

By: Representative Dixon

To: Judiciary B

HOUSE BILL NO. 481

1 AN ACT TO CREATE THE CONSUMER ARREST RECORD EQUITY (CARE)
2 ACT, WHICH PROVIDES A MECHANISM FOR A PERSON TO HAVE HIS OR HER
3 ARREST RECORD SEALED UNDER CERTAIN CIRCUMSTANCES IF A CONVICTION
4 DID NOT OCCUR AS A RESULT OF THE ARREST; TO PROVIDE CERTAIN
5 DEFINITIONS; TO PROVIDE THAT IF A PERSON HAS BEEN ARRESTED AND THE
6 ARREST DID NOT RESULT IN A CONVICTION, THEN A PERSON MAY PETITION
7 THE COURT TO HAVE HIS OR HER ARREST AND RELATED RECORDS SEALED; TO
8 PROVIDE THAT A PETITION MAY BE FILED WHEN AN ARREST IS MADE BUT NO
9 CHARGES WERE EVER FILED AGAINST THE PERSON WHO WAS ARRESTED,
10 CHARGES WERE FILED BUT A PERSON WAS ACQUITTED AT A JURY OR COURT
11 TRIAL, CHARGES WERE FILED BUT NO CONVICTION OCCURRED BECAUSE THE
12 CHARGES WERE LATER DISMISSED OR A PERSON WAS CONVICTED OF A CRIME
13 BUT THAT CONVICTION WAS LATER REVERSED OR VACATED ON APPEAL; TO
14 PROVIDE THE ELIGIBILITY REQUIREMENTS FOR FILING A PETITION; TO
15 PROVIDE THE MECHANISM TO FILE A PETITION TO SEAL AN ARREST; TO
16 PROVIDE CERTAIN CIRCUMSTANCES WHEN AN ARREST MUST BE DISCLOSED; TO
17 PROVIDE THAT ONCE THE COURT GRANTS A PETITION TO HAVE AN ARREST
18 RECORD SEALED, THE MISSISSIPPI JUSTICE INFORMATION CENTER SHALL
19 TAKE CERTAIN ACTIONS TO PREVENT THE DISCLOSURE OF THE ARREST; TO
20 PROVIDE THAT IF A PERSON WHO IS ARRESTED AND COMPLETES A DIVERSION
21 PROGRAM, THEN SUCH PERSON MAY PETITION TO HAVE HIS OR HER ARREST
22 RECORD SEALED; TO PROVIDE THAT IF A PERSON IS DIVERTED TO A DRUG
23 COURT PROGRAM THEN SUCH PERSON MAY PETITION THE COURT TO HAVE HIS
24 OR HER ARREST RECORD SEALED; TO AMEND SECTIONS 9-23-23, 45-27-12,
25 45-27-21, 99-15-26, 99-15-59 AND 99-15-123, MISSISSIPPI CODE OF
26 1972, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED
27 PURPOSES.

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

29 **SECTION 1.** This act shall be known and may be cited as the
30 "Consumer Arrest Record Equity (CARE) Act."



SECTION 2.

For the purposes of this act, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Arrest record" and "record pertaining to an arrest" mean information about an arrest or detention that is contained in the criminal justice information that is maintained by the Mississippi Justice Information Center as required under Section 45-27-1, et seq.

(b) "Court records" means records, files, and materials created, compiled, or maintained by or for a court in relation to court proceedings, and includes, but is not limited to, indexes, registers of actions, court minutes, court orders, court filings, court exhibits, court progress and status reports, court history summaries, criminal justice information and any other criminal history information contained in any of those materials.

(c) "Criminal history provider" means a person or entity that is not a criminal justice agency and that provides background screening services or criminal history information on identified individuals to the public or to those outside the criminal justice sector upon request, charge, or pursuant to a contractual agreement or that aggregates into databases that are open to the public or to those outside the criminal justice sector upon request or charge, or pursuant to a contractual agreement, that are not created or maintained by a criminal justice agency, criminal history information on identified individuals. For the



purposes of this paragraph, a criminal history provider includes a consumer reporting agency as defined in Section 603(f) of the Fair Credit Reporting Act (15 USC 1681a(f)).

