

By: Senator(s) Wiggins, Jackson (32nd)

To: Judiciary, Division A

SENATE BILL NO. 2927

1 AN ACT TO AMEND SECTION 63-1-71, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE REQUIREMENT THAT A PERSON'S DRIVER'S LICENSE BE
3 SUSPENDED FOR A CONTROLLED SUBSTANCE VIOLATION THAT IS UNRELATED
4 TO OPERATING A MOTOR VEHICLE; TO AMEND SECTIONS 63-1-51 AND
5 63-1-53, MISSISSIPPI CODE OF 1972, TO ELIMINATE DRIVER'S LICENSE
6 SUSPENSION FOR UNPAID FINES AND FEES; TO AMEND SECTION 63-1-52,
7 MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 99-5-11,
8 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE RELEASE OF CERTAIN
9 MISDEMEANANTS ON RECOGNIZANCE; TO AMEND SECTION 47-7-35,
10 MISSISSIPPI CODE OF 1972, TO ESTABLISH MANDATORY AND DISCRETIONARY
11 CONDITIONS FOR CERTAIN FORMS OF SUPERVISED RELEASE; TO PROVIDE
12 THAT THE TERMS AND CONDITIONS OF AN OFFENDER'S SUPERVISED RELEASE
13 MUST BE BASED ON THE OFFENDER'S RISK AND NEEDS ASSESSMENT; TO
14 AMEND SECTION 47-7-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
15 PRECEDING SECTION FOR OFFENDERS ON PAROLE; TO AMEND SECTION
16 47-7-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PAROLE
17 BOARD MAY ONLY REVOKE PAROLE FOR VIOLATIONS OF CERTAIN MANDATORY
18 CONDITIONS OF SUPERVISION; TO AMEND SECTION 47-7-34, MISSISSIPPI
19 CODE OF 1972, TO REDUCE THE MAXIMUM TERM OF POST-RELEASE
20 SUPERVISION FROM FIVE TO TWO YEARS; TO CLARIFY THAT SUCH TERM
21 SHALL INCLUDE ANY PERIOD OF SUPERVISED AND UNSUPERVISED
22 POST-RELEASE SUPERVISION; TO AMEND SECTION 47-7-37, MISSISSIPPI
23 CODE OF 1972, TO REDUCE THE MAXIMUM TERM OF SUPERVISED PROBATION
24 FROM FIVE TO TWO YEARS; TO PROVIDE THAT A COURT MAY ONLY REVOKE
25 PROBATION FOR VIOLATIONS OF CERTAIN MANDATORY CONDITIONS OF
26 SUPERVISION; TO AMEND SECTION 47-7-38, MISSISSIPPI CODE OF 1972,
27 TO REQUIRE THE MISSISSIPPI DEPARTMENT OF CORRECTIONS TO FIRST
28 IMPOSE GRADUATED SANCTIONS BEFORE REQUESTING THE MODIFICATION OR
29 REVOCATION OF AN OFFENDER'S SUPERVISED RELEASE; TO REPEAL SECTION
30 47-7-37.1, MISSISSIPPI CODE OF 1972, WHICH PROVIDES SPECIFIC
31 REASONS FOR THE REVOCATION OF PROBATION; TO AMEND SECTION 9-23-5,
32 MISSISSIPPI CODE OF 1972, TO UPDATE THE DRUG COURT STATUTES TO
33 ALLOW FOR ADDITIONAL TYPES OF PROBLEM-SOLVING COURTS; TO AMEND
34 SECTION 9-23-9, MISSISSIPPI CODE OF 1972, TO EXPAND THE AUTHORITY



35 OF THE STATE DRUG COURTS ADVISORY COMMITTEE TO INCLUDE OTHER TYPES
36 OF PROBLEM-SOLVING COURTS; TO AMEND SECTIONS 9-23-15 AND 9-23-19,
37 MISSISSIPPI CODE OF 1972, TO ALLOW THE COURT TO GRANT CERTAIN
38 RELIEF FROM PAYMENT OF FEES IN CASES OF INDIGENCE, TO CONFORM TO
39 CURRENT LAW CONCERNING INELIGIBILITY OF THOSE CHARGED WITH OR
40 CONVICTED OF CERTAIN CRIMES OF VIOLENCE, AND TO REVISE ELIGIBILITY
41 FOR PARTICIPATION IN DRUG COURT; TO AMEND SECTION 41-29-139,
42 MISSISSIPPI CODE OF 1972, TO CLASSIFY A PERSON'S FIRST TWO
43 CONVICTIONS WITHIN A CERTAIN PERIOD FOR SIMPLE DRUG POSSESSION AS
44 A MISDEMEANOR; TO AMEND SECTIONS 99-19-81 AND 99-19-83,
45 MISSISSIPPI CODE OF 1972, TO ENSURE THAT PRIOR CONVICTIONS MORE
46 THAN TEN YEARS OLD DO NOT LEAD TO HARSHER PUNISHMENTS; TO AMEND
47 SECTION 63-1-216, MISSISSIPPI CODE OF 1972, TO REVISE COMMERCIAL
48 DRIVER'S LICENSES; TO CONSOLIDATE SEVERAL STATUTES CONCERNING
49 EXPUNCTION AND TO CREATE A PARTIALLY UNIFIED EXPUNCTION STATUTE;
50 TO PROVIDE FOR THE LEGAL EFFECT OF AN ORDER TO EXPUNGE; TO PROVIDE
51 FOR EXPUNCTION OF MISDEMEANOR AND FELONY CONVICTIONS; TO SPECIFY
52 RECORDS THAT MAY NOT BE EXPUNGED; TO PROVIDE FOR EXPUNCTION OF
53 CONVICTIONS FOR PURCHASE OF LIGHT WINE OR BEER BY MINORS; TO
54 PROVIDE FOR CERTAIN NONCONVICTIONS; TO SET FILING FEES ACCORDING
55 TO PRE-EXISTING LAW; TO REQUIRE INTERSTATE IDENTIFICATION INDEX
56 REPORTS; TO REQUIRE CLERKS OF COURT TO SUBMIT POST-EXPUNCTION
57 RECORDS; TO AMEND SECTION 9-11-15, MISSISSIPPI CODE OF 1972, TO
58 CONFORM EXPUNCTIONS IN THE JUSTICE COURTS; TO AMEND SECTION
59 21-23-7, MISSISSIPPI CODE OF 1972, TO CONFORM EXPUNCTION IN
60 MUNICIPAL COURTS; TO AMEND SECTION 41-29-150, MISSISSIPPI CODE OF
61 1972, TO CONFORM EXPUNCTION OF CERTAIN DRUG CHARGES; TO AMEND
62 SECTION 45-27-21, MISSISSIPPI CODE OF 1972, TO CONFORM
63 RECORD-KEEPING REQUIREMENTS FOR THE CRIMINAL INFORMATION CENTER;
64 TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF 1972, TO CONFORM;
65 TO AMEND SECTION 99-15-26, MISSISSIPPI CODE OF 1972, TO CONFORM
66 NONADJUDICATION PROVISIONS; TO REPEAL SECTION 99-15-59,
67 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT ANY PERSON WHO IS
68 ARRESTED, ISSUED A CITATION, OR HELD FOR ANY MISDEMEANOR AND NOT
69 FORMALLY CHARGED OR PROSECUTED WITH AN OFFENSE WITHIN 12 MONTHS OF
70 ARREST, OR UPON DISMISSAL OF THE CHARGE, MAY APPLY TO THE COURT
71 WITH JURISDICTION OVER THE MATTER FOR THE CHARGES TO BE EXPUNGED;
72 TO REPEAL SECTION 99-19-71, MISSISSIPPI CODE OF 1972, WHICH
73 PROVIDES FOR EXPUNCTION OF CERTAIN FELONY AND MISDEMEANOR
74 CONVICTION RECORDS; TO REPEAL SECTION 99-19-72, MISSISSIPPI CODE
75 OF 1972, WHICH PROVIDES FOR FILING FEES FOR CERTAIN PETITIONS FOR
76 EXPUNCTION AND THE DISPOSITION THEREOF; AND FOR RELATED PURPOSES.

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

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



80 63-1-71. (1) * * * ~~In addition to any penalty authorized by~~
81 ~~the Uniform Controlled Substances Law or any other statute~~
82 ~~indicating the dispositions that can be ordered for an~~
83 ~~adjudication of delinquency, every person convicted of, or~~
84 ~~entering a plea of nolo contendere to, or adjudicated delinquent~~
85 ~~in a court of this state for a violation of any offense defined in~~
86 ~~the Uniform Controlled Substances Law, and every person convicted~~
87 ~~of, or entering a plea of nolo contendere to, or adjudicated~~
88 ~~delinquent under the laws of the United States, another state, a~~
89 ~~territory or possession of the United States, the District of~~
90 ~~Columbia or the Commonwealth of Puerto Rico of a violation for the~~
91 ~~use, distribution, possession, manufacture, sale, barter, transfer~~
92 ~~or dispensing of a "controlled substance," "counterfeit~~
93 ~~substance," "narcotic drug" or "drug," as such terms are defined~~
94 ~~under Section 41-29-105, shall forthwith forfeit his right to~~
95 ~~operate a motor vehicle over the highways of this state for a~~
96 ~~period of six (6) months. Notwithstanding the provisions of~~
97 ~~Section 63-11-30 * * *(2)(a) and in addition to any penalty~~
98 ~~authorized by the Uniform Controlled Substances Law or any other~~
99 ~~statute indicating the dispositions that can be ordered for an~~
100 ~~adjudication of delinquency, every person convicted of driving~~
101 ~~under the influence of a controlled substance, or entering a plea~~
102 ~~of nolo contendere thereto, or adjudicated delinquent therefor, in~~
103 ~~a court of this state, * * *and every person convicted of driving~~
104 ~~under the influence of a controlled substance, or entering a plea~~



105 ~~of nolo contendere thereto, or adjudicated delinquent therefor,~~
106 ~~under the laws of~~ the United States, another state, a territory or
107 possession of the United States, the District of Columbia or the
108 Commonwealth of Puerto Rico, shall forthwith forfeit his right to
109 operate a motor vehicle over the highways of this state for a
110 period of not less than six (6) months. In the case of any person
111 who at the time of the imposition of sentence does not have a
112 driver's license or is less than * * *~~fifteen (15)~~ sixteen (16)
113 years of age, the period of the suspension of driving privileges
114 authorized herein shall commence on the day the sentence is
115 imposed and shall run for a period of not less than six (6) months
116 after the day the person obtains a driver's license or reaches the
117 age of * * *~~fifteen (15)~~ sixteen (16) years. If the driving
118 privilege of * * *~~any~~ a person is under revocation or suspension
119 at the time of * * *~~any~~ a conviction or adjudication of
120 delinquency for * * *~~a violation of any~~ an offense * * *~~defined~~
121 ~~in the Uniform Controlled Substances Law~~ of driving under the
122 influence of a controlled substance, the revocation or suspension
123 period imposed herein shall commence as of the date of termination
124 of the existing revocation or suspension.

125 (2) The court in this state before whom any person is
126 convicted of or adjudicated delinquent for * * *~~a violation of an~~
127 ~~offense under subsection (1) of this section shall~~ an offense of
128 driving under the influence of a controlled substance must collect
129 forthwith the Mississippi driver's license of the person and



130 forward * * *~~such~~ the license to the Department of Public Safety
131 along with a report indicating the first and last day of the
132 suspension or revocation period imposed * * *~~pursuant to~~ under
133 this section. If the court is for any reason unable to collect
134 the license of the person, the court shall cause a report of the
135 conviction or adjudication of delinquency to be filed with the
136 Commissioner of Public Safety. That report shall include the
137 complete name, address, date of birth, eye color and sex of the
138 person and shall indicate the first and last day of the suspension
139 or revocation period imposed by the court * * *~~pursuant to~~ under
140 this section. The court shall inform the person orally and in
141 writing that if the person is convicted of personally operating a
142 motor vehicle during the period of license suspension or
143 revocation imposed pursuant to this section, the person shall,
144 upon conviction, be subject to the penalties set forth in Section
145 63-11-40. A person shall be required to acknowledge in writing
146 receipt of the written notice * * *~~in writing~~. Failure to
147 receive a written notice or failure to acknowledge in writing the
148 receipt of a written notice * * *~~shall~~ is not * * *~~be~~ a defense to
149 a subsequent charge of a violation of Section 63-11-40. If the
150 person is the holder of a driver's license from another
151 jurisdiction, the court shall not collect the license but shall
152 notify forthwith the Commissioner of Public Safety who shall
153 notify the appropriate officials in the licensing jurisdiction.
154 The court shall, however, in accordance with the provisions of



155 this section, revoke the person's nonresident driving privilege in
156 this state.

157 (3) The county court or circuit court having jurisdiction,
158 on petition, may reduce the suspension of driving privileges under
159 this section if the * * *~~denial of which~~ suspension would
160 constitute a hardship on the offender. When the petition is
161 filed, * * *~~such~~ the person shall pay to the circuit clerk of the
162 court where the petition is filed a fee of Twenty Dollars (\$20.00)
163 for each year, or portion thereof, of license revocation or
164 suspension remaining under the original sentence, which shall be
165 deposited into the State General Fund to the credit of a special
166 fund hereby created in the State Treasury to be used for alcohol
167 or drug abuse treatment and education, upon appropriation by the
168 Legislature. This fee shall be in addition to any other court
169 costs or fees required for the filing of petitions.

170 **SECTION 2.** Section 63-1-51, Mississippi Code of 1972, is
171 amended as follows:

172 63-1-51. (1) It shall be the duty of the court clerk, upon
173 conviction of any person holding a license issued pursuant to this
174 article where the penalty for a traffic violation is as much as
175 Ten Dollars (\$10.00), to mail a copy of abstract of the court
176 record or provide an electronically or computer generated copy of
177 abstract of the court record immediately to the commissioner at
178 Jackson, Mississippi, showing the date of conviction, penalty,
179 etc., so that a record of same may be made by the Department of



180 Public Safety. The commissioner shall forthwith revoke the
181 license of any person for a period of one (1) year upon receiving
182 a duly certified record of each person's convictions of any of the
183 following offenses when such conviction has become final:

184 (a) Manslaughter or negligent homicide resulting from
185 the operation of a motor vehicle;

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

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

191 (d) Perjury or the willful making of a false affidavit
192 or statement under oath to the department under this article or
193 under any other law relating to the ownership or operation of
194 motor vehicles;

195 (e) Conviction, or forfeiture of bail not vacated, upon
196 three (3) charges of reckless driving committed within a period of
197 twelve (12) months * * *.

198 * * * ~~(f) Contempt for failure to pay a fine or fee or~~
199 ~~to respond to a summons or citation pursuant to a charge of a~~
200 ~~violation of this title.~~

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



204 (3) In addition to the reasons specified in this section,
205 the commissioner shall be authorized to suspend the license issued
206 to any person pursuant to this article for being out of compliance
207 with an order for support, as defined in Section 93-11-153. The
208 procedure for suspension of a license for being out of compliance
209 with an order for support, and the procedure for the reissuance or
210 reinstatement of a license suspended for that purpose, and the
211 payment of any fees for the reissuance or reinstatement of a
212 license suspended for that purpose, shall be governed by Section
213 93-11-157 or 93-11-163, as the case may be. If there is any
214 conflict between any provision of Section 93-11-157 or 93-11-163
215 and any provision of this article, the provisions of Section
216 93-11-157 or 93-11-163, as the case may be, shall control.

217 **SECTION 3.** Section 63-1-53, Mississippi Code of 1972, is
218 amended as follows:

219 63-1-53. (1) Upon failure of any person to respond timely
220 and properly to a summons or citation charging such person with
221 any violation of this title, * * * ~~or upon failure of any person~~
222 ~~to pay timely any fine, fee or assessment levied as a result of~~
223 ~~any violation of this title,~~ the clerk of the court shall give
224 written notice to * * * ~~such~~ the person by United States
225 first-class mail at his last-known address advising * * * ~~such~~ the
226 person that, if within ten (10) days after such notice is
227 deposited in the mail, the person has not properly responded to
228 the summons or citation * * * ~~or has not paid the entire amount of~~



229 ~~all fines, fees and assessments levied,~~ then the court will give
230 notice thereof to the Commissioner of Public Safety and the
231 commissioner may suspend the driver's license of such person. The
232 actual cost incurred by the court in the giving of * * *~~such~~
233 notice may be added to any other court costs assessed in such
234 case. If within ten (10) days after the notice is given in
235 accordance with this subsection * * *~~such~~ the person has
236 not * * *~~satisfactorily disposed of~~ responded to or appeared in
237 the matter pending before the court, then the clerk of the court
238 immediately shall mail a copy of the abstract of the court record,
239 along with a certified copy of the notice given under this
240 subsection, to the commissioner, and the commissioner may suspend
241 the driver's license of such person as authorized under
242 subsections (2) and (3) of this section.

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

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

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

252 (c) Is an habitually reckless or negligent driver of a
253 motor vehicle;



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

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

259 (f) Has permitted an unlawful or fraudulent use of such
260 license;

261 (g) Has committed an offense in another state which if
262 committed in this state would be grounds for suspension or
263 revocation;

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

266 (* * * h) Has failed to respond to a summons or
267 citation which charged a violation of this title; or

268 (* * * ji) Has committed a violation for which
269 mandatory revocation of license is required upon conviction,
270 entering a plea of nolo contendere to, or adjudication of
271 delinquency, * * * ~~pursuant to~~ under the provisions of subsection
272 (1) of Section 63-1-71.

273 (3) Notice that a person's license is suspended or will be
274 suspended under subsection (2) of this section shall be given by
275 the commissioner in the manner and at the time provided for under
276 Section 63-1-52, and upon such person's request, he shall be
277 afforded an opportunity for a hearing as early as practicable, but
278 not to exceed twenty (20) days after receipt of such request in



279 the county wherein the licensee resides unless the department and
280 the licensee agree that * * *~~such~~ the hearing may be held in some
281 other county. Upon such hearing the commissioner, or his duly
282 authorized agent, may administer oaths and may issue subpoenas for
283 the attendance of witnesses and the production of relevant books
284 and papers and may require a reexamination of the licensee. Upon
285 such hearing the commissioner shall either rescind any order of
286 suspension or, good cause appearing therefor, may extend any
287 suspension of such license or revoke such license.

