holder of a commercial  
2857 driver's license or a commercial learning permit at the time of  
2858 the offense;

2859 (iii) Who has not previously been convicted of and  
2860 does not have pending any former or subsequent charges under this  
2861 section; and

2862 (iv) Who has provided the court with justification  
2863 as to why nonadjudication is appropriate.

2864 (c) Nonadjudication may be initiated upon the filing of  
2865 a petition for nonadjudication or at any stage of the proceedings  
2866 in the discretion of the court; the court may withhold  
2867 adjudication of guilt, defer sentencing, and upon the agreement of  
2868 the offender to participate in a nonadjudication program, enter an  
2869 order imposing requirements on the offender for a period of court  
2870 supervision before the order of nonadjudication is entered.  
2871 Failure to successfully complete a nonadjudication program  
2872 subjects the person to adjudication of the charges against him and  
2873 to imposition of all penalties previously withheld due to entrance  
2874 into a nonadjudication program. The court shall immediately  
2875 inform the commissioner of the conviction as required in Section  
2876 63-11-37.

2877 (i) The court shall order the person to:

2878 1. Pay the nonadjudication fee imposed under  
2879 Section 63-11-31 if applicable;



2880                   2. Pay all fines, penalties and assessments  
2881 that would have been imposed for conviction;

2882                   3. Attend and complete an alcohol safety  
2883 education program as provided in Section 63-11-32 within six (6)  
2884 months of the date of the order;

2885                   4. a. If the court determines that the  
2886 person violated this section with respect to alcohol or  
2887 intoxicating liquor, the person must install an ignition-interlock  
2888 device on every motor vehicle operated by the person, obtain an  
2889 interlock-restricted license, and maintain that license for one  
2890 hundred twenty (120) days or suffer a one-hundred-twenty-day  
2891 suspension of the person's regular driver's license, during which  
2892 time the person must not operate any vehicle.

2893                   b. If the court determines that the  
2894 person violated this section by operating a vehicle when under the  
2895 influence of a substance other than alcohol that has impaired the  
2896 person's ability to operate a motor vehicle, including any drug or  
2897 controlled substance which is unlawful to possess under the  
2898 Mississippi Controlled Substances Law, the person must submit to a  
2899 one-hundred-twenty-day period of a nonadjudication program that  
2900 includes court-ordered drug testing at the person's own expense  
2901 not less often than every thirty (30) days, during which time the  
2902 person may drive if compliant with the terms of the program, or  
2903 suffer a one-hundred-twenty-day suspension of the person's regular



2904 driver's license, during which time the person will not operate  
2905 any vehicle.

2906 (ii) Other conditions that may be imposed by the  
2907 court include, but are not limited to, alcohol or drug screening,  
2908 or both, proof that the person has not committed any other traffic  
2909 violations while under court supervision, proof of immobilization  
2910 or impoundment of vehicles owned by the offender if required, and  
2911 attendance at a victim-impact panel.

2912 (d) The court may enter an order of nonadjudication  
2913 only if the court finds, after a hearing or after ex parte  
2914 examination of reliable documentation of compliance, that the  
2915 offender has successfully completed all conditions imposed by law  
2916 and previous orders of the court. The court shall retain  
2917 jurisdiction over cases involving nonadjudication for a period of  
2918 not more than two (2) years.

2919 (e) (i) The clerk shall immediately forward a record  
2920 of every person placed in a nonadjudication program and of every  
2921 nonadjudication order to the Department of Public Safety for  
2922 inclusion in the permanent confidential registry of all cases that  
2923 are nonadjudicated under this subsection (14).

2924 (ii) Judges, clerks and prosecutors involved in  
2925 the trial of implied consent violations and law enforcement  
2926 officers involved in the issuance of citations for implied consent  
2927 violations shall have secure online access to the confidential  
2928 registry for the purpose of determining whether a person has



2929 previously been the subject of a nonadjudicated case and 1. is  
2930 therefore ineligible for another nonadjudication; 2. is ineligible  
2931 as a first offender for a violation of this section; or 3. is  
2932 ineligible for expunction of a conviction of a violation of this  
2933 section.

2934 (iii) The Driver Services Bureau of the department  
2935 shall have access to the confidential registry for the purpose of  
2936 determining whether a person is eligible for a form of license not  
2937 restricted to operating a vehicle equipped with an  
2938 ignition-interlock device.

2939 (iv) The Mississippi Alcohol Safety Education  
2940 Program shall have secure online access to the confidential  
2941 registry for research purposes only.

2942 **SECTION 46.** (1) As used in this section, the following  
2943 terms shall have the meanings ascribed herein:

2944 (a) "License" means any license (other than a privilege  
2945 license), certificate or other evidence of qualification that an  
2946 individual is required to obtain before he or she may engage in or  
2947 represent himself or herself to be a member of a particular  
2948 profession or occupation.

2949 (b) "Nonviolent conviction" means a conviction for any  
2950 crime that is not a crime of violence as defined in Section  
2951 97-3-2.