(d) "Criminal justice agency" means an agency at any level of government that performs, as its principal function, activities relating to the apprehension, prosecution, defense, adjudication, incarceration, or correction of criminal suspects and criminal offenders. A criminal justice agency includes, but is not limited to, any of the following:

(i) A court of this state.

(ii) A law enforcement officer as defined under Section 45-6-3.

(iii) A district attorney.

(iv) A prosecuting city attorney.

(v) A probation officer.

(vi) A parole officer.

(vii) A public defender or an attorney representing a person, or a person representing himself or herself, in a criminal proceeding, a proceeding to revoke parole, mandatory supervision, or post release community supervision.

(viii) An expert, investigator, or other specialist contracted by a prosecuting attorney or defense attorney to accomplish the purpose of the prosecution, defense, or representation in the criminal proceeding.

(ix) A correctional officer.



(e) "Police investigative report" means intelligence, analytical, and investigative reports and files created, compiled, and maintained by a law enforcement criminal justice agency and relating to a potential crime, violation of the law, arrest, detention, prosecution or law enforcement investigation.

SECTION 3. (1) (a) A person who has suffered an arrest that did not result in a conviction may petition the court with jurisdiction over the arrest to have his or her arrest and related records sealed as provided under Section 4 of this act.

(b) For purposes of this section, an arrest did not result in a conviction if any of the following are true:

(i) The statute of limitations has run on every offense upon which the arrest was based and the prosecuting attorney of the city or county that would have had jurisdiction over the offense or offenses upon which the arrest was based has not filed an accusatory pleading based on the arrest.

(ii) The prosecuting attorney filed an accusatory pleading based on the arrest, but, with respect to all charges, one or more of the following has occurred:

1. No conviction occurred, the charge has been dismissed and the charge may not be refiled.

2. No conviction occurred and the arrestee has been acquitted of the charges.



104 3. A conviction occurred, but has been
105 vacated or reversed on appeal, all appellate remedies have been
106 exhausted, and the charge may not be refiled.

107 (c) A person is not eligible for relief under this
108 section in any of the following circumstances:

109 (i) He or she may still be charged with any of the
110 offenses upon which the arrest was based.

111 (ii) Any of the arrest charges, as specified by
112 the law enforcement agency that conducted the arrest, or any of
113 the charges in the accusatory pleading based on the arrest, if
114 filed, is a charge of murder or any other offense for which there
115 is no statute of limitations, except when the person has been
116 acquitted or found factually innocent of the charge.

117 (iii) The petitioner intentionally evaded law
118 enforcement efforts to prosecute the arrest, including by
119 absconding from the jurisdiction in which the arrest took place.
120 The existence of bench warrants or failures to appear that were
121 adjudicated before the case closed with no conviction do not
122 establish intentional evasion.

123 (iv) The petitioner intentionally evaded law
124 enforcement efforts to prosecute the arrest by engaging in
125 identity fraud and was subsequently charged with a crime for that
126 act of identity fraud.

127 (2) (a) A petition to seal an arrest shall:

128 (i) Be verified.



(ii) Be filed in the court in which the accusatory pleading based on the arrest was filed or, if no accusatory pleading was filed, in a court with criminal jurisdiction in the city or county in which the arrest occurred.

(iii) Be filed at least 15 days prior to the hearing on the petition.

(iv) Be served, by copy, upon the prosecuting attorney of the city or county in which the arrest occurred and upon the law enforcement agency that made the arrest at least fifteen (15) days prior to the hearing on the petition.

(v) Include all of the following information:

1. The petitioner's name and date of birth.
2. The date of the arrest for which sealing is sought.

3. The city and county where the arrest took place.

4. The law enforcement agency that made the arrest.

5. Any other information identifying the arrest that is available from the law enforcement agency that conducted the arrest or from the court in which the accusatory pleading, if any, based on the arrest was filed, including, but not limited to, the case number for the police investigative report documenting the arrest, and the court number under which



the arrest was reviewed by the prosecuting attorney or under which the prosecuting attorney filed an accusatory pleading.