288 (4) If a licensee has not paid all cash appearance bonds
289 authorized under Section 99-19-3 or all fines, fees or other
290 assessments levied as a result of a violation of this title within
291 ninety (90) days after the commissioner has suspended the license
292 of a person under subsection (2)(i) of this section, the court is
293 authorized to pursue collection under Section 21-17-1(6) or
294 19-3-41(2) as for any other delinquent payment, and shall be
295 entitled to collection of all additional fees authorized under
296 those sections.

297 **SECTION 4.** Section 63-1-52, Mississippi Code of 1972, is
298 amended as follows:

299 63-1-52. (1) Whenever the Commissioner of Public Safety
300 suspends, cancels or revokes the driver's license or driving
301 privileges of any person, notice of the suspension, cancellation
302 or revocation shall be given to such person by the commissioner,
303 or his duly authorized agent, in the manner provided in subsection



304 (2) of this section and at the time provided in subsection (3) of
305 this section or in the manner and at the time provided in
306 subsection (4) of this section.

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

308 (a) In writing, (i) by United States Certificate
309 of * * *~~Mail~~ Mailing; or (ii) by personal service at the person's
310 address as it appears on the driving record maintained by the
311 Department of Public Safety or at the person's last-known address;
312 or (iii) by personal notice being given by any law enforcement
313 officer of this state or any duly authorized agent of the
314 Commissioner of Public Safety on forms prescribed and furnished by
315 the Commissioner of Public Safety; whenever a person's driver's
316 license or driving privileges are suspended, revoked or cancelled
317 in accordance with the Mississippi Driver License Compact Law, the
318 Mississippi Implied Consent Law, the Mississippi Motor Vehicle
319 Safety Responsibility Law or * * *~~paragraphs~~ subsection (2) (c),
320 (2) (d), (2) (e) or (2) (f) of Section 63-1-53.

321 (b) In writing, by United States first-class mail,
322 whenever a person's driver's license or driving privileges are
323 suspended, revoked or cancelled in accordance with the Mississippi
324 Commercial Driver's License Law, the Youth Court Law, Chapter 23
325 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section
326 63-1-51, * * *~~paragraph~~ subsection (2) (g) * * *~~r~~ or (2) (h) * * *~~er~~
327 ~~(2) (i)~~ of Section 63-1-53, or Section 63-9-25.

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



329 (a) Before suspension, revocation or cancellation,
330 whenever a person's driver's license or driving privileges are
331 suspended, revoked or cancelled in accordance with the Mississippi
332 Driver License Compact Law, the Mississippi Motor Vehicle Safety
333 Responsibility Law or * * *~~paragraph~~ subsection (2) (c), (2) (d),
334 (2) (e) or (2) (f) of Section 63-1-53.

335 (b) Unless otherwise specifically provided for by law,
336 at the time of suspension, revocation or cancellation, whenever a
337 person's driver's license or driving privileges are suspended,
338 revoked or cancelled in accordance with the Mississippi Commercial
339 Driver's License Law, the Mississippi Implied Consent Law, the
340 Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972,
341 Section 63-1-45, Section 63-1-51, * * *~~paragraph~~ subsection
342 (2) (g) * * *~~7~~ or (2) (h) * * *~~or~~ (2) (i) of Section 63-1-53, or
343 Section 63-9-25.

344 (4) Whenever the Commissioner of Public Safety suspends,
345 revokes or cancels the driver's license or driving privileges of
346 any person in accordance with some provision of law other than a
347 provision of law referred to in subsections (2) and (3) of this
348 section, and the manner and time for giving notice is not provided
349 for in such law, then notice of such suspension, revocation or
350 cancellation shall be given in the manner and at the time provided
351 for under * * *~~paragraph~~ subsections (2) (b) and (3) (b) of this
352 section.



353 **SECTION 5.** Section 99-5-11, Mississippi Code of 1972, is
354 amended as follows:

355 99-5-11. **All conservators of the peace may take recognizance**
356 **or bond; certificate of default; alias warrant; when protection**
357 **order registry must be checked; when bond not required.** (1) All
358 justice court judges and all other conservators of the peace are
359 authorized, whenever a person is brought before them charged with
360 any offense not capital for which bail is allowed by law, to take
361 the recognizance or bond of the person, with sufficient sureties,
362 in such penalty as the justice court judge or conservator of the
363 peace may require, for his appearance before the justice court
364 judge or conservator of the peace for an examination of his case
365 at some future day. And if the person thus recognized or thus
366 giving bond fails to appear at the appointed time, it shall be the
367 duty of the justice court judge or conservator of the peace to
368 return the recognizance or bond, with his certificate of default,
369 to the court having jurisdiction of the case, and a recovery may
370 be had therein by scire facias, as in other cases of forfeiture.
371 The justice court judge or other conservator of the peace shall
372 also issue an alias warrant for the defaulter.

373 (2) In circumstances involving an offense against any of the
374 following: (a) a current or former spouse of the accused or child
375 of that person; (b) a person living as a spouse or who formerly
376 lived as a spouse with the accused or a child of that person; (c)
377 a parent, grandparent, child, grandchild or someone similarly



378 situated to the accused; (d) a person who has a current or former
379 dating relationship with the accused; or (e) a person with whom
380 the accused has had a biological or legally adopted child, the
381 justice court judge or other conservator of the peace shall check,
382 or cause to be made a check, of the status of the person for whom
383 recognizance or bond is taken before ordering bail in the
384 Mississippi Protection Order Registry authorized under Section
385 93-21-25, and the existence of a domestic abuse protection order
386 against the accused shall be considered when determining
387 appropriate bail.

388 (3) A conservator of the peace may release a misdemeanant on
389 his or her own recognizance and, for all offenses not described in
390 subsection (2) of this section, a misdemeanant is entitled to
391 release on his or her own recognizance unless: (a) the
392 misdemeanant is on probation or parole, has other unresolved
393 charges pending, or has a history of nonappearance; or (b) the
394 proof is evident or presumption great that: (i) the release of
395 the misdemeanant would constitute a special danger to any other
396 person or to the community or (ii) release on recognizance is
397 highly unlikely to assure the appearance of the person as
398 required.

399 **SECTION 6.** Section 47-7-35, Mississippi Code of 1972, is
400 amended as follows:

401 47-7-35. (1) The courts referred to in Section 47-7-33 or
402 47-7-34 shall determine the terms and conditions of probation or



403 post-release supervision * * * ~~and~~ based on an offender's risk and
404 needs assessment and as provided in this section. The courts may
405 alter or modify * * * ~~,~~ the discretionary conditions consistent
406 with an offender's risk and needs assessment at any time during
407 the period of probation or post-release supervision * * * ~~, the~~
408 conditions and may include among them the following or any other:.
409 The discretionary conditions of probation or post-release
410 supervision may include any of those set forth in paragraphs (b)
411 through (j) of subsection (2) of this section. The mandatory
412 conditions of probation or post-release supervision shall include
413 those set forth in paragraphs (a) and (k) of subsection (2) of
414 this section.

415 (2) The discretionary and mandatory conditions of probation
416 and post-release supervision are that the offender shall:

417 (a) Commit no offense against the laws of this or any
418 other state of the United States, or of any federal, territorial
419 or tribal jurisdiction of the United States;

420 (b) Avoid injurious or vicious habits;

421 (c) Avoid persons or places of disreputable or harmful
422 character;

423 (d) Report to the probation and parole officer as
424 directed. The failure of an offender to report to the probation
425 and parole officer for six (6) or more consecutive months may be
426 considered a violation of a mandatory condition for revocation
427 purposes;



428 (e) Permit the probation and parole officer to visit
429 him at home or elsewhere;

430 (f) Work faithfully at suitable employment so far as
431 possible;

432 (g) Remain within a specified area;

433 (h) Pay his fine in one (1) or several sums;

434 (i) Support his dependents;

435 (j) Submit, as provided in Section 47-5-601, to any
436 type of breath, saliva or urine chemical analysis test, the
437 purpose of which is to detect the possible presence of alcohol or
438 a substance prohibited or controlled by any law of the State of
439 Mississippi or the United States;

440 (k) Register as a sex offender if so required under
441 Title 45, Chapter 33.

442 (* * *23) When any court places a defendant on misdemeanor
443 probation, the court must cause to be conducted a search of the
444 probationer's name or other identifying information against the
445 registration information regarding sex offenders maintained under
446 Title 45, Chapter 33. The search may be conducted using the
447 Internet site maintained by the Department of Public Safety Sex
448 Offender Registry.

449 (4) The time served on probation or post-release supervision
450 may be reduced as provided in Section 47-7-40.

451 **SECTION 7.** Section 47-7-17, Mississippi Code of 1972, is
452 amended as follows:



453 47-7-17. Within one (1) year after his admission and at such
454 intervals thereafter as it may determine, the board shall secure
455 and consider all pertinent information regarding each offender,
456 except any under sentence of death or otherwise ineligible for
457 parole, including the circumstances of his offense, his previous
458 social history, his previous criminal record, including any
459 records of law enforcement agencies or of a youth court regarding
460 that offender's juvenile criminal history, his conduct, employment
461 and attitude while in the custody of the department, the case plan
462 created to prepare the offender for parole, and the reports of
463 such physical and mental examinations as have been made. The
464 board shall furnish at least three (3) months' written notice to
465 each such offender of the date on which he is eligible for parole.

466 Before ruling on the application for parole of any offender,
467 the board may require a parole-eligible offender to have a hearing
468 as required in this chapter before the board and to be
469 interviewed. The hearing shall be held no later than thirty (30)
470 days prior to the month of eligibility. No application for parole
471 of a person convicted of a capital offense shall be considered by
472 the board unless and until notice of the filing of such
473 application shall have been published at least once a week for two
474 (2) weeks in a newspaper published in or having general
475 circulation in the county in which the crime was committed. The
476 board shall, within thirty (30) days prior to the scheduled
477 hearing, also give notice of the filing of the application for



478 parole to the victim of the offense for which the prisoner is
479 incarcerated and being considered for parole or, in case the
480 offense be homicide, a designee of the immediate family of the
481 victim, provided the victim or designated family member has
482 furnished in writing a current address to the board for such
483 purpose. Parole release shall, at the hearing, be ordered only
484 for the best interest of society, not as an award of clemency; it
485 shall not be considered to be a reduction of sentence or pardon.
486 An offender shall be placed on parole only when arrangements have
487 been made for his proper employment or for his maintenance and
488 care, and when the board believes that he is able and willing to
489 fulfill the obligations of a law-abiding citizen. When the board
490 determines that the offender will need transitional housing upon
491 release in order to improve the likelihood of * * ~~him~~ he or * * *
492 ~~her~~ she becoming a law-abiding citizen, the board may parole the
493 offender with the condition that the inmate spends no more than
494 six (6) months in a transitional reentry center. At least fifteen
495 (15) days prior to the release of an offender on parole, the
496 director of records of the department shall give the written
497 notice which is required pursuant to Section 47-5-177. Every
498 offender while on parole shall remain in the legal custody of the
499 department from which he was released and shall be amenable to the
500 orders of the board. Upon determination by the board that an
501 offender is eligible for release by parole, notice shall also be
502 given within at least fifteen (15) days before release, by the



503 board to the victim of the offense or the victim's family member,
504 as indicated above, regarding the date when the offender's release
505 shall occur, provided a current address of the victim or the
506 victim's family member has been furnished in writing to the board
507 for such purpose.

508 Failure to provide notice to the victim or the victim's
509 family member of the filing of the application for parole or of
510 any decision made by the board regarding parole shall not
511 constitute grounds for vacating an otherwise lawful parole
512 determination nor shall it create any right or liability, civilly
513 or criminally, against the board or any member thereof.

514 A letter of protest against granting an offender parole shall
515 not be treated as the conclusive and only reason for not granting
516 parole.

517 The board may adopt such other rules not inconsistent with
518 law as it may deem proper or necessary with respect to the
519 eligibility of offenders for parole * * *, or the conduct of
520 parole hearings * * *, ~~or~~. The board shall adopt such other rules
521 consistent with subsections (1) and (2) of Section 47-7-35
522 regarding mandatory and discretionary conditions to be imposed
523 upon parolees, including a condition that the parolee submit, as
524 provided in Section 47-5-601 to any type of breath, saliva or
525 urine chemical analysis test, the purpose of which is to detect
526 the possible presence of alcohol or a substance prohibited or
527 controlled by any law of the State of Mississippi or the United



528 States. The board shall have the authority to adopt rules related
529 to the placement of certain offenders on unsupervised parole and
530 for the operation of transitional reentry centers. However, in no
531 case shall an offender be placed on unsupervised parole before he
532 has served a minimum of fifty percent (50%) of the period of
533 supervised parole.

534 **SECTION 8.** Section 47-7-27, Mississippi Code of 1972, is
535 amended as follows:

536 47-7-27. (1) The board may, * * * ~~at any time and~~ upon a
537 showing of probable violation of a mandatory condition of parole,
538 issue a warrant for the return of any paroled offender to the
539 custody of the department. The warrant shall authorize all
540 persons named therein to return the paroled offender to actual
541 custody of the department from which he was paroled.

542 (2) Any field supervisor may arrest an offender without a
543 warrant or may deputize any other person with power of arrest by
544 giving him a written statement setting forth that the offender
545 has, in the judgment of that field supervisor, violated the
546 conditions of his parole or earned-release supervision. A written
547 statement alleging a parole violation must also set forth the
548 date, type and result of graduated sanctions imposed upon the
549 offender. The written statement delivered with the offender by
550 the arresting officer to the official in charge of the department
551 facility from which the offender was released or other place of



552 detention designated by the department shall be sufficient warrant
553 for the detention of the offender.

554 (3) The field supervisor, after making an arrest, shall
555 present to the detaining authorities a similar statement of the
556 circumstances of violation. The field supervisor shall at once
557 notify the board or department of the arrest and detention of the
558 offender and shall submit a written report showing in what manner
559 the offender has violated the conditions of parole or
560 earned-release supervision. An offender for whose return a
561 warrant has been issued by the board shall, after the issuance of
562 the warrant, be deemed a fugitive from justice.

563 (4) Whenever an offender is arrested on a warrant for an
564 alleged violation of parole as herein provided, the board shall
565 hold an informal preliminary hearing within seventy-two (72) hours
566 to determine whether there is reasonable cause to believe the
567 person has violated a condition of parole. A preliminary hearing
568 shall not be required when the offender is not under arrest on a
569 warrant or the offender signed a waiver of a preliminary hearing.
570 The preliminary hearing may be conducted electronically.

571 (5) The right of the State of Mississippi to extradite
572 persons and return fugitives from justice, from other states to
573 this state, shall not be impaired by this chapter and shall remain
574 in full force and effect. An offender convicted of a felony
575 committed while on parole, whether in the State of Mississippi or
576 another state, shall immediately have his parole revoked upon



577 presentment of a certified copy of the commitment order to the
578 board. If an offender is on parole and the offender is convicted
579 of a felony for a crime committed prior to the offender being
580 placed on parole, whether in the State of Mississippi or another
581 state, the offender may have his parole revoked upon presentment
582 of a certified copy of the commitment order to the board.

583 Graduated sanctions shall not be imposed prior to revocation under
584 the provisions of this subsection.

585 (6) (a) The board shall hold a hearing for any parolee who
586 is detained as a result of a warrant or a violation report within
587 twenty-one (21) days of the parolee's admission to detention. The
588 board may, in its discretion, terminate the parole or modify the
589 terms and conditions thereof. The board may revoke parole only if
590 the parolee has committed a technical violation of a mandatory
591 condition of parole. If the board revokes parole for one or more
592 technical violations the board shall impose a period of
593 imprisonment to be served in a technical violation center operated
594 by the department not to exceed ninety (90) days for the first
595 revocation and not to exceed one hundred twenty (120) days for the
596 second revocation. For the third revocation, the board may impose
597 a period of imprisonment to be served in a technical violation
598 center for up to one hundred * * *~~and~~ eighty (180) days or the
599 board may impose the remainder of the suspended portion of the
600 sentence. For the fourth and any subsequent revocation, the board
601 may impose up to the remainder of the suspended portion of the



602 sentence. The period of imprisonment in a technical violation
603 center imposed under this section shall not be reduced in any
604 manner.

605 (b) If the board does not hold a hearing or does not
606 take action on the violation within the twenty-one-day time frame
607 in paragraph (a) of this subsection, the parolee shall be released
608 from detention and shall return to parole status. The board may
609 subsequently hold a hearing and may revoke parole or may continue
610 parole and modify the terms and conditions of parole. The board
611 may revoke parole only if the parolee has committed a technical
612 violation of a mandatory condition of parole. If the board
613 revokes parole for one or more technical violations the board
614 shall impose a period of imprisonment to be served in a technical
615 violation center operated by the department not to exceed ninety
616 (90) days for the first revocation and not to exceed one hundred
617 twenty (120) days for the second revocation. For the third
618 revocation, the board may impose a period of imprisonment to be
619 served in a technical violation center for up to one hundred
620 eighty (180) days or the board may impose the remainder of the
621 suspended portion of the sentence. For the fourth and any
622 subsequent revocation, the board may impose up to the remainder of
623 the suspended portion of the sentence. The period of imprisonment
624 in a technical violation center imposed under this section shall
625 not be reduced in any manner.



626 (c) For a parolee charged with one or more technical
627 violations who has not been detained awaiting the revocation
628 hearing, the board may hold a hearing within a reasonable time.
629 The board may revoke parole or may continue parole and modify the
630 terms and conditions of parole. The board may revoke parole only
631 if the parolee has committed a technical violation of a mandatory
632 condition of parole. If the board revokes parole for one or more
633 technical violations the board shall impose a period of
634 imprisonment to be served in a technical violation center operated
635 by the department not to exceed ninety (90) days for the first
636 revocation and not to exceed one hundred twenty (120) days for the
637 second revocation. For the third revocation, the board may impose
638 a period of imprisonment to be served in a technical violation
639 center for up to one hundred eighty (180) days or the board may
640 impose the remainder of the suspended portion of the sentence.
641 For the fourth and any subsequent revocation, the board may impose
642 up to the remainder of the suspended portion of the sentence. The
643 period of imprisonment in a technical violation center imposed
644 under this section shall not be reduced in any manner.