2952 (c) "Occupational licensing board" means any state  
2953 board, commission, department or other agency in Mississippi that



2954 is established for the primary purpose of regulating the entry of  
2955 persons into, and/or the conduct of persons within, a particular  
2956 profession or occupation, and which is authorized to issue  
2957 licenses.

2958 (2) An occupational licensing board shall not automatically  
2959 bar an individual from obtaining a license because of a nonviolent  
2960 conviction that occurred more than three (3) years from the date  
2961 that such person applied to obtain the license, but shall offer a  
2962 process to petition the board for individualized consideration.

2963 (3) An individual with a criminal record may petition an  
2964 occupational licensing board at any time, including before  
2965 obtaining any required education or training, for a decision of  
2966 whether the individual's criminal record will disqualify the  
2967 individual from obtaining state recognition.

2968 (4) The individual will include in the petition the  
2969 individual's criminal record or authorize the occupational  
2970 licensing board to obtain the individual's criminal record.  
2971 The individual may include additional information about the  
2972 individual's current circumstances, including, but not limited to,  
2973 the: (i) time since the offense, (ii) completion of the criminal  
2974 sentence, (iii) a certificate of rehabilitation or good conduct,  
2975 (iv) completion of, or active participation in, rehabilitative  
2976 drug or alcohol treatment, (v) testimonials and recommendations  
2977 including a progress report from the individual's probation or  
2978 parole officer, (vi) other evidence of rehabilitation, (vii)





2979 training, (viii) employment history, (ix) employment aspirations,  
2980 and (x) personal information including the age of the individual  
2981 when the individual committed the offense and the individual's  
2982 current family responsibilities.

2983 (5) The individual shall not have to provide nor shall the  
2984 occupational licensing board consider:

2985 (a) Nonconviction information including information  
2986 related to deferred adjudication, participation in a diversion  
2987 program, or an arrest not followed by a conviction; or

2988 (b) A conviction that has been sealed, dismissed,  
2989 expunged or pardoned.

2990 (6) All occupational licensing boards in Mississippi shall  
2991 adopt rules, regulations and/or guidelines to establish a process  
2992 for an individual with a criminal record to petition the board at  
2993 any time, including before obtaining any required education or  
2994 training, for a decision of whether the individual's criminal  
2995 record will disqualify the individual from obtaining a license.  
2996 However, the occupational licensing board may deny the  
2997 individual's petition only if it establishes that issuing a  
2998 license to the individual would be an actual threat to health and  
2999 safety of the public and the profession.

3000 (7) The provisions of this section shall act to supersede  
3001 any other provision of law to the contrary that regulates  
3002 occupational licensing boards.



3003           **SECTION 47.** (1) There is hereby created in the State  
3004 Treasury, a special fund to be known as "Programs to Reduce  
3005 Recidivism Fund." Interest earned on the investment of monies in  
3006 the fund shall be deposited in and credited to the fund.  
3007 Unexpended and unencumbered monies in the fund at the close of  
3008 each fiscal year shall remain in the fund. Monies in the fund  
3009 shall be appropriated, administered, and used solely and  
3010 exclusively for the purposes provided by this section.

3011           (2) The fund shall be comprised of all monies appropriated,  
3012 donated, or otherwise made available to provide funding for the  
3013 purposes set forth in this section. Any funds and savings  
3014 realized from a reduction in the amount of time a person is  
3015 required to spend in prison and from criminal justice reform shall  
3016 be appropriated to the fund by the Legislature and shall be used  
3017 to defray the additional operational expenses of probation and  
3018 parole and reentry initiatives. The Mississippi Department of  
3019 Corrections shall measure and document cost savings from the  
3020 implementation of criminal justice reform and provide information  
3021 to the Legislature regarding the estimated savings annually.

3022           (3) The monies in the fund shall be appropriated and used  
3023 for the following purposes:

3024           (a) To defray the operational expenses of probation and  
3025 parole and reentry initiatives.



3026 (b) To assist in establishing and reimbursing the  
3027 operational expenses of corrections rehabilitative programs that  
3028 do the following:

3029 (i) Provide inmates with fundamental resources in  
3030 the areas of employment, life skills training, and job placement.

3031 (ii) Provide the inmates with access to as many  
3032 support services as possible to appreciably increase the  
3033 likelihood of successful reentry into society and to reduce  
3034 recidivism.

3035 (4) The fund shall be administered by the Mississippi  
3036 Department of Corrections, hereinafter referred to as "the  
3037 administrators." Monies in the fund shall be used to support  
3038 probation and parole, reentry initiatives, and programs  
3039 established by the administrators. The administrators shall  
3040 allocate funds as necessary for the purposes provided in this  
3041 section. The administrators shall promulgate such rules,  
3042 regulations, and procedures as are necessary in administering the  
3043 provisions of this section.

3044 **SECTION 48.** This act shall take effect and be in force from  
3045 and after July 1, 2019.