6. The offenses upon which the arrest was based or, if an accusatory pleading was filed based on the arrest, the charges in the accusatory pleading.

7. A statement that the petitioner is entitled to have his or her arrest sealed as a matter of right or, if the petitioner is requesting to have his or her arrest sealed in the interests of justice, how the interests of justice would be served by granting the petition, accompanied by declarations made directly and verified by the petitioner, his or her supporting declarants, or both.

(b) The court may deny a petition for failing to meet any of the requirements described in paragraph (a) of this section.

(c) The Mississippi Justice Information Center shall furnish forms to be utilized by a person applying to have his or her arrest sealed pursuant to this section. The petition form shall include all of the information as required under this section to be included in the petition, shall be available in English, Spanish, Chinese, Vietnamese, and Korean and shall include a statement that the petition form is available in additional languages and the Internet web site where the form is available in alternative languages.



177 (3) (a) A petition to seal an arrest record pursuant to
178 this section may be granted as a matter of right or in the
179 interests of justice.

180 (b) A petitioner who is eligible for relief under this
181 section is entitled to have his or her arrest sealed as a matter
182 of right unless he or she is subject to subsection 1(c) of this
183 section.

184 (c) (i) A petitioner may have his or her arrest sealed
185 only upon a showing that the sealing would serve the interests of
186 justice if any of the offenses upon which the arrest was based, as
187 specified by the law enforcement agency that made the arrest, or,
188 if an accusatory pleading was filed, any of the charges in the
189 accusatory pleading, was one of the following:

190 1. Domestic violence, if the petitioner's
191 record demonstrates a pattern of domestic violence arrests,
192 convictions or both.

193 2. Child abuse, if the petitioner's record
194 demonstrates a pattern of child abuse arrests, convictions, or
195 both.

196 3. Elder abuse, if the petitioner's record
197 demonstrates a pattern of elder abuse arrests, convictions, or
198 both.

199 For purposes of this subparagraph, "pattern" means two (2) or
200 more convictions, or five (5) or more arrests, for separate



offenses occurring on separate occasions within three (3) years from at least one of the other convictions or arrests.

(ii) In determining whether the interests of justice would be served by sealing an arrest record pursuant to this section, the court may consider any relevant factors, including, but not limited to, any of the following:

1. Hardship to the petitioner caused by the arrest that is the subject of the petition.

2. Declarations or evidence regarding the petitioner's good character.

3. Declarations or evidence regarding the arrest.

4. The petitioner's record of convictions.

(4) (a) At a hearing on a petition under this section, the petitioner, the prosecuting attorney, and, through the prosecuting attorney, the arresting agency may present evidence to the court. The hearing may be heard and determined upon declarations, affidavits, police investigative reports, criminal history record information, or any other evidence submitted by the parties that is material, relevant and reliable.

(b) The petitioner has the initial burden of proof to show that he or she is entitled to have his or her arrest sealed as a matter of right or that sealing would serve the interests of justice. If the court finds that petitioner has satisfied his or



her burden of proof, then the burden of proof shall shift to the respondent prosecuting attorney.

(5) If the court grants a petition pursuant to this section, the court shall do all of the following:

(a) Furnish a disposition report to the Justice Information Center, stating that relief was granted under this section.

(b) Issue a written ruling and order to the petitioner, the prosecuting attorney, and to the law enforcement agency that made the arrest that states all of the following:

(i) The record of arrest has been sealed as to petitioner, the arrest is deemed not to have occurred, the petitioner may answer any question relating to the sealed arrest accordingly, and the petitioner is released from all penalties and disabilities resulting from the arrest, except as provided as follows:

1. The sealed arrest may be pleaded and proved in any subsequent prosecution of the petitioner for any other offense, and shall have the same effect as if it had not been sealed.

2. The sealing of an arrest pursuant to this section does not relieve the petitioner of the obligation to disclose the arrest, if otherwise required by law, in response to any direct question contained in a questionnaire or application for public office, for employment as a peace officer, for



licensure by any state or local agency or for contracting with the Mississippi Lottery Corporation.