645 (7) Unless good cause for the delay is established in the
646 record of the proceeding, the parole revocation charge shall be
647 dismissed if the revocation hearing is not held within the thirty
648 (30) days of the issuance of the warrant.

649 (8) The chairman and each member of the board and the
650 designated parole revocation hearing officer may, in the discharge



651 of their duties, administer oaths, summon and examine witnesses,
652 and take other steps as may be necessary to ascertain the truth of
653 any matter about which they have the right to inquire.

654 (9) The board shall provide semiannually to the Oversight
655 Task Force the number of warrants issued for an alleged violation
656 of parole, the average time between detention on a warrant and
657 preliminary hearing, the average time between detention on a
658 warrant and revocation hearing, the number of ninety-day sentences
659 in a technical violation center issued by the board, the number of
660 one-hundred-twenty-day sentences in a technical violation center
661 issued by the board, the number of one-hundred-eighty-day
662 sentences issued by the board, and the number and average length
663 of the suspended sentences imposed by the board in response to a
664 violation.

665 **SECTION 9.** Section 47-7-34, Mississippi Code of 1972, is
666 amended as follows:

667 47-7-34. (1) When a court imposes a sentence upon a
668 conviction for any felony committed after June 30, 1995, the
669 court, in addition to any other punishment imposed if the other
670 punishment includes a term of incarceration in a state or local
671 correctional facility, may impose a term of post-release
672 supervision. However, the total number of years of incarceration
673 plus the total number of years of post-release supervision,
674 whether supervised by the Mississippi Department of Corrections or
675 any other entity, shall not exceed the maximum sentence authorized



676 to be imposed by law for the felony committed. The defendant
677 shall be placed under post-release supervision upon release from
678 the term of incarceration. The period of supervision shall be
679 established by the court and shall not exceed two (2) years. The
680 time served on post-release supervision may be reduced pursuant to
681 Section 47-7-40.

682 (2) The period of post-release supervision shall be
683 conducted in the same manner as a like period of supervised
684 probation, including a requirement that the defendant shall abide
685 by any terms and conditions as the court may establish. Failure
686 to successfully abide by the terms and conditions shall be grounds
687 to terminate the period of post-release supervision and to
688 recommit the defendant to the correctional facility from which he
689 was previously released. Procedures for termination and
690 recommitment shall be conducted in the same manner as procedures
691 for the revocation of probation and imposition of a suspended
692 sentence as required pursuant to Section 47-7-37.

693 (3) Post-release supervision programs shall be operated
694 through the probation and parole unit of the Division of Community
695 Corrections of the department. The maximum amount of time that
696 the Mississippi Department of Corrections may supervise an
697 offender on the post-release supervision program is * * *~~five (5)~~
698 two (2) years.

699 **SECTION 10.** Section 47-7-37, Mississippi Code of 1972, is
700 amended as follows:



701 47-7-37. (1) The period of probation shall be fixed by the
702 court, and may at any time be extended or terminated by the court,
703 or judge in vacation. Such period with any extension thereof
704 shall not exceed * * *~~five~~-(5) two (2) years, except that in cases
705 of desertion and/or failure to support minor children, the period
706 of probation may be fixed and/or extended by the court for so long
707 as the duty to support such minor children exists. The time
708 served on probation or post-release supervision may be reduced
709 pursuant to Section 47-7-40.

710 (2) At any time during the period of probation, the court,
711 or judge in vacation, may issue a warrant for violating any of the
712 mandatory conditions of probation or suspension of sentence and
713 cause the probationer to be arrested. Any probation and parole
714 officer may arrest a probationer without a warrant, or may
715 deputize any other officer with power of arrest to do so by giving
716 him a written statement setting forth that the probationer has, in
717 the judgment of the probation and parole officer, violated the
718 conditions of probation. The written statement shall also set
719 forth the date, type and result of graduated sanctions imposed
720 upon the probationer. Such written statement delivered with the
721 probationer by the arresting officer to the official in charge of
722 a county jail or other place of detention shall be sufficient
723 warrant for the detention of the probationer.

724 (3) Whenever an offender is arrested on a warrant for an
725 alleged violation of probation as herein provided, the department



726 shall hold an informal preliminary hearing within seventy-two (72)
727 hours of the arrest to determine whether there is reasonable cause
728 to believe the person has violated a condition of probation. A
729 preliminary hearing shall not be required when the offender is not
730 under arrest on a warrant or the offender signed a waiver of a
731 preliminary hearing. The preliminary hearing may be conducted
732 electronically. If reasonable cause is found, the offender may be
733 confined no more than twenty-one (21) days from the admission to
734 detention until a revocation hearing is held. If the revocation
735 hearing is not held within twenty-one (21) days, the probationer
736 shall be released from custody and returned to probation status.

737 (4) If a probationer or offender is subject to registration
738 as a sex offender, the court must make a finding that the
739 probationer or offender is not a danger to the public prior to
740 release with or without bail. In determining the danger posed by
741 the release of the offender or probationer, the court may consider
742 the nature and circumstances of the violation and any new offenses
743 charged; the offender or probationer's past and present conduct,
744 including convictions of crimes and any record of arrests without
745 conviction for crimes involving violence or sex crimes; any other
746 evidence of allegations of unlawful sexual conduct or the use of
747 violence by the offender or probationer; the offender or
748 probationer's family ties, length of residence in the community,
749 employment history and mental condition; the offender or
750 probationer's history and conduct during the probation or other



751 supervised release and any other previous supervisions, including
752 disciplinary records of previous incarcerations; the likelihood
753 that the offender or probationer will engage again in a criminal
754 course of conduct; the weight of the evidence against the offender
755 or probationer; and any other facts the court considers relevant.

756 (5) (a) The probation and parole officer after making an
757 arrest shall present to the detaining authorities a similar
758 statement of the circumstances of violation. The probation and
759 parole officer shall at once notify the court of the arrest and
760 detention of the probationer and shall submit a report in writing
761 showing in what manner the probationer has violated the conditions
762 of probation. Within twenty-one (21) days of arrest and detention
763 by warrant as herein provided, the court shall cause the
764 probationer to be brought before it and may continue or revoke all
765 or any part of the probation or the suspension of sentence. The
766 court may only revoke probation if the probationer has committed a
767 technical violation of a mandatory condition of probation. If the
768 court revokes probation for one or more technical violations, the
769 court shall impose a period of imprisonment to be served in either
770 a technical violation center or a restitution center not to exceed
771 ninety (90) days for the first revocation and not to exceed one
772 hundred twenty (120) days for the second revocation. For the
773 third revocation, the court may impose a period of imprisonment to
774 be served in either a technical violation center or a restitution
775 center for up to one hundred eighty (180) days or the court may



776 impose the remainder of the suspended portion of the sentence.
777 For the fourth and any subsequent revocation, the court may impose
778 up to the remainder of the suspended portion of the sentence. The
779 period of imprisonment in a technical violation center imposed
780 under this section shall not be reduced in any manner.

781 (b) If the offender is not detained as a result of the
782 warrant, the court shall cause the probationer to be brought
783 before it within a reasonable time and may continue or revoke all
784 or any part of the probation or the suspension of sentence, and
785 may cause the sentence imposed to be executed or may impose any
786 part of the sentence which might have been imposed at the time of
787 conviction. The court may only revoke probation if the
788 probationer has committed a technical violation of a mandatory
789 condition of probation. If the court revokes probation for one or
790 more technical violations, the court shall impose a period of
791 imprisonment to be served in either a technical violation center
792 or a restitution center not to exceed ninety (90) days for the
793 first revocation and not to exceed one hundred twenty (120) days
794 for the second revocation. For the third revocation, the court
795 may impose a period of imprisonment to be served in either a
796 technical violation center or a restitution center for up to one
797 hundred eighty (180) days or the court may impose the remainder of
798 the suspended portion of the sentence. For the fourth and any
799 subsequent revocation, the court may impose up to the remainder of
800 the suspended portion of the sentence. The period of imprisonment



801 in a technical violation center imposed under this section shall
802 not be reduced in any manner.

803 (c) If the court does not hold a hearing or does not
804 take action on the violation within the twenty-one-day period, the
805 offender shall be released from detention and shall return to
806 probation status. The court may subsequently hold a hearing and
807 may revoke probation or may continue probation and modify the
808 terms and conditions of probation. The court may only revoke
809 probation if the probationer has committed a technical violation
810 of a mandatory condition of probation. If the court revokes
811 probation for one or more technical violations, the court shall
812 impose a period of imprisonment to be served in either a technical
813 violation center operated by the department or a restitution
814 center not to exceed ninety (90) days for the first revocation and
815 not to exceed one hundred twenty (120) days for the second
816 revocation. For the third revocation, the court may impose a
817 period of imprisonment to be served in either a technical
818 violation center or a restitution center for up to one hundred
819 eighty (180) days or the court may impose the remainder of the
820 suspended portion of the sentence. For the fourth and any
821 subsequent revocation, the court may impose up to the remainder of
822 the suspended portion of the sentence. The period of imprisonment
823 in a technical violation center imposed under this section shall
824 not be reduced in any manner.



825 (d) For an offender charged with a technical violation
826 who has not been detained awaiting the revocation hearing, the
827 court may hold a hearing within a reasonable time. The court may
828 revoke probation or may continue probation and modify the terms
829 and conditions of probation. The court may only revoke probation
830 if the probationer has committed a technical violation of a
831 mandatory condition of probation. If the court revokes probation
832 for one or more technical violations the court shall impose a
833 period of imprisonment to be served in either a technical
834 violation center operated by the department or a restitution
835 center not to exceed ninety (90) days for the first revocation and
836 not to exceed one hundred twenty (120) days for the second
837 revocation. For the third revocation, the court may impose a
838 period of imprisonment to be served in either a technical
839 violation center or a restitution center for up to one hundred
840 eighty (180) days or the court may impose the remainder of the
841 suspended portion of the sentence. For the fourth and any
842 subsequent revocation, the court may impose up to the remainder of
843 the suspended portion of the sentence. The period of imprisonment
844 in a technical violation center imposed under this section shall
845 not be reduced in any manner.

846 (6) If the probationer is arrested in a circuit court
847 district in the State of Mississippi other than that in which he
848 was convicted, the probation and parole officer, upon the written
849 request of the sentencing judge, shall furnish to the circuit



850 court or the county court of the county in which the arrest is
851 made, or to the judge of such court, a report concerning the
852 probationer, and such court or the judge in vacation shall have
853 authority, after a hearing, to continue or revoke all or any part
854 of probation or all or any part of the suspension of sentence, and
855 may in case of revocation proceed to deal with the case as if
856 there had been no probation. However, the court is only
857 authorized to revoke probation upon finding that the probationer
858 has committed a technical violation of a mandatory condition of
859 his probation. In such case, the clerk of the court in which the
860 order of revocation is issued shall forward a transcript of such
861 order to the clerk of the court of original jurisdiction, and the
862 clerk of that court shall proceed as if the order of revocation
863 had been issued by the court of original jurisdiction. Upon the
864 revocation of probation or suspension of sentence of any offender,
865 such offender shall be placed in the legal custody of the State
866 Department of Corrections and shall be subject to the requirements
867 thereof.

868 (7) Any probationer who removes himself from the State of
869 Mississippi without permission of the court placing him on
870 probation, or the court to which jurisdiction has been
871 transferred, shall be deemed and considered a fugitive from
872 justice and shall be subject to extradition as now provided by
873 law. No part of the time that one is on probation shall be



874 considered as any part of the time that he shall be sentenced to
875 serve.

876 (8) The arresting officer, except when a probation and
877 parole officer, shall be allowed the same fees as now provided by
878 law for arrest on warrant, and such fees shall be taxed against
879 the probationer and paid as now provided by law.

880 (9) The arrest, revocation and recommitment procedures of
881 this section also apply to persons who are serving a period of
882 post-release supervision imposed by the court.

883 (10) Unless good cause for the delay is established in the
884 record of the proceeding, the probation revocation charge shall be
885 dismissed if the revocation hearing is not held within thirty (30)
886 days of the warrant being issued.

887 (11) The Department of Corrections shall provide
888 semiannually to the Oversight Task Force the number of warrants
889 issued for an alleged violation of probation or post-release
890 supervision, the average time between detention on a warrant and
891 preliminary hearing, the average time between detention on a
892 warrant and revocation hearing, the number of ninety-day sentences
893 in a technical violation center issued by the court, the number of
894 one-hundred-twenty-day sentences in a technical violation center
895 issued by the court, the number of one-hundred-eighty-day
896 sentences issued by the court, and the number and average length
897 of the suspended sentences imposed by the court in response to a
898 violation.



899 **SECTION 11.** Section 47-7-38, Mississippi Code of 1972, is
900 amended as follows:

901 47-7-38. (1) The department shall * * *~~have the authority~~
902 ~~to~~ impose graduated sanctions * * *~~as an alternative to~~ before
903 requesting judicial modification or revocation, as provided in
904 Sections 47-7-27 and 47-7-37, for offenders on probation, parole,
905 or post-release supervision who commit technical violations of the
906 conditions of supervision as defined by Sections 47-7-2 and
907 47-7-35.

908 (2) The commissioner shall develop a standardized graduated
909 sanctions system, which shall include a grid to guide field
910 officers in determining the suitable response to a technical
911 violation. The commissioner shall promulgate rules and
912 regulations for the development and application of the system of
913 sanctions. Field officers shall be required to conform to the
914 sanction grid developed.

915 (3) The system of sanctions shall include a list of
916 sanctions for the most common types of violations. When
917 determining the sanction to impose, the field officer shall take
918 into account the offender's assessed risk level, previous
919 violations and sanctions, and severity of the current and prior
920 violations.

921 (4) Field officers shall notify the sentencing
922 court * * *~~when a probationer has committed a technical violation~~
923 ~~or the parole board when a parolee has committed a technical~~



924 ~~violation of the type of violation and the sanction imposed or the~~
925 ~~Parole Board, as applicable, when a probationer or parolee has~~
926 ~~committed a technical violation, the type of violation and the~~
927 ~~sanction imposed. * * *When the technical violation is an arrest~~
928 If a probationer is arrested for a new criminal offense, the field
929 officer shall notify the court within forty-eight (48) hours of
930 becoming aware of the arrest.

931 (5) The graduated sanctions that the department may impose
932 include, but shall not be limited to:

- 933 (a) Verbal warnings;
- 934 (b) Increased reporting;
- 935 (c) Increased drug and alcohol testing;
- 936 (d) Mandatory substance abuse treatment;
- 937 (e) Loss of earned-discharge credits; and
- 938 (f) Incarceration in a county jail for no more than two
939 (2) days. Incarceration as a sanction shall not be used more than
940 two (2) times per month for a total period incarcerated of no more
941 than four (4) days.

942 (6) The system shall also define positive reinforcements
943 that offenders will receive for compliance with conditions of
944 supervision. These positive reinforcements shall include, but not
945 be limited to:

- 946 (a) Verbal recognition;
- 947 (b) Reduced reporting; and



948 (c) Credits for earned discharge which shall be awarded
949 pursuant to Section 47-7-40.

950 (7) The Department of Corrections shall provide semiannually
951 to the Oversight Task Force the number and percentage of offenders
952 who have one or more violations during the year, the average
953 number of violations per offender during the year and the total
954 and average number of incarceration sanctions as defined in
955 subsection (5) of this section imposed during the year.

956 **SECTION 12.** Section 47-7-37.1, Mississippi Code of 1972,
957 which provides specific reasons for the revocation of probation,
958 is repealed.

959 **SECTION 13.** Section 9-23-5, Mississippi Code of 1972, is
960 amended as follows:

961 9-23-5. For the purposes of this chapter, the following
962 words and phrases shall have the meanings ascribed unless the
963 context clearly requires otherwise:

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

968 (b) "Crime of violence" means an offense listed in
969 Section 97-3-2, other than burglary of a dwelling under Section
970 97-17-23(1).



971 (c) "Drug court" means an immediate and highly
972 structured intervention process for substance abuse treatment of
973 eligible defendants or juveniles that:

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

976 (ii) Follows the key components of drug courts
977 published by the Drug Court Program Office of the United States
978 Department of Justice.

979 "Drug court" includes other problem-solving courts that
980 conform to standards promulgated by the State Drug Courts Advisory
981 Committee under Section 9-23-9, including, but not limited to,
982 juvenile courts, veterans courts, or any other court designed to
983 adjudicate criminal actions involving an identified classification
984 of criminal defendant using effective and proven practices that
985 reduce recidivism or substance dependency among participants.

986 (d) "Evidence-based practices" means supervision
987 policies, procedures and practices that scientific research
988 demonstrates reduce recidivism.

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

993 **SECTION 14.** Section 9-23-9, Mississippi Code of 1972, is
994 amended as follows:



995 9-23-9. (1) The State Drug Courts Advisory Committee is
996 established to develop and periodically update proposed statewide
997 evaluation plans and models for monitoring all critical aspects of
998 drug courts of whatever focus or description. The committee must
999 provide the proposed evaluation plans to the Chief Justice and the
1000 Administrative Office of Courts. The committee shall be chaired
1001 by the Director of the Administrative Office of Courts and shall
1002 consist of not less than seven (7) members nor more than eleven
1003 (11) members appointed by the Supreme Court and broadly
1004 representative of the courts, law enforcement, corrections,
1005 juvenile justice, child protective services and substance abuse
1006 treatment communities.

1007 (2) The State Drug Courts Advisory Committee may also make
1008 recommendations to the Chief Justice, the Director of the
1009 Administrative Office of Courts and state officials concerning
1010 improvements to drug court policies and procedures including the
1011 drug court certification process. The committee may make
1012 suggestions as to the criteria for eligibility, determination of
1013 indigence, and other procedural and substantive guidelines for
1014 drug court operation.