3. The sealing of an arrest pursuant to this section does not affect petitioner's authorization to own, possess, or have in his or her custody or control any firearm.

4. The sealing of an arrest pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

SECTION 4. (1) When the court issues an order to seal an arrest, the sealing shall be accomplished as follows:

(a) The court shall provide copies of the order and a report on the disposition of the arrest, as follows:

(i) Upon issuing the order, the court shall provide a copy to the person whose arrest was sealed and to the prosecuting attorney.

(ii) Within thirty (30) days of issuing the order, the court shall forward a copy of the order to the law enforcement agency that made the arrest, to any other law enforcement agency that participated in the arrest, and to the law enforcement agency that has the criminal history record information that contains the arrest record for the sealed arrest.

(iii) Within thirty (30) days of issuing the order, the court shall furnish a disposition report to the Justice Information Center indicating that relief has been ordered and



274 providing the section of law under which that relief was granted
275 and the date that relief was granted.

276 (iv) A sealing order made pursuant to this section
277 shall not be forwarded to the Justice Information Center to be
278 included or notated in the center's manual or electronic
279 fingerprint image or criminal history record systems. Any sealing
280 order made pursuant to this section and received by the Justice
281 Information Center shall not be processed by the center.

282 (b) The arrest record shall be updated by the Justice
283 Information Center as follows:

284 (i) The criminal history record information shall
285 include, directly next to or below the entry or entries regarding
286 the sealed arrest, a note stating "arrest sealed" and providing
287 the date that the court issued the order, and the section of law
288 pursuant to which the arrest was sealed. This note shall be
289 included in all master copies of the arrest record, digital or
290 otherwise.

291 (ii) The criminal history record information shall
292 include, directly next to or below the entry or entries regarding
293 the sealed arrest, a note stating "arrest relief granted,"
294 providing the date that the court issued the order and the section
295 of law pursuant to which the relief was granted. This note shall
296 be included in all master copies of the arrest record, digital or
297 otherwise.



298 (iii) A police investigative report related to the
299 sealed arrest shall, only as to the person whose arrest was
300 sealed, be stamped "ARREST SEALED: DO NOT RELEASE OUTSIDE THE
301 CRIMINAL JUSTICE SECTOR," and shall note next to the stamp the
302 date the arrest was sealed and the section of law pursuant to
303 which the arrest was sealed. The responsible local law
304 enforcement agency shall ensure that this note is included in all
305 master copies, digital or otherwise, of the police investigative
306 report related to the arrest that was sealed.

307 (iv) Court records related to the sealed arrest
308 shall, only as to the person whose arrest was sealed, be stamped
309 "ARREST SEALED: DO NOT RELEASE OUTSIDE OF THE CRIMINAL JUSTICE
310 SECTOR," and shall note next to the stamp the date of the sealing
311 and the section of law pursuant to which the arrest was sealed.
312 This stamp and note shall be included on all master court dockets,
313 digital or otherwise, relating to the arrest.

314 (v) Arrest records, police investigative reports,
315 and court records that are sealed under this section shall not be
316 disclosed to any person or entity except the person whose arrest
317 was sealed or a criminal justice agency. Nothing shall prohibit
318 disclosure of information between criminal history providers.

319 (vi) Notwithstanding the sealing of an arrest, a
320 criminal justice agency may continue, in the regular course of its
321 duties, to access, furnish to other criminal justice agencies, and
322 use, including, but not limited to, by discussing in open court



and in unsealed court filings, sealed arrests, sealed arrest records, sealed police investigative reports, sealed court records, and in formation relating to sealed arrests, to the same extent that would have been permitted for a criminal justice agency if the arrest had not been sealed.

(2) Unless specifically authorized by this section, a person or entity, other than a criminal justice agency or the person whose arrest was sealed, who disseminates information relating to a sealed arrest is subject to a civil penalty of not less than Five Hundred Dollars (\$500.00) and not more than Two Thousand Five Hundred Dollars (\$2,500.00) per violation. The civil penalty may be enforced by a city attorney, district attorney, or the Attorney General. This section shall not limit any existing private right of action. A civil penalty imposed under this section shall be cumulative to civil remedies or penalties imposed under any other law.