1015 (3) The State Drug Courts Advisory Committee shall act as
1016 arbiter of disputes arising out of the operation of drug courts
1017 established under this chapter and make recommendations to improve
1018 the drug courts; it shall also make recommendations to the Supreme
1019 Court necessary and incident to compliance with established rules.



1020 (4) The State Drug Courts Advisory Committee shall establish
1021 through rules and regulations a viable and fiscally responsible
1022 plan to expand the number of adult and juvenile drug court
1023 programs operating in Mississippi. These rules and regulations
1024 shall include plans to increase participation in existing and
1025 future programs while maintaining their voluntary nature.

1026 (5) The State Drug Courts Advisory Committee shall receive
1027 and review the monthly reports submitted to the Administrative
1028 Office of Courts by each certified drug court and provide comments
1029 and make recommendations, as necessary, to the Chief Justice and
1030 the Director of the Administrative Office of Courts.

1031 **SECTION 15.** Section 9-23-15, Mississippi Code of 1972, is
1032 amended as follows:

1033 9-23-15. (1) In order to be eligible for alternative
1034 sentencing through a local drug court, the participant must
1035 satisfy each of the following criteria:

1036 (a) The participant cannot have any felony convictions
1037 for any offenses that are crimes of violence as defined in Section
1038 97-3-2, other than a conviction for burglary of a dwelling under
1039 Section 97-17-23(1), within the previous ten (10) years.

1040 (b) The crime before the court cannot be a crime of
1041 violence as defined in Section 97-3-2, other than a conviction for
1042 burglary of a dwelling under Section 97-17-23(1).

1043 (c) Other criminal proceedings alleging commission of a
1044 crime of violence, other than a conviction for burglary of a



1045 dwelling under Section 97-17-23(1), cannot be pending against the
1046 participant.

1047 (d) The participant cannot be currently charged with
1048 burglary of a dwelling under Section 97-17-23(2) or 97-17-37.

1049 (e) The crime before the court cannot be for a charge
1050 of * * * ~~driving under the influence of alcohol or any other drug~~
1051 ~~or drugs~~ any offense that resulted in the death of a person.

1052 (f) The crime charged cannot be one of trafficking in
1053 controlled substances under Section 41-29-139(f), nor can the
1054 participant have a prior conviction for same.

1055 (2) Participation in the services of an alcohol and drug
1056 intervention component shall be open only to the individuals over
1057 whom the court has jurisdiction, except that the court may agree
1058 to provide the services for individuals referred from another drug
1059 court. In cases transferred from another jurisdiction, the
1060 receiving judge shall act as a special master and make
1061 recommendations to the sentencing judge.

1062 (3) (a) As a condition of participation in a drug court, a
1063 participant may be required to undergo a chemical test or a series
1064 of chemical tests as specified by the drug court. A participant
1065 is liable for the costs of all chemical tests required under this
1066 section, regardless of whether the costs are paid to the drug
1067 court or the laboratory; however, if testing is available from
1068 other sources or the program itself, the judge may waive any fees



1069 for testing; the judge may also reduce or waive any fees for
1070 testing if the participant is indigent.

1071 (b) A laboratory that performs a chemical test under
1072 this section shall report the results of the test to the drug
1073 court.

1074 (4) A person does not have a right to participate in drug
1075 court under this chapter. The court having jurisdiction over a
1076 person for a matter before the court shall have the final
1077 determination about whether the person may participate in drug
1078 court under this chapter.

1079 **SECTION 16.** Section 9-23-19, Mississippi Code of 1972, is
1080 amended as follows:

1081 9-23-19. (1) All monies received from any source by the
1082 drug court shall be accumulated in a fund to be used only for drug
1083 court purposes. Any funds remaining in this fund at the end of a
1084 fiscal year shall not lapse into any general fund, but shall be
1085 retained in the drug court fund for the funding of further
1086 activities by the drug court.

1087 (2) A drug court may apply for and receive the following:

1088 (a) Gifts, bequests and donations from private sources.

1089 (b) Grant and contract money from governmental sources.

1090 (c) Other forms of financial assistance approved by the
1091 court to supplement the budget of the drug court.

1092 (3) The costs of participation in an alcohol and drug
1093 intervention program required by the certified drug court may be



1094 paid by the participant or out of user fees or such other state,
1095 federal or private funds that may, from time to time, be made
1096 available.

1097 (4) The court may assess such reasonable and appropriate
1098 fees to be paid to the local drug court fund for participation in
1099 an alcohol or drug intervention program, and may waive or reduce
1100 fees for participants found to be indigent.

1101 **SECTION 17.** Section 41-29-139, Mississippi Code of 1972, is
1102 amended as follows:

1103 41-29-139. (a) **Transfer and possession with intent to**
1104 **transfer.** Except as authorized by this article, it is unlawful
1105 for any person knowingly or intentionally:

1106 (1) To sell, barter, transfer, manufacture, distribute,
1107 dispense or possess with intent to sell, barter, transfer,
1108 manufacture, distribute or dispense, a controlled substance; or

1109 (2) To create, sell, barter, transfer, distribute,
1110 dispense or possess with intent to create, sell, barter, transfer,
1111 distribute or dispense, a counterfeit substance.

1112 (b) **Punishment for transfer and possession with intent to**
1113 **transfer.** Except as otherwise provided in Section 41-29-142, any
1114 person who violates subsection (a) of this section shall be, if
1115 convicted, sentenced as follows:

1116 (1) For controlled substances classified in Schedule I
1117 or II, as set out in Sections 41-29-113 and 41-29-115, other than
1118 marijuana or synthetic cannabinoids:



1119 (A) If less than two (2) grams or ten (10) dosage
1120 units, by imprisonment for not more than eight (8) years or a fine
1121 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1122 (B) If two (2) or more grams or ten (10) or more
1123 dosage units, but less than ten (10) grams or twenty (20) dosage
1124 units, by imprisonment for not less than three (3) years nor more
1125 than twenty (20) years or a fine of not more than Two Hundred
1126 Fifty Thousand Dollars (\$250,000.00), or both.

1127 (C) If ten (10) or more grams or twenty (20) or
1128 more dosage units, but less than thirty (30) grams or forty (40)
1129 dosage units, by imprisonment for not less than five (5) years nor
1130 more than thirty (30) years or a fine of not more than Five
1131 Hundred Thousand Dollars (\$500,000.00), or both.

1132 (2) (A) For marijuana:

1133 1. If thirty (30) grams or less, by
1134 imprisonment for not more than three (3) years or a fine of not
1135 more than Three Thousand Dollars (\$3,000.00), or both;

1136 2. If more than thirty (30) grams but less
1137 than two hundred fifty (250) grams, by imprisonment for not more
1138 than five (5) years or a fine of not more than Five Thousand
1139 Dollars (\$5,000.00), or both;

1140 3. If two hundred fifty (250) or more grams
1141 but less than five hundred (500) grams, by imprisonment for not
1142 less than three (3) years nor more than ten (10) years or a fine
1143 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;



1144 4. If five hundred (500) or more grams but
1145 less than one (1) kilogram, by imprisonment for not less than five
1146 (5) years nor more than twenty (20) years or a fine of not more
1147 than Twenty Thousand Dollars (\$20,000.00), or both.

1148 (B) For synthetic cannabinoids:

1149 1. If ten (10) grams or less, by imprisonment
1150 for not more than three (3) years or a fine of not more than Three
1151 Thousand Dollars (\$3,000.00), or both;

1152 2. If more than ten (10) grams but less than
1153 twenty (20) grams, by imprisonment for not more than five (5)
1154 years or a fine of not more than Five Thousand Dollars
1155 (\$5,000.00), or both;

1156 3. If twenty (20) or more grams but less than
1157 forty (40) grams, by imprisonment for not less than three (3)
1158 years nor more than ten (10) years or a fine of not more than
1159 Fifteen Thousand Dollars (\$15,000.00), or both;

1160 4. If forty (40) or more grams but less than
1161 two hundred (200) grams, by imprisonment for not less than five
1162 (5) years nor more than twenty (20) years or a fine of not more
1163 than Twenty Thousand Dollars (\$20,000.00), or both.

1164 (3) For controlled substances classified in Schedules
1165 III and IV, as set out in Sections 41-29-117 and 41-29-119:

1166 (A) If less than two (2) grams or ten (10) dosage
1167 units, by imprisonment for not more than five (5) years or a fine
1168 of not more than Five Thousand Dollars (\$5,000.00), or both;



1169 (B) If two (2) or more grams or ten (10) or more
1170 dosage units, but less than ten (10) grams or twenty (20) dosage
1171 units, by imprisonment for not more than eight (8) years or a fine
1172 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1173 (C) If ten (10) or more grams or twenty (20) or
1174 more dosage units, but less than thirty (30) grams or forty (40)
1175 dosage units, by imprisonment for not more than fifteen (15) years
1176 or a fine of not more than One Hundred Thousand Dollars
1177 (\$100,000.00), or both;

1178 (D) If thirty (30) or more grams or forty (40) or
1179 more dosage units, but less than five hundred (500) grams or two
1180 thousand five hundred (2,500) dosage units, by imprisonment for
1181 not more than twenty (20) years or a fine of not more than Two
1182 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

1183 (4) For controlled substances classified in Schedule V,
1184 as set out in Section 41-29-121:

1185 (A) If less than two (2) grams or ten (10) dosage
1186 units, by imprisonment for not more than one (1) year or a fine of
1187 not more than Five Thousand Dollars (\$5,000.00), or both;

1188 (B) If two (2) or more grams or ten (10) or more
1189 dosage units, but less than ten (10) grams or twenty (20) dosage
1190 units, by imprisonment for not more than five (5) years or a fine
1191 of not more than Ten Thousand Dollars (\$10,000.00), or both;

1192 (C) If ten (10) or more grams or twenty (20) or
1193 more dosage units, but less than thirty (30) grams or forty (40)



1194 dosage units, by imprisonment for not more than ten (10) years or
1195 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
1196 both;

1197 (D) For thirty (30) or more grams or forty (40) or
1198 more dosage units, but less than five hundred (500) grams or two
1199 thousand five hundred (2,500) dosage units, by imprisonment for
1200 not more than fifteen (15) years or a fine of not more than Fifty
1201 Thousand Dollars (\$50,000.00), or both.

1202 (c) **Simple possession.** It is unlawful for any person
1203 knowingly or intentionally to possess any controlled substance
1204 unless the substance was obtained directly from, or pursuant to, a
1205 valid prescription or order of a practitioner while acting in the
1206 course of his professional practice, or except as otherwise
1207 authorized by this article. The penalties for any violation of
1208 this subsection (c) with respect to a controlled substance
1209 classified in Schedules I, II, III, IV or V, as set out in Section
1210 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
1211 marijuana or synthetic cannabinoids, shall be based on dosage unit
1212 as defined herein or the weight of the controlled substance as set
1213 forth herein as appropriate:

1214 "Dosage unit (d.u.)" means a tablet or capsule, or in the
1215 case of a liquid solution, one (1) milliliter. In the case of
1216 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
1217 stamp, square, dot, microdot, tablet or capsule of a controlled
1218 substance.



1219 For any controlled substance that does not fall within the
1220 definition of the term "dosage unit," the penalties shall be based
1221 upon the weight of the controlled substance.

1222 The weight set forth refers to the entire weight of any
1223 mixture or substance containing a detectable amount of the
1224 controlled substance.

1225 If a mixture or substance contains more than one (1)
1226 controlled substance, the weight of the mixture or substance is
1227 assigned to the controlled substance that results in the greater
1228 punishment.

1229 A first or second offense under this subsection (c) that does
1230 not amount to trafficking under subsection (f) is a misdemeanor
1231 punishable under Section 99-19-31 unless this subsection (c)
1232 provides a lesser penalty as to fine or incarceration. For a
1233 third or subsequent offense under this section within ten (10)
1234 years, a person shall be charged and sentenced as follows for a
1235 violation of this subsection with respect to:

1236 (1) A controlled substance classified in Schedule I or
1237 II, except marijuana and synthetic cannabinoids:

1238 (A) If less than one-tenth (0.1) gram or two (2)
1239 dosage units, the violation is a misdemeanor and punishable by
1240 imprisonment for not more than one (1) year or a fine of not more
1241 than One Thousand Dollars (\$1,000.00), or both.

1242 (B) If one-tenth (0.1) gram or more or two (2) or
1243 more dosage units, but less than two (2) grams or ten (10) dosage



1244 units, by imprisonment for not more than three (3) years or a fine
1245 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1246 (C) If two (2) or more grams or ten (10) or more
1247 dosage units, but less than ten (10) grams or twenty (20) dosage
1248 units, by imprisonment for not more than eight (8) years or a fine
1249 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
1250 or both.

1251 (D) If ten (10) or more grams or twenty (20) or
1252 more dosage units, but less than thirty (30) grams or forty (40)
1253 dosage units, by imprisonment for not less than three (3) years
1254 nor more than twenty (20) years or a fine of not more than Five
1255 Hundred Thousand Dollars (\$500,000.00), or both.

1256 (2) (A) Marijuana and synthetic cannabinoids:

1257 1. If thirty (30) grams or less of marijuana
1258 or ten (10) grams or less of synthetic cannabinoids, by a fine of
1259 not less than One Hundred Dollars (\$100.00) nor more than Two
1260 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
1261 (2) (A) may be enforceable by summons if the offender provides
1262 proof of identity satisfactory to the arresting officer and gives
1263 written promise to appear in court satisfactory to the arresting
1264 officer, as directed by the summons. A second conviction under
1265 this section within two (2) years is a misdemeanor punishable by a
1266 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
1267 (60) days in the county jail, and mandatory participation in a
1268 drug education program approved by the Division of Alcohol and



1269 Drug Abuse of the State Department of Mental Health, unless the
1270 court enters a written finding that a drug education program is
1271 inappropriate. A third or subsequent conviction under this
1272 paragraph (2) (A) within two (2) years is a misdemeanor punishable
1273 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
1274 more than One Thousand Dollars (\$1,000.00) and confinement for not
1275 more than six (6) months in the county jail.

1276 Upon a first or second conviction under this paragraph
1277 (2) (A), the courts shall forward a report of the conviction to the
1278 Mississippi Bureau of Narcotics which shall make and maintain a
1279 private, nonpublic record for a period not to exceed two (2) years
1280 from the date of conviction. The private, nonpublic record shall
1281 be solely for the use of the courts in determining the penalties
1282 which attach upon conviction under this paragraph (2) (A) and shall
1283 not constitute a criminal record for the purpose of private or
1284 administrative inquiry and the record of each conviction shall be
1285 expunged at the end of the period of two (2) years following the
1286 date of such conviction;

1287 2. Additionally, a person who is the operator
1288 of a motor vehicle, who possesses on his person or knowingly keeps
1289 or allows to be kept in a motor vehicle within the area of the
1290 vehicle normally occupied by the driver or passengers, more than
1291 one (1) gram, but not more than thirty (30) grams of marijuana or
1292 not more than ten (10) grams of synthetic cannabinoids is guilty
1293 of a misdemeanor and, upon conviction, may be fined not more than



1294 One Thousand Dollars (\$1,000.00) or confined for not more than
1295 ninety (90) days in the county jail, or both. For the purposes of
1296 this subsection, such area of the vehicle shall not include the
1297 trunk of the motor vehicle or the areas not normally occupied by
1298 the driver or passengers if the vehicle is not equipped with a
1299 trunk. A utility or glove compartment shall be deemed to be
1300 within the area occupied by the driver and passengers;

1301 (B) Marijuana:

1302 1. If more than thirty (30) grams but less
1303 than two hundred fifty (250) grams, by a fine of not more than One
1304 Thousand Dollars (\$1,000.00), or confinement in the county jail
1305 for not more than one (1) year, or both; or by a fine of not more
1306 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
1307 custody of the Department of Corrections for not more than three
1308 (3) years, or both;

1309 2. If two hundred fifty (250) or more grams
1310 but less than five hundred (500) grams, by imprisonment for not
1311 less than two (2) years nor more than eight (8) years or by a fine
1312 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1313 3. If five hundred (500) or more grams but
1314 less than one (1) kilogram, by imprisonment for not less than four
1315 (4) years nor more than sixteen (16) years or a fine of not more
1316 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1317 4. If one (1) kilogram or more but less than
1318 five (5) kilograms, by imprisonment for not less than six (6)



1319 years nor more than twenty-four (24) years or a fine of not more
1320 than Five Hundred Thousand Dollars (\$500,000.00), or both;

1321 5. If five (5) kilograms or more, by
1322 imprisonment for not less than ten (10) years nor more than thirty
1323 (30) years or a fine of not more than One Million Dollars
1324 (\$1,000,000.00), or both.

1325 (C) Synthetic cannabinoids:

1326 1. If more than ten (10) grams but less than
1327 twenty (20) grams, by a fine of not more than One Thousand Dollars
1328 (\$1,000.00), or confinement in the county jail for not more than
1329 one (1) year, or both; or by a fine of not more than Three
1330 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
1331 the Department of Corrections for not more than three (3) years,
1332 or both;

1333 2. If twenty (20) or more grams but less than
1334 forty (40) grams, by imprisonment for not less than two (2) years
1335 nor more than eight (8) years or by a fine of not more than Fifty
1336 Thousand Dollars (\$50,000.00), or both;

1337 3. If forty (40) or more grams but less than
1338 two hundred (200) grams, by imprisonment for not less than four
1339 (4) years nor more than sixteen (16) years or a fine of not more
1340 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1341 4. If two hundred (200) or more grams, by
1342 imprisonment for not less than six (6) years nor more than



1343 twenty-four (24) years or a fine of not more than Five Hundred
1344 Thousand Dollars (\$500,000.00), or both.

1345 (3) A controlled substance classified in Schedule III,
1346 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
1347 conviction, may be punished as follows:

1348 (A) If less than fifty (50) grams or less than one
1349 hundred (100) dosage units, the offense is a misdemeanor and
1350 punishable by not more than one (1) year or a fine of not more
1351 than One Thousand Dollars (\$1,000.00), or both.

1352 (B) If fifty (50) or more grams or one hundred
1353 (100) or more dosage units, but less than one hundred fifty (150)
1354 grams or five hundred (500) dosage units, by imprisonment for not
1355 less than one (1) year nor more than four (4) years or a fine of
1356 not more than Ten Thousand Dollars (\$10,000.00), or both.

1357 (C) If one hundred fifty (150) or more grams or
1358 five hundred (500) or more dosage units, but less than three
1359 hundred (300) grams or one thousand (1,000) dosage units, by
1360 imprisonment for not less than two (2) years nor more than eight
1361 (8) years or a fine of not more than Fifty Thousand Dollars
1362 (\$50,000.00), or both.

1363 (D) If three hundred (300) or more grams or one
1364 thousand (1,000) or more dosage units, but less than five hundred
1365 (500) grams or two thousand five hundred (2,500) dosage units, by
1366 imprisonment for not less than four (4) years nor more than



1367 sixteen (16) years or a fine of not more than Two Hundred Fifty
1368 Thousand Dollars (\$250,000.00), or both.

1369 (d) **Paraphernalia.** (1) It is unlawful for a person who is
1370 not authorized by the State Board of Medical Licensure, State
1371 Board of Pharmacy, or other lawful authority to use, or to possess
1372 with intent to use, paraphernalia to plant, propagate, cultivate,
1373 grow, harvest, manufacture, compound, convert, produce, process,
1374 prepare, test, analyze, pack, repack, store, contain, conceal,
1375 inject, ingest, inhale or otherwise introduce into the human body
1376 a controlled substance in violation of the Uniform Controlled
1377 Substances Law. Any person who violates this subsection (d)(1) is
1378 guilty of a misdemeanor and, upon conviction, may be confined in
1379 the county jail for not more than six (6) months, or fined not
1380 more than Five Hundred Dollars (\$500.00), or both; however, no
1381 person shall be charged with a violation of this subsection when
1382 such person is also charged with the possession of thirty (30)
1383 grams or less of marijuana under subsection (c)(2)(A) of this
1384 section.

1385 (2) It is unlawful for any person to deliver, sell,
1386 possess with intent to deliver or sell, or manufacture with intent
1387 to deliver or sell, paraphernalia, knowing, or under circumstances
1388 where one reasonably should know, that it will be used to plant,
1389 propagate, cultivate, grow, harvest, manufacture, compound,
1390 convert, produce, process, prepare, test, analyze, pack, repack,
1391 store, contain, conceal, inject, ingest, inhale, or otherwise



1392 introduce into the human body a controlled substance in violation
1393 of the Uniform Controlled Substances Law. Except as provided in
1394 subsection (d) (3), a person who violates this subsection (d) (2) is
1395 guilty of a misdemeanor and, upon conviction, may be confined in
1396 the county jail for not more than six (6) months, or fined not
1397 more than Five Hundred Dollars (\$500.00), or both.

1398 (3) Any person eighteen (18) years of age or over who
1399 violates subsection (d) (2) of this section by delivering or
1400 selling paraphernalia to a person under eighteen (18) years of age
1401 who is at least three (3) years his junior is guilty of a
1402 misdemeanor and, upon conviction, may be confined in the county
1403 jail for not more than one (1) year, or fined not more than One
1404 Thousand Dollars (\$1,000.00), or both.

1405 (4) It is unlawful for any person to place in any
1406 newspaper, magazine, handbill, or other publication any
1407 advertisement, knowing, or under circumstances where one
1408 reasonably should know, that the purpose of the advertisement, in
1409 whole or in part, is to promote the sale of objects designed or
1410 intended for use as paraphernalia. Any person who violates this
1411 subsection is guilty of a misdemeanor and, upon conviction, may be
1412 confined in the county jail for not more than six (6) months, or
1413 fined not more than Five Hundred Dollars (\$500.00), or both.

1414 (e) It shall be unlawful for any physician practicing
1415 medicine in this state to prescribe, dispense or administer any
1416 amphetamine or amphetamine-like anorectics and/or central nervous



1417 system stimulants classified in Schedule II, pursuant to Section
1418 41-29-115, for the exclusive treatment of obesity, weight control
1419 or weight loss. Any person who violates this subsection, upon
1420 conviction, is guilty of a misdemeanor and may be confined for a
1421 period not to exceed six (6) months, or fined not more than One
1422 Thousand Dollars (\$1,000.00), or both.

1423 (f) **Trafficking.** (1) Any person trafficking in controlled
1424 substances shall be guilty of a felony and, upon conviction, shall
1425 be imprisoned for a term of not less than ten (10) years nor more
1426 than forty (40) years and shall be fined not less than Five
1427 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
1428 (\$1,000,000.00). The ten-year mandatory sentence shall not be
1429 reduced or suspended. The person shall not be eligible for
1430 probation or parole, the provisions of Sections 41-29-149,
1431 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

1432 (2) "Trafficking in controlled substances" as used
1433 herein means:

1434 (A) A violation of subsection (a) of this section
1435 involving thirty (30) or more grams or forty (40) or more dosage
1436 units of a Schedule I or II controlled substance except marijuana
1437 and synthetic cannabinoids;

1438 (B) A violation of subsection (a) of this section
1439 involving five hundred (500) or more grams or two thousand five
1440 hundred (2,500) or more dosage units of a Schedule III, IV or V
1441 controlled substance;



1442 (C) A violation of subsection (c) of this section
1443 involving thirty (30) or more grams or forty (40) or more dosage
1444 units of a Schedule I or II controlled substance except marijuana
1445 and synthetic cannabinoids;

1446 (D) A violation of subsection (c) of this section
1447 involving five hundred (500) or more grams or two thousand five
1448 hundred (2,500) or more dosage units of a Schedule III, IV or V
1449 controlled substance; or

1450 (E) A violation of subsection (a) of this section
1451 involving one (1) kilogram or more of marijuana or two hundred
1452 (200) grams or more of synthetic cannabinoids.

1453 (g) **Aggravated trafficking.** Any person trafficking in
1454 Schedule I or II controlled substances, except marijuana and
1455 synthetic cannabinoids, of two hundred (200) grams or more shall
1456 be guilty of aggravated trafficking and, upon conviction, shall be
1457 sentenced to a term of not less than twenty-five (25) years nor
1458 more than life in prison and shall be fined not less than Five
1459 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
1460 (\$1,000,000.00). The twenty-five-year sentence shall be a
1461 mandatory sentence and shall not be reduced or suspended. The
1462 person shall not be eligible for probation or parole, the
1463 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
1464 the contrary notwithstanding.

1465 (h) **Sentence mitigation.** (1) Notwithstanding any provision
1466 of this section, a person who has been convicted of an offense



1467 under this section that requires the judge to impose a prison
1468 sentence which cannot be suspended or reduced and is ineligible
1469 for probation or parole may, at the discretion of the court,
1470 receive a sentence of imprisonment that is no less than
1471 twenty-five percent (25%) of the sentence prescribed by the
1472 applicable statute. In considering whether to apply the departure
1473 from the sentence prescribed, the court shall conclude that:

1474 (A) The offender was not a leader of the criminal
1475 enterprise;

1476 (B) The offender did not use violence or a weapon
1477 during the crime;

1478 (C) The offense did not result in a death or
1479 serious bodily injury of a person not a party to the criminal
1480 enterprise; and

1481 (D) The interests of justice are not served by the
1482 imposition of the prescribed mandatory sentence.

1483 The court may also consider whether information and
1484 assistance were furnished to a law enforcement agency, or its
1485 designee, which, in the opinion of the trial judge, objectively
1486 should or would have aided in the arrest or prosecution of others
1487 who violate this subsection. The accused shall have adequate
1488 opportunity to develop and make a record of all information and
1489 assistance so furnished.



1490 (2) If the court reduces the prescribed sentence
1491 pursuant to this subsection, it must specify on the record the
1492 circumstances warranting the departure.

1493 **SECTION 18.** Section 99-19-81, Mississippi Code of 1972, is
1494 amended as follows:

1495 99-19-81. (1) Every person convicted in this state of a
1496 felony who shall have been convicted twice previously of any
1497 felony or federal crime upon charges separately brought and
1498 arising out of separate incidents at different times and who shall
1499 have been sentenced to separate terms of one (1) year or more in
1500 any state and/or federal penal institution, whether in this state
1501 or elsewhere, shall be sentenced to the maximum term of
1502 imprisonment prescribed for such felony unless the court provides
1503 an explanation in its sentencing order setting forth the cause for
1504 deviating from the maximum sentence, and such sentence shall not
1505 be reduced or suspended nor shall such person be eligible for
1506 parole or probation.

1507 (2) A prior felony conviction shall not be considered for
1508 the purposes of this section if more than ten (10) years have
1509 elapsed between the date of completion of the sentence imposed for
1510 the prior felony and the date of the commission of the offense or
1511 offenses subject to sentencing.

1512 **SECTION 19.** Section 99-19-83, Mississippi Code of 1972, is
1513 amended as follows:



1514 99-19-83. (1) Every person convicted in this state of a
1515 felony who shall have been convicted twice previously of any
1516 felony or federal crime upon charges separately brought and
1517 arising out of separate incidents at different times and who shall
1518 have been sentenced to and served separate terms of one (1) year
1519 or more, whether served concurrently or not, in any state and/or
1520 federal penal institution, whether in this state or elsewhere, and
1521 where any one (1) of such felonies shall have been a crime of
1522 violence, as defined by Section 97-3-2, shall be sentenced to life
1523 imprisonment, and such sentence shall not be reduced or suspended
1524 nor shall such person be eligible for parole, probation or any
1525 other form of early release from actual physical custody within
1526 the Department of Corrections.

1527 (2) A prior felony conviction shall not be considered for
1528 the purposes of this section if more than ten (10) years have
1529 elapsed between the date of completion of the sentence imposed for
1530 the prior felony and the date of the commission of the offense or
1531 offenses subject to sentencing.

1532 **SECTION 20.** Section 63-1-216, Mississippi Code of 1972, is
1533 amended as follows:

1534 63-1-216. (1) (a) A person shall be disqualified from
1535 driving a commercial motor vehicle for a period of one (1) year if
1536 the person's license or permit to drive has been administratively
1537 suspended under Section 63-11-23 or the person has been convicted
1538 of a first violation of:



1539 (i) Operating, attempting to operate, or being in
1540 actual physical control of a commercial motor vehicle on a highway
1541 with an alcohol concentration of four one-hundredths percent
1542 (0.04%) or more, or under the influence of other drugs as provided
1543 in Section 63-11-30;

1544 (ii) Failure to stop and render aid as required
1545 under the laws of this state in the event of a motor vehicle
1546 accident resulting in the death or personal injury of another;

1547 (iii) Using a motor vehicle in the commission of
1548 any offense under state or federal law that is punishable by
1549 imprisonment for a term exceeding one (1) year;

1550 (iv) Refusal to submit to a test to determine the
1551 operator's alcohol concentration, as provided in Title 63, Chapter
1552 11, Mississippi Code of 1972, while operating a commercial motor
1553 vehicle;

1554 (v) Operating, attempting to operate, or being in
1555 actual physical control of a noncommercial motor vehicle on a
1556 highway with an alcohol concentration of eight one-hundredths
1557 percent (0.08%) or more, or under the influence of intoxicating
1558 liquor or other substance, as provided in Section 63-11-30;

1559 (vi) Operating, attempting to operate, or being in
1560 actual physical control of a noncommercial motor vehicle on a
1561 highway when the person is under the influence of any other drug
1562 or under the combined influence of alcohol and any other drug to a



1563 degree which renders the person incapable of driving safely as
1564 provided in Section 63-11-30;

1565 (vii) Operating or attempting to operate a
1566 commercial motor vehicle while the license is revoked, suspended,
1567 cancelled, or disqualified;

1568 (viii) Operating a commercial motor vehicle in a
1569 negligent manner resulting in a fatal injury.

1570 (b) A person shall be disqualified from driving a
1571 commercial motor vehicle for three (3) years if convicted of a
1572 violation listed in subsection (1) of this section, if the
1573 violation occurred while transporting a hazardous material
1574 required to be placarded.

1575 (c) A person shall be disqualified from driving a
1576 commercial motor vehicle for life if convicted of two (2) or more
1577 violations or a combination of them listed in subsection (1) of
1578 this section arising from two (2) or more separate occurrences.

1579 (d) A person shall be disqualified from driving a
1580 commercial motor vehicle for a period of sixty (60) days if
1581 convicted of two (2) serious traffic violations, or one hundred
1582 twenty (120) days if convicted of three (3) serious traffic
1583 violations, arising from separate incidents occurring within a
1584 three-year period. A disqualification for three (3) serious
1585 traffic violations must be imposed consecutively to any other
1586 previous period of disqualification.



1587 (e) A person shall be disqualified from driving a
1588 commercial motor vehicle for life if the person uses a motor
1589 vehicle in the commission of any offense under state or federal
1590 law that is punishable by imprisonment for a term exceeding one
1591 (1) year involving the manufacture, distribution, or dispensing of
1592 a regulated drug, or possession with intent to manufacture,
1593 distribute, or dispense a regulated drug and for which the person
1594 was convicted.

1595 (f) A person who is disqualified from driving a
1596 commercial motor vehicle shall surrender the person's Mississippi
1597 commercial driver's license no later than the effective date of
1598 the disqualification. Upon receipt of the person's commercial
1599 driver's license, that person, if otherwise eligible, may apply
1600 for a non-CDL, and upon payment of sufficient fees receive the
1601 driver's license.

1602 (g) The commissioner shall adopt rules establishing
1603 guidelines, including conditions, under which a disqualification
1604 for life under this section, except for a disqualification issued
1605 pursuant to paragraph (e) of this subsection, may be reduced to a
1606 period of not less than ten (10) years.

1607 (h) A person shall be disqualified from driving a
1608 commercial motor vehicle for a period of sixty (60) days if the
1609 driver is convicted of a first violation of a railroad-highway
1610 grade crossing violation.



1611 (i) A person shall be disqualified from driving a
1612 commercial motor vehicle for a period of one hundred twenty (120)
1613 days if, during any three-year period, the driver is convicted of
1614 a second railroad-highway grade crossing violation in a separate
1615 incident.

1616 (j) A person shall be disqualified from driving a
1617 commercial motor vehicle for a period of one (1) year if, during
1618 any three-year period, the driver is convicted of a third or
1619 subsequent railroad-highway grade crossing violation in separate
1620 incidents.

1621 (k) A person who is simultaneously subject to a
1622 disqualification issued by the administrator of the Federal Motor
1623 Carrier Safety Administration pursuant to 49 CFR, Part 383.52 and
1624 a disqualification under any other provision of this section shall
1625 serve those disqualification periods concurrently.

1626 (2) (a) A person's privilege to operate a commercial motor
1627 vehicle in the State of Mississippi shall be suspended for one (1)
1628 year, if:

1629 (i) The person is convicted of a first violation
1630 of operating, attempting to operate or being in actual physical
1631 control of a commercial motor vehicle on a highway with an alcohol
1632 concentration of four one-hundredths percent (0.04%) or more, or
1633 under the influence, as provided in Section 63-11-30; and

1634 (ii) The person's commercial driver's license is
1635 issued by a state or country that does not issue commercial



1636 driver's licenses and disqualify persons in accordance with 49
1637 CFR, Parts 383 and 384.

1638 (b) A person's privilege to operate a commercial motor
1639 vehicle in the State of Mississippi shall be suspended for three
1640 (3) years if the person is convicted of violating subsection (1)
1641 of this section, and the violation occurred while the person was
1642 transporting a hazardous material required to be placarded.

1643 (c) A person's privilege to operate a commercial motor
1644 vehicle in the State of Mississippi shall be suspended for life if
1645 the person is convicted a second time of violating subsection (1)
1646 of this section, * * * ~~and both~~ if the convictions arise out of
1647 separate occurrences.

1648 (d) A person's privilege to operate a commercial motor
1649 vehicle in the State of Mississippi shall be suspended for sixty
1650 (60) days if the person is convicted of two (2) serious traffic
1651 violations, or for one hundred twenty (120) days if the person is
1652 convicted of three (3) serious traffic violations, arising from
1653 separate incidents occurring within a three-year period.

1654 (e) A person's privilege to operate a commercial motor
1655 vehicle in the State of Mississippi shall be suspended for life if
1656 the person uses a commercial motor vehicle in the commission of
1657 any offense under state or federal law that is punishable by
1658 imprisonment for a term exceeding one (1) year, involving the
1659 manufacture, distribution, or dispensing of a regulated drug, or



1660 possession with intent to manufacture, distribute, or dispense a
1661 regulated drug, and for which the person was convicted.

1662 (f) In addition to the reasons specified in this
1663 section for suspension of the commercial driver's license, the
1664 commissioner shall be authorized to suspend the commercial
1665 driver's license of any person for being out of compliance with an
1666 order for support, as defined in Section 93-11-153. The procedure
1667 for suspension of a commercial driver's license for being out of
1668 compliance with an order for support, and the procedure for the
1669 reissuance or reinstatement of a commercial driver's license
1670 suspended for that purpose, and the payment of any fees for the
1671 reissuance or reinstatement of a commercial driver's license
1672 suspended for that purpose, shall be governed by Section 93-11-157
1673 or 93-11-163, as the case may be. If there is any conflict
1674 between any provision of Section 93-11-157 or 93-11-163 and any
1675 provision of this article, the provisions of Section 93-11-157 or
1676 93-11-163, as the case may be, shall control.

1677 **SECTION 21.** (1) **Legal effect of an order to expunge;**
1678 **eligibility.** (a) "Expungement" or "expunction" means the
1679 deletion, by court order, of the records of criminal offenses from
1680 a person's public records.

1681 (b) (i) Upon entering an order of expunction under
1682 this section, a nonpublic record thereof shall be retained by the
1683 Mississippi Criminal Information Center solely for the purpose of



1684 determining whether, in subsequent proceedings, the person is a
1685 first offender.