SECTION 5. (1) (a) In any case where a person is arrested and successfully completes a prefiling diversion program administered by a prosecuting attorney in lieu of filing an accusatory pleading, the person may petition the court that would have had jurisdiction over the matter to issue an order to seal the records pertaining to an arrest and the court may order those records sealed as described in Section 4 of this act. A copy of the petition shall be served on the law enforcement agency and the prosecuting attorney of the county or city having jurisdiction



over the offense, who may request a hearing within sixty (60) days of receipt of the petition. The court may hear the matter no less than sixty (60) days from the date the law enforcement agency and the prosecuting attorney receive a copy of the petition. The prosecuting attorney and the law enforcement agency, through the prosecuting attorney, may present evidence to the court at the hearing.

(b) If the order is made, the court shall give a copy of the order to the person and inform the person that he or she may thereafter state that he or she was not arrested for the charge.

(c) The person may, except as specified in subsections (2) and (3) of this section, indicate in response to any question concerning the person's prior criminal record that the person was not arrested.

(d) Subject to subsections (2) and (3) of this section, a record pertaining to the arrest shall not, without the person's permission, be used in any way that could result in the denial of any employment, benefit, or certificate.

(2) The person shall be advised that, regardless of the person's successful completion of the program, the arrest shall be disclosed by the Mississippi Justice Information Center in response to any peace officer application request, and that, notwithstanding subsection (1) of this section, this section does not relieve the person of the obligation to disclose the arrest in



373 response to any direct question contained in any questionnaire or
374 application for a position as a peace officer.

375 (3) The person shall be advised that an order to seal
376 records pertaining to an arrest made pursuant to this section has
377 no effect on a criminal justice agency's ability to access and use
378 those sealed records and information regarding sealed arrests, as
379 described in Section 4 of this act.

380 (4) As used in this section, "prefilling diversion" is a
381 diversion from prosecution that is offered to a person by the
382 prosecuting attorney in lieu of, or prior to, the filing of an
383 accusatory pleading in court.

384 **SECTION 6.** (1) (a) Whenever a person is diverted to a drug
385 court program and the person successfully completes the program,
386 the judge may order those records pertaining to the arrest to be
387 sealed as authorized in Section 4 of this act, upon the written or
388 oral motion of any party in the case, or upon the court's own
389 motion and with notice to all parties in the case.

390 (b) If the order is made, the court shall give a copy
391 of the order to the defendant and inform the defendant that he or
392 she may thereafter state that he or she was not arrested for the
393 charge.

394 (c) The defendant may, except as specified in
395 subsections (2) and (3) of this section, indicate in response to
396 any question concerning the defendant's prior criminal record that



the defendant was not arrested or granted statutorily authorized drug diversion.

(d) Subject to subsections (2) and (3) of this section, a record pertaining to an arrest resulting in the successful completion of a statutorily authorized drug court program shall not, without the defendant's permission, be used in any way that could result in the denial of any employment, benefit, or certificate.

(2) The defendant shall be advised that, regardless of the defendant's successful completion of a statutorily authorized drug court program, the arrest upon which the case was based shall be disclosed by the Mississippi Justice Information Center in response to any peace officer application request, and that, notwithstanding subsection (1) of this section, this section does not relieve the defendant of the obligation to disclose the arrest in response to any direct question contained in any questionnaire or application for a position as a peace officer.

(3) The defendant shall be advised that, regardless of the defendant's successful completion of a statutorily authorized drug court program, an order to seal records pertaining to an arrest made pursuant to this section has no effect on a criminal justice agency's ability to access and use those sealed records and information regarding sealed arrests, as described in Section 4 of this act.



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

9-23-23. (1) If the participant completes all requirements imposed upon him by the drug court, including the payment of fines and fees assessed, the charge and prosecution shall be dismissed. If the defendant or participant was sentenced at the time of entry of plea of guilty, the successful completion of the drug court order and other requirements of probation or suspension of sentence will result in the record of the criminal conviction or adjudication being expunged. However, no expunction of any implied consent violation shall be allowed.