1686 (ii) The order of expunction shall not preclude a
1687 district attorney's office from retaining a nonpublic record
1688 thereof for law enforcement purposes only.

1689 (iii) The existence of an order of expunction
1690 shall not preclude an employer from asking a prospective employee
1691 if the employee has had an order of expunction entered on his
1692 behalf.

1693 (c) (i) The effect of an expunction order shall be to
1694 restore the person, in the contemplation of the law, to the status
1695 he occupied before any arrest or indictment for which convicted,
1696 and the person thereafter legally stands as though he had never
1697 been arrested, indicted, or convicted of the expunged offense or
1698 offenses and may lawfully so respond to any query of prior
1699 convictions.

1700 (ii) No person as to whom an expunction order has
1701 been entered shall be held thereafter under any provision of law
1702 to be guilty of perjury or to have otherwise given a false
1703 statement by reason of his failure to recite or acknowledge such
1704 arrest, indictment or conviction in response to any inquiry made
1705 of him for any purpose other than the purpose of determining, in
1706 any subsequent proceedings under this section, whether the person
1707 is a first offender. A person as to whom an order has been
1708 entered, upon request, shall be required to advise the court, in



1709 camera, of the previous conviction and expunction in any legal
1710 proceeding wherein the person has been called as a prospective
1711 juror. The court shall thereafter and before the selection of the
1712 jury advise the attorneys representing the parties of the previous
1713 conviction and expunction.

1714 (d) No public official is eligible for expunction of
1715 any felony or misdemeanor conviction related to his official
1716 duties.

1717 (2) **Expunction of misdemeanor convictions.** (a) **First**
1718 **offender.** Any person who has been convicted of a misdemeanor that
1719 is not a traffic violation, and who is a first offender, may
1720 petition the justice, county, circuit or municipal court in which
1721 the conviction was had for an order to expunge any such conviction
1722 from all public records

1723 (b) **Multiple misdemeanors.** Upon prior notice to the
1724 appropriate prosecuting attorney and upon a showing in open court
1725 of rehabilitation, good conduct for a period of two (2) years
1726 since the last conviction in any court, and that the best interest
1727 of society would be served, the justice, municipal, county, or
1728 circuit court may, in its discretion, order the record of
1729 conviction of a person of any or all misdemeanors in that court
1730 expunged

1731 (c) **Records that may not be expunged.** The confidential
1732 records of law enforcement agencies and the driving record of a



1733 person maintained under Title 63, Mississippi Code of 1972, are
1734 not subject to expunction under this subsection (2).

1735 (3) **Expunction of felony convictions.** (a) Any person who
1736 has been convicted of a felony that is not a crime of violence
1737 listed in Section 97-3-2, Mississippi Code of 1972, may petition
1738 the court in which the conviction was had for an order to expunge
1739 the conviction from all public records seven (7) years after the
1740 successful completion of all terms and conditions of the sentence
1741 for the conviction unless the felony, in the determination of the
1742 circuit court, is related to the distribution or trafficking of a
1743 controlled substance and, in the court's discretion, should not be
1744 expunged.

1745 (b) The petitioner shall give ten (10) days' written
1746 notice to the district attorney before any hearing on the
1747 petition. In all cases, the court wherein the petition is filed
1748 may grant the petition if the court determines, on the record or
1749 in writing, that the applicant is rehabilitated from the offense
1750 which is the subject of the petition. In those cases where the
1751 court denies the petition, the findings of the court in this
1752 respect shall be identified specifically and not generally.

1753 (4) **Convictions for purchase of light wine or beer by person**
1754 **under age of twenty-one (21).** A person who has been charged with
1755 a violation of subsection (1) or (2) of Section 67-3-70 may, not
1756 sooner than one (1) year after the dismissal and discharge or
1757 completion of any sentence and payment of any fine, apply to the



1758 court for an order to expunge from all official records all
1759 recordation relating to his arrest, trial, finding or plea of
1760 guilty, and dismissal and discharge. If the court determines that
1761 such person was dismissed and the proceedings against him
1762 discharged or that such person had satisfactorily served his
1763 sentence and paid any fine, penalties and assessments, it shall
1764 enter such order.

1765 (5) **Nonconvictions.** (a) **Expunction of misdemeanor charges.**

1766 Any person who is arrested, issued a citation, or held for any
1767 misdemeanor and is not formally charged or prosecuted for the
1768 offense within twelve (12) months of arrest, or upon dismissal of
1769 the charge, may apply to the court with jurisdiction over the
1770 matter for the charges to be expunged.

1771 (b) **Nonadjudication of drug offenses.** Upon the
1772 dismissal of the charges against a person and discharge of
1773 proceedings against him under Section 41-29-150(d), the person may
1774 apply to the court for an order to expunge from all official
1775 records, other than the nonpublic records to be retained by the
1776 bureau under Section 41-29-150(d), all recordation relating to his
1777 arrest, indictment, trial, finding of guilt, and dismissal and
1778 discharge pursuant to Section 41-29-150. If the court determines,
1779 after hearing, that the charge against the person was dismissed
1780 and the proceedings against him discharged, or that the person had
1781 satisfactorily served his sentence or period of probation and
1782 parole, it shall enter an order of expunction.



1783 (c) Upon petition therefor, any circuit, county,
1784 justice, or municipal court with jurisdiction over a criminal
1785 offense shall expunge the record of any case in which an arrest
1786 was made, the person arrested was released and the case was
1787 dismissed, the charges were dropped or there was no disposition of
1788 the case.

1789 (d) From and after July 1, 2018, upon entry of an order
1790 of dismissal or nolle prosequi, the court shall automatically
1791 issue an order of expunction on its own motion and send a copy of
1792 the order to the defendant or the defendant's attorney.

1793 (6) **Filing fees.** (a) **Felony convictions in circuit court.**

1794 A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby
1795 levied on each petition to expunge the record of a conviction in
1796 circuit or county court to be collected by the circuit clerk and
1797 distributed as follows:

1798 (i) One Hundred Forty Dollars (\$140.00) to be
1799 deposited into the State General Fund; and

1800 (ii) Ten Dollars (\$10.00) to be retained by the
1801 circuit clerk collecting the fee for administration purposes.

1802 (b) **No filing fee in certain cases.** There shall be no
1803 filing fee levied on petitions seeking expunction of offenses in
1804 cases where the petitioner was arrested and released and the case
1805 was dismissed or the charges were dropped or there was no
1806 disposition of the case.



1807 (c) **Misdemeanor convictions in justice and municipal**
1808 **courts.** The filing fee for expunction shall be as provided by
1809 law.

1810 (7) **Interstate Identification Index reports.** Upon notice of
1811 the filing of an expungement petition, the appropriate prosecuting
1812 attorney or criminal court clerk shall run a background check
1813 through the Federal Bureau of Investigation's National Crime
1814 Information Center Interstate Identification Index and present the
1815 results of the report to the criminal court.

1816 (8) **Post-expungement records.** A certified copy of every
1817 expunction order shall be sent by the clerk of the circuit,
1818 county, justice, or municipal court that issued the order to the
1819 Mississippi Criminal Information Center where it shall be
1820 maintained in a separate confidential database accessible only
1821 upon written request by a district attorney, a county prosecuting
1822 attorney, a municipal court prosecuting attorney, the Attorney
1823 General of Mississippi and the Mississippi Board on Law
1824 Enforcement Officer Standards and Training. A criminal conviction
1825 that has been expunged may be used for the purpose of determining
1826 habitual offender status and for the use of the Mississippi Board
1827 on Law Enforcement Officer Standards and Training in granting or
1828 denying law enforcement certification, and to ensure that a person
1829 is only eligible for first-offender status one (1) time.

1830 **SECTION 22.** Section 9-11-15, Mississippi Code of 1972, is
1831 amended as follows:



1832 9-11-15. (1) Justice court judges shall hold regular terms
1833 of their courts, at such times as they may appoint, not exceeding
1834 two (2) and not less than one (1) in every month, at the
1835 appropriate justice court courtroom established by the board of
1836 supervisors; and they may continue to hold their courts from day
1837 to day so long as business may require; and all process shall be
1838 returnable, and all trials shall take place at such regular terms,
1839 except where it is otherwise provided; but where the defendant is
1840 a nonresident or transient person, and it shall be shown by the
1841 oath of either party that a delay of the trial until the regular
1842 term will be of material injury to him, it shall be lawful for the
1843 judge to have the parties brought before him at any reasonable
1844 time and hear the evidence and give judgment or where the
1845 defendant is a nonresident or transient person and the judge and
1846 all parties agree, it shall be lawful for the judge to have the
1847 parties brought before him on the day a citation is made and hear
1848 the evidence and give judgment. Such court shall be a court of
1849 record, with all the power incident to a court of record,
1850 including power to fine in the amount of fine and length of
1851 imprisonment as is authorized for a municipal court in Section
1852 21-23-7(11) for contempt of court.

1853 (2) (a) In counties with a population of less than one
1854 hundred fifty thousand (150,000), each justice court shall
1855 designate at least one-half (1/2) day each month as a traffic
1856 court day, sufficient to handle the traffic violations docket of



1857 that court, and shall notify all appropriate law enforcement
1858 agencies of the date or dates. On the day or days so designated,
1859 the justice court shall give priority to all cases involving
1860 traffic violations.

1861 (b) In counties with a population of one hundred fifty
1862 thousand (150,000) or more, each justice court shall designate at
1863 least one (1) day each month as a traffic court day, sufficient to
1864 handle the traffic violations of that court, and shall notify all
1865 appropriate law enforcement agencies of the date or dates. On the
1866 day or days so designated, the justice court shall give priority
1867 to all cases involving traffic violations. The one (1) day may be
1868 one (1) whole day or it may be divided into half days as long as
1869 one-half (1/2) day is held in the morning and one-half (1/2) day
1870 is held in the afternoon, in the discretion of the court.

1871 * * * ~~(3) The justice court may, in its discretion, upon~~
1872 ~~prior notice to the county prosecutor and upon a showing in open~~
1873 ~~court of rehabilitation, good conduct for a period of two (2)~~
1874 ~~years since the last conviction in any court and that the best~~
1875 ~~interest of society would be served, order the record of~~
1876 ~~conviction of a person of any or all misdemeanors in that court~~
1877 ~~expunged, and upon so doing, such person thereafter legally stands~~
1878 ~~as though he or she had never been convicted of the misdemeanor(s)~~
1879 ~~and may lawfully so respond to any query of prior convictions.~~
1880 ~~This order of expunction does not apply to the confidential~~
1881 ~~records of law enforcement agencies and has no effect on the~~



1882 ~~driving record of a person maintained under Title 63, Mississippi~~
1883 ~~Code of 1972, or any other provision of said Title 63.~~

1884 ~~—— (4) Notwithstanding the provisions of subsection (3) of this~~
1885 ~~section, a person who was convicted in justice court of a~~
1886 ~~misdemeanor before reaching his twenty-third birthday, excluding~~
1887 ~~conviction for a traffic violation, and who is a first offender,~~
1888 ~~may utilize the provisions of Section 99-19-71, to expunge such~~
1889 ~~misdemeanor conviction.~~

1890 **SECTION 23.** Section 21-23-7, Mississippi Code of 1972, is
1891 amended as follows:

1892 21-23-7. (1) The municipal judge shall hold court in a
1893 public building designated by the governing authorities of the
1894 municipality and may hold court every day except Sundays and legal
1895 holidays if the business of the municipality so requires;
1896 provided, however, the municipal judge may hold court outside the
1897 boundaries of the municipality but not more than within a
1898 sixty-mile radius of the municipality to handle preliminary
1899 matters and criminal matters such as initial appearances and
1900 felony preliminary hearings. The municipal judge may hold court
1901 outside the boundaries of the municipality but not more than
1902 within a one-mile radius of the municipality for any purpose. The
1903 municipal judge shall have the jurisdiction to hear and determine,
1904 without a jury and without a record of the testimony, all cases
1905 charging violations of the municipal ordinances and state
1906 misdemeanor laws made offenses against the municipality and to



1907 punish offenders therefor as may be prescribed by law. Except as
1908 otherwise provided by law, criminal proceedings shall be brought
1909 by sworn complaint filed in the municipal court. Such complaint
1910 shall state the essential elements of the offense charged and the
1911 statute or ordinance relied upon. Such complaint shall not be
1912 required to conclude with a general averment that the offense is
1913 against the peace and dignity of the state or in violation of the
1914 ordinances of the municipality. He may sit as a committing court
1915 in all felonies committed within the municipality, and he shall
1916 have the power to bind over the accused to the grand jury or to
1917 appear before the proper court having jurisdiction to try the
1918 same, and to set the amount of bail or refuse bail and commit the
1919 accused to jail in cases not bailable. The municipal judge is a
1920 conservator of the peace within his municipality. He may conduct
1921 preliminary hearings in all violations of the criminal laws of
1922 this state occurring within the municipality, and any person
1923 arrested for a violation of law within the municipality may be
1924 brought before him for initial appearance. The municipal court
1925 shall have jurisdiction of any case remanded to it by a circuit
1926 court grand jury. The municipal court shall have civil
1927 jurisdiction over actions filed pursuant to and as provided in
1928 Title 93, Chapter 21, Mississippi Code of 1972, the Protection
1929 from Domestic Abuse Act.

1930 (2) In the discretion of the court, where the objects of
1931 justice would be more likely met, as an alternative to imposition



1932 or payment of fine and/or incarceration, the municipal judge shall
1933 have the power to sentence convicted offenders to work on a public
1934 service project where the court has established such a program of
1935 public service by written guidelines filed with the clerk for
1936 public record. Such programs shall provide for reasonable
1937 supervision of the offender and the work shall be commensurate
1938 with the fine and/or incarceration that would have ordinarily been
1939 imposed. Such program of public service may be utilized in the
1940 implementation of the provisions of Section 99-19-20, and public
1941 service work thereunder may be supervised by persons other than
1942 the sheriff.

1943 (3) The municipal judge may solemnize marriages, take oaths,
1944 affidavits and acknowledgments, and issue orders, subpoenas,
1945 summonses, citations, warrants for search and arrest upon a
1946 finding of probable cause, and other such process under seal of
1947 the court to any county or municipality, in a criminal case, to be
1948 executed by the lawful authority of the county or the municipality
1949 of the respondent, and enforce obedience thereto. The absence of
1950 a seal shall not invalidate the process.

1951 (4) When a person shall be charged with an offense in
1952 municipal court punishable by confinement, the municipal judge,
1953 being satisfied that such person is an indigent person and is
1954 unable to employ counsel, may, in the discretion of the court,
1955 appoint counsel from the membership of The Mississippi Bar
1956 residing in his county who shall represent him. Compensation for



1957 appointed counsel in criminal cases shall be approved and allowed
1958 by the municipal judge and shall be paid by the municipality. The
1959 maximum compensation shall not exceed Two Hundred Dollars
1960 (\$200.00) for any one (1) case. The governing authorities of a
1961 municipality may, in their discretion, appoint a public
1962 defender(s) who must be a licensed attorney and who shall receive
1963 a salary to be fixed by the governing authorities.

1964 (5) The municipal judge of any municipality is hereby
1965 authorized to suspend the sentence and to suspend the execution of
1966 the sentence, or any part thereof, on such terms as may be imposed
1967 by the municipal judge. However, the suspension of imposition or
1968 execution of a sentence hereunder may not be revoked after a
1969 period of two (2) years. The municipal judge shall have the power
1970 to establish and operate a probation program, dispute resolution
1971 program and other practices or procedures appropriate to the
1972 judiciary and designed to aid in the administration of justice.
1973 Any such program shall be established by the court with written
1974 policies and procedures filed with the clerk of the court for
1975 public record. Subsequent to original sentencing, the municipal
1976 judge, in misdemeanor cases, is hereby authorized to suspend
1977 sentence and to suspend the execution of a sentence, or any part
1978 thereof, on such terms as may be imposed by the municipal judge,
1979 if (a) the judge or his or her predecessor was authorized to order
1980 such suspension when the sentence was originally imposed; and (b)



1981 such conviction (i) has not been appealed; or (ii) has been
1982 appealed and the appeal has been voluntarily dismissed.

1983 (6) * * * ~~Upon prior notice to the municipal prosecuting~~
1984 ~~attorney and upon a showing in open court of rehabilitation, good~~
1985 ~~conduct for a period of two (2) years since the last conviction in~~
1986 ~~any court and that the best interest of society would be served,~~
1987 ~~the court may, in its discretion, order the record of conviction~~
1988 ~~of a person of any or all misdemeanors in that court expunged, and~~
1989 ~~upon so doing the said person thereafter legally stands as though~~
1990 ~~he had never been convicted of the said misdemeanor(s) and may~~
1991 ~~lawfully so respond to any query of prior convictions. This order~~
1992 ~~of expunction does not apply to the confidential records of law~~
1993 ~~enforcement agencies and has no effect on the driving record of a~~
1994 ~~person maintained under Title 63, Mississippi Code of 1972, or any~~
1995 ~~other provision of said Title 63. [Deleted]~~

1996 (7) * * * ~~Notwithstanding the provisions of subsection (6)~~
1997 ~~of this section, a person who was convicted in municipal court of~~
1998 ~~a misdemeanor before reaching his twenty-third birthday, excluding~~
1999 ~~conviction for a traffic violation, and who is a first offender,~~
2000 ~~may utilize the provisions of Section 99-19-71, to expunge such~~
2001 ~~misdemeanor conviction. [Deleted]~~

2002 (8) In the discretion of the court, a plea of nolo
2003 contendere may be entered to any charge in municipal court. Upon
2004 the entry of a plea of nolo contendere the court shall convict the
2005 defendant of the offense charged and shall proceed to sentence the



2006 defendant according to law. The judgment of the court shall
2007 reflect that the conviction was on a plea of nolo contendere. An
2008 appeal may be made from a conviction on a plea of nolo contendere
2009 as in other cases.

2010 (9) Upon execution of a sworn complaint charging a
2011 misdemeanor, the municipal court may, in its discretion and in
2012 lieu of an arrest warrant, issue a citation requiring the
2013 appearance of the defendant to answer the charge made against him.
2014 On default of appearance, an arrest warrant may be issued for the
2015 defendant. The clerk of the court or deputy clerk may issue such
2016 citations.

2017 (10) The municipal court shall have the power to make rules
2018 for the administration of the court's business, which rules, if
2019 any, shall be in writing filed with the clerk of the court and
2020 shall include the enactment of rules related to the court's
2021 authority to issue domestic abuse protection orders pursuant to
2022 Section 93-21-1 et seq.

2023 (11) The municipal court shall have the power to impose
2024 punishment of a fine of not more than One Thousand Dollars
2025 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
2026 of court. The municipal court may have the power to impose
2027 reasonable costs of court, not in excess of the following:

2028 Dismissal of any affidavit, complaint or charge
2029 in municipal court.....\$ 50.00
2030 Suspension of a minor's driver's license in lieu of

2031 conviction.....\$ 50.00
 2032 Service of scire facias or return "not found".....\$ 20.00
 2033 Causing search warrant to issue or causing
 2034 prosecution without reasonable cause or refusing to
 2035 cooperate after initiating action.....\$ 100.00
 2036 Certified copy of the court record.....\$ 5.00
 2037 Service of arrest warrant for failure to answer
 2038 citation or traffic summons.....\$ 25.00
 2039 Jail cost per day - actual jail cost paid by the municipality but
 2040 not to exceed..... \$ 35.00
 2041 Service of court documents related to the filing
 2042 of a petition or issuance of a protection from domestic
 2043 abuse order under Title 93, Chapter 21, Mississippi
 2044 Code of 1972\$ 25.00
 2045 Expungement.....\$ 50.00
 2046 Any other item of court cost.....\$ 50.00
 2047 No filing fee or such cost shall be imposed for the bringing
 2048 of an action in municipal court.
 2049 (12) A municipal court judge shall not dismiss a criminal
 2050 case but may transfer the case to the justice court of the county
 2051 if the municipal court judge is prohibited from presiding over the
 2052 case by the Canons of Judicial Conduct and provided that venue and
 2053 jurisdiction are proper in the justice court. Upon transfer of
 2054 any such case, the municipal court judge shall give the municipal
 2055 court clerk a written order to transmit the affidavit or complaint



2056 and all other records and evidence in the court's possession to
2057 the justice court by certified mail or to instruct the arresting
2058 officer to deliver such documents and records to the justice
2059 court. There shall be no court costs charged for the transfer of
2060 the case to the justice court.

2061 * * * ~~(13) A municipal court judge shall expunge the record~~
2062 ~~of any case in which an arrest was made, the person arrested was~~
2063 ~~released and the case was dismissed or the charges were dropped or~~
2064 ~~there was no disposition of such case.~~

2065 **SECTION 24.** Section 41-29-150, Mississippi Code of 1972, is
2066 amended as follows:

2067 41-29-150. (a) Any person convicted under Section 41-29-139
2068 may be required, in the discretion of the court, as a part of the
2069 sentence otherwise imposed, or in lieu of imprisonment in cases of
2070 probation or suspension of sentence, to attend a course of
2071 instruction conducted by the bureau, the State Board of Health, or
2072 any similar agency, on the effects, medically, psychologically and
2073 socially, of the misuse of controlled substances. The course may
2074 be conducted at any correctional institution, detention center or
2075 hospital, or at any center or treatment facility established for
2076 the purpose of education and rehabilitation of those persons
2077 committed because of abuse of controlled substances.

2078 (b) Any person convicted under Section 41-29-139 who is
2079 found to be dependent upon or addicted to any controlled substance
2080 shall be required, as a part of the sentence otherwise imposed, or



2081 in lieu of imprisonment in cases of parole, probation or
2082 suspension of sentence, to receive medical treatment for such
2083 dependency or addiction. The regimen of medical treatment may
2084 include confinement in a medical facility of any correctional
2085 institution, detention center or hospital, or at any center or
2086 facility established for treatment of those persons committed
2087 because of a dependence or addiction to controlled substances.

2088 (c) Those persons previously convicted of a felony under
2089 Section 41-29-139 and who are now confined at the Mississippi
2090 State Hospital at Whitfield, Mississippi, or at the East
2091 Mississippi State Hospital at Meridian, Mississippi, for the term
2092 of their sentence shall remain under the jurisdiction of the
2093 Mississippi Department of Corrections and shall be required to
2094 abide by all reasonable rules and regulations promulgated by the
2095 director and staff of said institutions and of the Department of
2096 Corrections. Any persons so confined who shall refuse to abide by
2097 said rules or who attempt an escape or who shall escape shall be
2098 transferred to the State Penitentiary or to a county jail, where
2099 appropriate, to serve the remainder of the term of imprisonment;
2100 this provision shall not preclude prosecution and conviction for
2101 escape from said institutions.

2102 (d) (1) If any person who has not previously been convicted
2103 of violating Section 41-29-139, or the laws of the United States
2104 or of another state relating to narcotic drugs, stimulant or
2105 depressant substances, other controlled substances or marihuana is



2106 found to be guilty of a violation of subsection (c) or (d) of
2107 Section 41-29-139, after trial or upon a plea of guilty, the court
2108 may, without entering a judgment of guilty and with the consent of
2109 such person, defer further proceedings and place him on probation
2110 upon such reasonable conditions as it may require and for such
2111 period, not to exceed three (3) years, as the court may prescribe.
2112 Upon violation of a condition of the probation, the court may
2113 enter an adjudication of guilt and proceed as otherwise provided.
2114 The court may, in its discretion, dismiss the proceedings against
2115 such person and discharge him from probation before the expiration
2116 of the maximum period prescribed for such person's probation. If
2117 during the period of his probation such person does not violate
2118 any of the conditions of the probation, then upon expiration of
2119 such period the court shall discharge such person and dismiss the
2120 proceedings against him. Discharge and dismissal under this
2121 subsection shall be without court adjudication of guilt, but a
2122 nonpublic record thereof shall be retained by the bureau solely
2123 for the purpose of use by the courts in determining whether or
2124 not, in subsequent proceedings, such person qualifies under this
2125 subsection. Such discharge or dismissal shall not be deemed a
2126 conviction for purposes of disqualifications or disabilities
2127 imposed by law upon conviction of a crime, including the penalties
2128 prescribed under this article for second or subsequent conviction,
2129 or for any other purpose. Discharge and dismissal under this
2130 subsection may occur only once with respect to any person; and



2131 (2) Upon the dismissal of a person and discharge of
2132 proceedings against him under paragraph (1) of this subsection,
2133 the person may apply to the court for an expunction order * * *~~to~~
2134 ~~expunge from all official records, other than the nonpublic~~
2135 ~~records to be retained by the bureau under paragraph (1) of this~~
2136 ~~subsection, all recordation relating to his arrest, indictment,~~
2137 ~~trial, finding of guilt, and dismissal and discharge pursuant to~~
2138 ~~this section. If the court determines, after hearing, that such~~
2139 ~~person was dismissed and the proceedings against him discharged,~~
2140 ~~or that the person had satisfactorily served his sentence or~~
2141 ~~period of probation and parole, it shall enter an order of~~
2142 ~~expunction. The effect of the order shall be to restore the~~
2143 ~~person, in the contemplation of the law, to the status he occupied~~
2144 ~~before such arrest or indictment. No person as to whom such an~~
2145 ~~order has been entered shall be held thereafter under any~~
2146 ~~provision of any law to be guilty of perjury or otherwise giving a~~
2147 ~~false statement by reason of his failures to recite or acknowledge~~
2148 ~~such arrest, indictment or trial in response to any inquiry made~~
2149 ~~of him for any purpose. A person as to whom an order has been~~
2150 ~~entered, upon request, shall be required to advise the court, in~~
2151 ~~camera, of the previous conviction and expunction in any legal~~
2152 ~~proceeding wherein the person has been called as a prospective~~
2153 ~~juror. The court shall thereafter and before the selection of the~~
2154 ~~jury advise the attorneys representing the parties of the previous~~
2155 ~~conviction and expunction. under Section 21 of this act.~~



2156 (e) Every person who has been or may hereafter be convicted
2157 of a felony offense under Section 41-29-139 and sentenced under
2158 Section 41-29-150(c) shall be under the jurisdiction of the
2159 Mississippi Department of Corrections.

2160 (f) It shall be unlawful for any person confined under the
2161 provisions of subsection (b) or (c) of this section to escape or
2162 attempt to escape from said institution, and, upon conviction,
2163 said person shall be guilty of a felony and shall be imprisoned
2164 for a term not to exceed two (2) years.

2165 (g) It is the intent and purpose of the Legislature to
2166 promote the rehabilitation of persons convicted of offenses under
2167 the Uniform Controlled Substances Law.

2168 **SECTION 25.** Section 45-27-21, Mississippi Code of 1972, is
2169 amended as follows:

2170 45-27-21. A certified copy of every * * *~~expunction and~~
2171 nonadjudication order shall be sent by the circuit clerk to the
2172 Mississippi Criminal Information Center where it shall be
2173 maintained in a separate confidential database accessible only
2174 upon written request by a district attorney, a county prosecuting
2175 attorney, a municipal court prosecuting attorney, the Attorney
2176 General of Mississippi and the Mississippi Law Enforcement
2177 Standards and Training Board. Any criminal conviction which has
2178 been * * *~~expunged or~~ nonadjudicated may be used for the purpose
2179 of determining habitual offender status and for the use of the
2180 Mississippi Law Enforcement Standards and Training Board



2181 in * * *~~giving or retaining~~ granting or denying law enforcement
2182 certification, and to ensure that a person is only eligible for
2183 first-offender status one (1) time.

2184 **SECTION 26.** Section 63-11-30, Mississippi Code of 1972, is
2185 amended as follows:

2186 63-11-30. (1) It is unlawful for a person to drive or
2187 otherwise operate a vehicle within this state if the person:

2188 (a) Is under the influence of intoxicating liquor;

2189 (b) Is under the influence of any other substance that
2190 has impaired the person's ability to operate a motor vehicle;

2191 (c) Is under the influence of any drug or controlled
2192 substance, the possession of which is unlawful under the
2193 Mississippi Controlled Substances Law; or

2194 (d) Has an alcohol concentration in the person's blood,
2195 based upon grams of alcohol per one hundred (100) milliliters of
2196 blood, or grams of alcohol per two hundred ten (210) liters of
2197 breath, as shown by a chemical analysis of the person's breath,
2198 blood or urine administered as authorized by this chapter, of:

2199 (i) Eight one-hundredths percent (.08%) or more
2200 for a person who is above the legal age to purchase alcoholic
2201 beverages under state law;

2202 (ii) Two one-hundredths percent (.02%) or more for
2203 a person who is below the legal age to purchase alcoholic
2204 beverages under state law; or



2205 (iii) Four one-hundredths percent (.04%) or more
2206 for a person operating a commercial motor vehicle.

2207 (2) Except as otherwise provided in subsection (3) of this
2208 section (Zero Tolerance for Minors):

2209 (a) **First offense DUI.** (i) Upon conviction of any
2210 person for the first offense of violating subsection (1) of this
2211 section where chemical tests under Section 63-11-5 were given, or
2212 where chemical test results are not available, the person shall be
2213 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
2214 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
2215 than forty-eight (48) hours in jail, or both; the court shall
2216 order the person to attend and complete an alcohol safety
2217 education program as provided in Section 63-11-32 within six (6)
2218 months of sentencing. The court may substitute attendance at a
2219 victim impact panel instead of forty-eight (48) hours in jail.

2220 (ii) Suspension of commercial driving privileges
2221 is governed by Section 63-1-216.

2222 (iii) A qualifying first offense may be
2223 nonadjudicated by the court under subsection (14) of this
2224 section. * * * ~~The holder of a commercial driver's license or a~~
2225 ~~commercial learning permit at the time of the offense is~~
2226 ~~ineligible for nonadjudication.~~

2227 (iv) Eligibility for an interlock-restricted
2228 license is governed by Section 63-11-31 and suspension of regular
2229 driving privileges is governed by Section 63-11-23.



2230 (b) **Second offense DUI.** (i) Upon any second
2231 conviction of any person violating subsection (1) of this section,
2232 the offenses being committed within a period of five (5) years,
2233 the person shall be guilty of a misdemeanor, fined not less than
2234 Six Hundred Dollars (\$600.00) nor more than One Thousand Five
2235 Hundred Dollars (\$1,500.00), shall be imprisoned not less than
2236 five (5) days nor more than six (6) months and sentenced to
2237 community service work for not less than ten (10) days nor more
2238 than six (6) months. The minimum penalties shall not be suspended
2239 or reduced by the court and no prosecutor shall offer any
2240 suspension or sentence reduction as part of a plea bargain.

2241 (ii) Suspension of commercial driving privileges
2242 is governed by Section 63-1-216.

2243 (iii) Eligibility for an interlock-restricted
2244 license is governed by Section 63-11-31 and suspension of regular
2245 driving privileges is governed by Section 63-11-23.

2246 (c) **Third offense DUI.** (i) For a third conviction of
2247 a person for violating subsection (1) of this section, the
2248 offenses being committed within a period of five (5) years, the
2249 person shall be guilty of a felony and fined not less than Two
2250 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
2251 (\$5,000.00), and shall serve not less than one (1) year nor more
2252 than five (5) years in the custody of the Department of
2253 Corrections. For any offense that does not result in serious
2254 injury or death to any person, the sentence of incarceration may



2255 be served in the county jail rather than in the State Penitentiary
2256 at the discretion of the circuit court judge. The minimum
2257 penalties shall not be suspended or reduced by the court and no
2258 prosecutor shall offer any suspension or sentence reduction as
2259 part of a plea bargain.

2260 (ii) The suspension of commercial driving
2261 privileges is governed by Section 63-1-216.

2262 (iii) The suspension of regular driving privileges
2263 is governed by Section 63-11-23.

2264 (d) **Fourth and subsequent offense DUI.** (i) For any
2265 fourth or subsequent conviction of a violation of subsection (1)
2266 of this section, without regard to the time period within which
2267 the violations occurred, the person shall be guilty of a felony
2268 and fined not less than Three Thousand Dollars (\$3,000.00) nor
2269 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
2270 less than two (2) years nor more than ten (10) years in the
2271 custody of the Department of Corrections.

2272 (ii) The suspension of commercial driving
2273 privileges is governed by Section 63-1-216.

2274 (iii) A person convicted of a fourth or subsequent
2275 offense is ineligible to exercise the privilege to operate a motor
2276 vehicle that is not equipped with an ignition-interlock device for
2277 ten (10) years.

2278 (e) Any person convicted of a second or subsequent
2279 violation of subsection (1) of this section shall receive an



2280 in-depth diagnostic assessment, and if as a result of the
2281 assessment is determined to be in need of treatment for alcohol or
2282 drug abuse, the person must successfully complete treatment at a
2283 program site certified by the Department of Mental Health. Each
2284 person who receives a diagnostic assessment shall pay a fee
2285 representing the cost of the assessment. Each person who
2286 participates in a treatment program shall pay a fee representing
2287 the cost of treatment.

2288 (f) The use of ignition-interlock devices is governed
2289 by Section 63-11-31.

2290 (3) **Zero Tolerance for Minors.** (a) This subsection shall
2291 be known and may be cited as Zero Tolerance for Minors. The
2292 provisions of this subsection shall apply only when a person under
2293 the age of twenty-one (21) years has a blood alcohol concentration
2294 of two one-hundredths percent (.02%) or more, but lower than eight
2295 one-hundredths percent (.08%). If the person's blood alcohol
2296 concentration is eight one-hundredths percent (.08%) or more, the
2297 provisions of subsection (2) shall apply.

2298 (b) (i) A person under the age of twenty-one (21) is
2299 eligible for nonadjudication of a qualifying first offense by the
2300 court pursuant to subsection (14) of this section.

2301 (ii) Upon conviction of any person under the age
2302 of twenty-one (21) years for the first offense of violating
2303 subsection (1) of this section where chemical tests provided for
2304 under Section 63-11-5 were given, or where chemical test results



2305 are not available, the person shall be fined Two Hundred Fifty
2306 Dollars (\$250.00); the court shall order the person to attend and
2307 complete an alcohol safety education program as provided in
2308 Section 63-11-32 within six (6) months. The court may also
2309 require attendance at a victim impact panel.

2310 (c) A person under the age of twenty-one (21) years who
2311 is convicted of a second violation of subsection (1) of this
2312 section, the offenses being committed within a period of five (5)
2313 years, shall be fined not more than Five Hundred Dollars
2314 (\$500.00).

2315 (d) A person under the age of twenty-one (21) years who
2316 is convicted of a third or subsequent violation of subsection (1)
2317 of this section, the offenses being committed within a period of
2318 five (5) years, shall be fined not more than One Thousand Dollars
2319 (\$1,000.00).

2320 (e) License suspension is governed by Section 63-11-23
2321 and ignition interlock is governed by Section 63-11-31.

2322 (f) Any person under the age of twenty-one (21) years
2323 convicted of a third or subsequent violation of subsection (1) of
2324 this section must complete treatment of an alcohol or drug abuse
2325 program at a site certified by the Department of Mental Health.

2326 (4) **DUI test refusal.** In addition to the other penalties
2327 provided in this section, every person refusing a law enforcement
2328 officer's request to submit to a chemical test of the person's
2329 breath as provided in this chapter, or who was unconscious at the



2330 time of a chemical test and refused to consent to the introduction
2331 of the results of the test in any prosecution, shall suffer an
2332 additional administrative suspension of driving privileges as set
2333 forth in Section 63-11-23.

2334 (5) **Aggravated DUI.** (a) Every person who operates any
2335 motor vehicle in violation of the provisions of subsection (1) of
2336 this section and who in a negligent manner causes the death of
2337 another or mutilates, disfigures, permanently disables or destroys
2338 the tongue, eye, lip, nose or any other limb, organ or member of
2339 another shall, upon conviction, be guilty of a separate felony for
2340 each victim who suffers death, mutilation, disfigurement or other
2341 injury and shall be committed to the custody of the State
2342 Department of Corrections for a period of time of not less than
2343 five (5) years and not to exceed twenty-five (25) years for each
2344 death, mutilation, disfigurement or other injury, and the
2345 imprisonment for the second or each subsequent conviction, in the
2346 discretion of the court, shall commence either at the termination
2347 of the imprisonment for the preceding conviction or run
2348 concurrently with the preceding conviction. Any person charged
2349 with causing the death of another as described in this subsection
2350 shall be required to post bail before being released after arrest.

2351 (b) A holder of a commercial driver's license who is
2352 convicted of operating a commercial motor vehicle with an alcohol
2353 concentration of eight one-hundredths percent (.08%) or more shall
2354 be guilty of a felony and shall be committed to the custody of the



2355 Department of Corrections for not less than two (2) years and not
2356 more than ten (10) years.

2357 (c) The court shall order an ignition-interlock
2358 restriction on the offender's privilege to drive as a condition of
2359 probation or post-release supervision not to exceed five (5) years
2360 unless a longer restriction is required under other law. The
2361 ignition-interlock restriction shall not be applied to commercial
2362 license privileges until the driver serves the full
2363 disqualification period required by Section 63-1-216.

2364 (6) **DUI citations.** (a) Upon conviction of a violation of
2365 subsection (1) of this section, the trial judge shall sign in the
2366 place provided on the traffic ticket, citation or affidavit
2367 stating that the person arrested either employed an attorney or
2368 waived his right to an attorney after having been properly
2369 advised. If the person arrested employed an attorney, the name,
2370 address and telephone number of the attorney shall be written on
2371 the ticket, citation or affidavit. The court clerk must
2372 immediately send a copy of the traffic ticket, citation or
2373 affidavit, and any other pertinent documents concerning the
2374 conviction or other order of the court, to the Department of
2375 Public Safety as provided in Section 63-11-37.

2376 (b) A copy of the traffic ticket, citation or affidavit
2377 and any other pertinent documents, having been attested as true
2378 and correct by the Commissioner of Public Safety, or his designee,
2379 shall be sufficient proof of the conviction for purposes of



2380 determining the enhanced penalty for any subsequent convictions of
2381 violations of subsection (1) of this section. The Department of
2382 Public Safety shall maintain a central database for verification
2383 of prior offenses and convictions.

2384 (7) **Out-of-state prior convictions.** Convictions in another
2385 state, territory or possession of the United States, or under the
2386 law of a federally recognized Native American tribe, of violations
2387 for driving or operating a vehicle while under the influence of an
2388 intoxicating liquor or while under the influence of any other
2389 substance that has impaired the person's ability to operate a
2390 motor vehicle occurring within five (5) years before an offense
2391 shall be counted for the purposes of determining if a violation of
2392 subsection (1) of this section is a second, third, fourth or
2393 subsequent offense and the penalty that shall be imposed upon
2394 conviction for a violation of subsection (1) of this section.

2395 (8) **Charging of subsequent offenses.** (a) For the purposes
2396 of determining how to impose the sentence for a second, third,
2397 fourth or subsequent conviction under this section, the affidavit
2398 or indictment shall not be required to enumerate previous
2399 convictions. It shall only be necessary that the affidavit or
2400 indictment states the number of times that the defendant has been
2401 convicted and sentenced within the past five (5) years for a
2402 second or third offense, or without a time limitation for a fourth
2403 or subsequent offense, under this section to determine if an
2404 enhanced penalty shall be imposed. The amount of fine and



2405 imprisonment imposed in previous convictions shall not be
2406 considered in calculating offenses to determine a second, third,
2407 fourth or subsequent offense of this section.

2408 (b) Before a defendant enters a plea of guilty to an
2409 offense under this section, law enforcement must submit
2410 certification to the prosecutor that the defendant's driving
2411 record, the confidential registry and National Crime Information
2412 Center record have been searched for all prior convictions,
2413 nonadjudications, pretrial diversions and arrests for driving or
2414 operating a vehicle while under the influence of an intoxicating
2415 liquor or while under the influence of any other substance that
2416 has impaired the person's ability to operate a motor vehicle. The
2417 results of the search must be included in the certification.

2418 (9) **License eligibility for underage offenders.** A person
2419 who is under the legal age to obtain a license to operate a motor
2420 vehicle at the time of the offense and who is convicted under this
2421 section shall not be eligible to receive a driver's license until
2422 the person reaches the age of eighteen (18) years.

2423 (10) **License suspensions and restrictions to run**
2424 **consecutively.** Suspension or restriction of driving privileges
2425 for any person convicted of or nonadjudicated for violations of
2426 subsection (1) of this section shall run consecutively to and not
2427 concurrently with any other administrative license suspension.

2428 (11) **Ignition interlock.** If the court orders installation
2429 and use of an ignition-interlock device as provided in Section



2430 63-11-31 for every vehicle operated by a person convicted or
2431 nonadjudicated under this section, each device shall be installed,
2432 maintained and removed as provided in Section 63-11-31.

2433 (12) **DUI child endangerment.** A person over the age of
2434 twenty-one (21) who violates subsection (1) of this section while
2435 transporting in a motor vehicle a child under the age of sixteen
2436 (16) years is guilty of the separate offense of endangering a
2437 child by driving under the influence of alcohol or any other
2438 substance which has impaired the person's ability to operate a
2439 motor vehicle. The offense of endangering a child by driving
2440 under the influence of alcohol or any other substance which has
2441 impaired the person's ability to operate a motor vehicle shall not
2442 be merged with an offense of violating subsection (1) of this
2443 section for the purposes of prosecution and sentencing. An
2444 offender who is convicted of a violation of this subsection shall
2445 be punished as follows:

2446 (a) A person who commits a violation of this subsection
2447 which does not result in the serious injury or death of a child
2448 and which is a first conviction shall be guilty of a misdemeanor
2449 and, upon conviction, shall be fined not more than One Thousand
2450 Dollars (\$1,000.00) or shall be imprisoned for not more than
2451 twelve (12) months, or both;

2452 (b) A person who commits a violation of this subsection
2453 which does not result in the serious injury or death of a child
2454 and which is a second conviction shall be guilty of a misdemeanor



2455 and, upon conviction, shall be fined not less than One Thousand
2456 Dollars (\$1,000.00) nor more than Five Thousand Dollars
2457 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

2458 (c) A person who commits a violation of this subsection
2459 which does not result in the serious injury or death of a child
2460 and which is a third or subsequent conviction shall be guilty of a
2461 felony and, upon conviction, shall be fined not less than Ten
2462 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
2463 than one (1) year nor more than five (5) years, or both; and

2464 (d) A person who commits a violation of this subsection
2465 which results in the serious injury or death of a child, without
2466 regard to whether the offense was a first, second, third or
2467 subsequent offense, shall be guilty of a felony and, upon
2468 conviction, shall be punished by a fine of not less than Ten
2469 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
2470 than five (5) years nor more than twenty-five (25) years.

2471 (13) **Expunction.** (a) Any person convicted under subsection
2472 (2) or (3) of this section of a first offense of driving under the
2473 influence and who was not the holder of a commercial driver's
2474 license or a commercial learning permit at the time of the offense
2475 may petition the circuit court of the county in which the
2476 conviction was had for an order to expunge the record of the
2477 conviction at least five (5) years after successful completion of
2478 all terms and conditions of the sentence imposed for the



2479 conviction. Expunction under this subsection will only be
2480 available to a person:

2481 (i) Who has successfully completed all terms and
2482 conditions of the sentence imposed for the conviction;

2483 (ii) Who did not refuse to submit to a test of his
2484 blood or breath;

2485 (iii) Whose blood alcohol concentration tested
2486 below sixteen one-hundredths percent (.16%) if test results are
2487 available;

2488 (iv) Who has not been convicted of and does not
2489 have pending any other offense of driving under the influence;

2490 (v) Who has provided the court with justification
2491 as to why the conviction should be expunged; and

2492 (vi) Who has not previously had a nonadjudication
2493 or expunction of a violation of this section.

2494 (b) A person is eligible for only one (1) expunction
2495 under this subsection, and the Department of Public Safety shall
2496 maintain a permanent confidential registry of all cases of
2497 expunction under this subsection for the sole purpose of
2498 determining a person's eligibility for expunction, for
2499 nonadjudication, or as a first offender under this section.

2500 (c) The court in its order of expunction shall state in
2501 writing the justification for which the expunction was granted and
2502 forward the order to the Department of Public Safety within five
2503 (5) days of the entry of the order.



2504 (14) **Nonadjudication.** (a) For the purposes of this
2505 chapter, "nonadjudication" means that the court withholds
2506 adjudication of guilt and sentencing, either at the conclusion of
2507 a trial on the merits or upon the entry of a plea of guilt by a
2508 defendant, and places the defendant in a nonadjudication program
2509 conditioned upon the successful completion of the requirements
2510 imposed by the court under this subsection.

2511 (b) A person is eligible for nonadjudication of an
2512 offense under this Section 63-11-30 only one (1) time under any
2513 provision of a law that authorizes nonadjudication and only for an
2514 offender:

2515 (i) Who has successfully completed all terms and
2516 conditions imposed by the court after placement of the defendant
2517 in a nonadjudication program;

2518 (ii) Who was not * * * ~~the holder of operating a~~
2519 ~~commercial * * * driver's license or a commercial learning permit~~
2520 ~~motor vehicle~~ at the time of the offense;

2521 (iii) Who has not previously been convicted of and
2522 does not have pending any former or subsequent charges under this
2523 section; and

2524 (iv) Who has provided the court with justification
2525 as to why nonadjudication is appropriate.

2526 (c) Nonadjudication may be initiated upon the filing of
2527 a petition for nonadjudication or at any stage of the proceedings
2528 in the discretion of the court; the court may withhold



2529 adjudication of guilt, defer sentencing, and upon the agreement of
2530 the offender to participate in a nonadjudication program, enter an
2531 order imposing requirements on the offender for a period of court
2532 supervision before the order of nonadjudication is entered.
2533 Failure to successfully complete a nonadjudication program
2534 subjects the person to adjudication of the charges against him and
2535 to imposition of all penalties previously withheld due to entrance
2536 into a nonadjudication program. The court shall immediately
2537 inform the commissioner of the conviction as required in Section
2538 63-11-37.

- 2539 (i) The court shall order the person to:
- 2540 1. Pay the nonadjudication fee imposed under
2541 Section 63-11-31 if applicable;
 - 2542 2. Pay all fines, penalties and assessments
2543 that would have been imposed for conviction;
 - 2544 3. Attend and complete an alcohol safety
2545 education program as provided in Section 63-11-32 within six (6)
2546 months of the date of the order;
 - 2547 4. a. If the court determines that the
2548 person violated this section with respect to alcohol or
2549 intoxicating liquor, the person must install an ignition-interlock
2550 device on every motor vehicle operated by the person, obtain an
2551 interlock-restricted license, and maintain that license for one
2552 hundred twenty (120) days or suffer a one-hundred-twenty-day



2553 suspension of the person's regular driver's license, during which
2554 time the person must not operate any vehicle.

2555 b. If the court determines that the
2556 person violated this section by operating a vehicle when under the
2557 influence of a substance other than alcohol that has impaired the
2558 person's ability to operate a motor vehicle, including any drug or
2559 controlled substance which is unlawful to possess under the
2560 Mississippi Controlled Substances Law, the person must submit to a
2561 one-hundred-twenty-day period of a nonadjudication program that
2562 includes court-ordered drug testing at the person's own expense
2563 not less often than every thirty (30) days, during which time the
2564 person may drive if compliant with the terms of the program, or
2565 suffer a one-hundred-twenty-day suspension of the person's regular
2566 driver's license, during which time the person will not operate
2567 any vehicle.

2568 (ii) Other conditions that may be imposed by the
2569 court include, but are not limited to, alcohol or drug screening,
2570 or both, proof that the person has not committed any other traffic
2571 violations while under court supervision, proof of immobilization
2572 or impoundment of vehicles owned by the offender if required, and
2573 attendance at a victim-impact panel.

2574 (d) The court may enter an order of nonadjudication
2575 only if the court finds, after a hearing or after ex parte
2576 examination of reliable documentation of compliance, that the
2577 offender has successfully completed all conditions imposed by law



2578 and previous orders of the court. The court shall retain
2579 jurisdiction over cases involving nonadjudication for a period of
2580 not more than two (2) years.

2581 (e) (i) The clerk shall immediately forward a record
2582 of every person placed in a nonadjudication program and of every
2583 nonadjudication order to the Department of Public Safety for
2584 inclusion in the permanent confidential registry of all cases that
2585 are nonadjudicated under this subsection (14).

2586 (ii) Judges, clerks and prosecutors involved in
2587 the trial of implied consent violations and law enforcement
2588 officers involved in the issuance of citations for implied consent
2589 violations shall have secure online access to the confidential
2590 registry for the purpose of determining whether a person has
2591 previously been the subject of a nonadjudicated case and 1. is
2592 therefore ineligible for another nonadjudication; 2. is ineligible
2593 as a first offender for a violation of this section; or 3. is
2594 ineligible for expunction of a conviction of a violation of this
2595 section.

2596 (iii) The Driver Services Bureau of the department
2597 shall have access to the confidential registry for the purpose of
2598 determining whether a person is eligible for a form of license not
2599 restricted to operating a vehicle equipped with an
2600 ignition-interlock device.



2601 (iv) The Mississippi Alcohol Safety Education
2602 Program shall have secure online access to the confidential
2603 registry for research purposes only.

2604 **SECTION 27.** Section 99-15-26, Mississippi Code of 1972, is
2605 amended as follows:

2606 99-15-26. (1) (a) In all criminal cases, felony and
2607 misdemeanor, other than crimes against the person, a crime of
2608 violence as defined in Section 97-3-2 or a violation of Section
2609 97-11-31, the circuit or county court shall be empowered, upon the
2610 entry of a plea of guilty by a criminal defendant made on or after
2611 July 1, 2014, to withhold acceptance of the plea and sentence
2612 thereon pending successful completion of such conditions as may be
2613 imposed by the court pursuant to subsection (2) of this section.

2614 (b) In all misdemeanor criminal cases, other than
2615 crimes against the person, the justice or municipal court shall be
2616 empowered, upon the entry of a plea of guilty by a criminal
2617 defendant, to withhold acceptance of the plea and sentence thereon
2618 pending successful completion of such conditions as may be imposed
2619 by the court pursuant to subsection (2) of this section.

2620 (c) Notwithstanding paragraph (a) of this subsection
2621 (1), in all criminal cases charging a misdemeanor of domestic
2622 violence as defined in Section 99-3-7(5), a circuit, county,
2623 justice or municipal court shall be empowered, upon the entry of a
2624 plea of guilty by the criminal defendant, to withhold acceptance
2625 of the plea and sentence thereon pending successful completion of



2626 such conditions as may be imposed by the court pursuant to
2627 subsection (2) of this section.

2628 (d) No person having previously qualified under the
2629 provisions of this section shall be eligible to qualify for
2630 release in accordance with this section for a repeat offense. A
2631 person shall not be eligible to qualify for release in accordance
2632 with this section if charged with the offense of trafficking of a
2633 controlled substance as provided in Section 41-29-139(f) or if
2634 charged with an offense under the Mississippi Implied Consent Law.
2635 Violations under the Mississippi Implied Consent Law can only be
2636 nonadjudicated under the provisions of Section 63-11-30.

2637 (2) (a) Conditions which the circuit, county, justice or
2638 municipal court may impose under subsection (1) of this section
2639 shall consist of:

2640 (i) Reasonable restitution to the victim of the
2641 crime.

2642 (ii) Performance of not more than nine hundred
2643 sixty (960) hours of public service work approved by the court.

2644 (iii) Payment of a fine not to exceed the
2645 statutory limit.

2646 (iv) Successful completion of drug, alcohol,
2647 psychological or psychiatric treatment, successful completion of a
2648 program designed to bring about the cessation of domestic abuse,
2649 or any combination thereof, if the court deems treatment
2650 necessary.



2651 (v) The circuit or county court, in its
2652 discretion, may require the defendant to remain in the program
2653 subject to good behavior for a period of time not to exceed five
2654 (5) years. The justice or municipal court, in its discretion, may
2655 require the defendant to remain in the program subject to good
2656 behavior for a period of time not to exceed two (2) years.

2657 (b) Conditions which the circuit or county court may
2658 impose under subsection (1) of this section also include
2659 successful completion of an effective evidence-based program or a
2660 properly controlled pilot study designed to contribute to the
2661 evidence-based research literature on programs targeted at
2662 reducing recidivism. Such program or pilot study may be community
2663 based or institutionally based and should address risk factors
2664 identified in a formal assessment of the offender's risks and
2665 needs.

2666 (3) When the court has imposed upon the defendant the
2667 conditions set out in this section, the court shall release the
2668 bail bond, if any.

2669 (4) Upon successful completion of the court-imposed
2670 conditions permitted by subsection (2) of this section, the court
2671 shall direct that the cause be dismissed and the case be closed.

2672 * * * ~~(5) Upon petition therefor, the court shall expunge the~~
2673 ~~record of any case in which an arrest was made, the person~~
2674 ~~arrested was released and the case was dismissed or the charges~~
2675 ~~were dropped or there was no disposition of such case.~~



2676 **SECTION 28.** Section 99-15-59, Mississippi Code of 1972,
2677 which provides that any person who is arrested, issued a citation,
2678 or held for any misdemeanor and not formally charged or prosecuted
2679 with an offense within twelve (12) months of arrest, or upon
2680 dismissal of the charge, may apply to the court with jurisdiction
2681 over the matter for the charges to be expunged, is repealed.

2682 **SECTION 29.** Section 99-19-71, Mississippi Code of 1972,
2683 which provides for expunction of certain felony and misdemeanor
2684 conviction records, is repealed.

2685 **SECTION 30.** Section 99-19-72, Mississippi Code of 1972,
2686 which provides for filing fees for certain petitions for
2687 expunction and the disposition thereof, is repealed.

2688 **SECTION 31.** This act shall take effect and be in force from
2689 and after July 1, 2019.