(2) If the participant completes all requirements imposed upon him or her by the drug court, including the payment of fines and fees assessed, the participant may have his or her arrest record sealed as authorized under Sections 1 through 6 of this act.

SECTION 8. Section 45-27-12, Mississippi Code of 1972, is amended as follows:

45-27-12. (1) Subject to Sections 1 through 6 of this act, state conviction information and arrest information which is contained in the center's database or the nonexistence of such information in the center's database shall be made available for the following noncriminal justice purposes:



444 (a) To any local, state or federal governmental agency
445 that requests the information for the enforcement of a local,
446 state or federal law;

447 (b) To any individual, nongovernmental entity or any
448 employer authorized either by the subject of record in writing or
449 by state or federal law to receive such information; and

450 (c) To any federal agency or central repository in
451 another state requesting the information for purposes authorized
452 by law.

453 (2) Information disseminated for noncriminal justice
454 purposes as specified in this section shall be used only for the
455 purpose for which it was made available and may not be
456 re-disseminated.

457 (3) No agency or individual shall confirm the existence or
458 nonexistence of criminal history record information to any person
459 or organization that would not be eligible to receive the
460 information pursuant to this section.

461 (4) Upon request for a check pursuant to this section, the
462 nongovernmental entity or employer must provide proper
463 identification and authorization information from the subject of
464 the record to be checked and adhere to policies established by the
465 center for such record checks.

466 (5) Any individual or his or her attorney who is the subject
467 of the record to be checked, upon positive verification of the
468 individual's identity, may request to review the disseminated



information and shall follow the procedure set forth in Section 45-27-11. If the individual wishes to correct the record as it appears in the center's system, the person shall follow the procedure set forth in Section 45-27-11. The right of a person to review the person's criminal history record information shall not be used by a prospective employer or others as a means to circumvent procedures or fees for accessing records for noncriminal justice purposes.

(6) The center may impose procedures, including the submission of fingerprints, fees or restrictions, as are reasonably necessary to assure the record's security, to verify the identities of those who seek to inspect them, and to maintain an orderly and efficient mechanism for access. All fees shall be assessed and deposited in accordance with the provisions of Section 45-27-8.

(7) Local agencies may release their own agency records according to their own policies.

(8) Release of the above-described information for noncriminal justice purposes shall be made only by the center, under the limitations of this section, and such compiled records will not be released or disclosed for noncriminal justice purposes by other agencies in the state.

SECTION 9. Section 45-27-21, Mississippi Code of 1972, is amended as follows:



45-27-21. A certified copy of every expunction, sealed
arrest record and nonadjudication order shall be sent by the
circuit clerk to the Mississippi Criminal Information Center where
it shall be maintained in a separate confidential database
accessible only upon written request by a district attorney, a
county prosecuting attorney, a municipal court prosecuting
attorney, the Attorney General of Mississippi and the Mississippi
Law Enforcement Standards and Training Board. Any criminal
conviction which has been expunged or nonadjudicated may be used
for the purpose of determining habitual offender status and for
the use of the Mississippi Law Enforcement Standards and Training
Board in giving or retaining law enforcement certification, and to
ensure that a person is only eligible for first-offender status
one (1) time.

SECTION 10. Section 99-15-26, Mississippi Code of 1972, is
amended as follows:

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



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

523 (c) Notwithstanding paragraph (a) of this subsection
524 (1), in all criminal cases charging a misdemeanor of domestic
525 violence as defined in Section 99-3-7(5), a circuit, county,
526 justice or municipal court shall be empowered, upon the entry of a
527 plea of guilty by the criminal defendant, to withhold acceptance
528 of the plea and sentence thereon pending successful completion of
529 such conditions as may be imposed by the court pursuant to
530 subsection (2) of this section.

531 (d) No person having previously qualified under the
532 provisions of this section shall be eligible to qualify for
533 release in accordance with this section for a repeat offense. A
534 person shall not be eligible to qualify for release in accordance
535 with this section if charged with the offense of trafficking of a
536 controlled substance as provided in Section 41-29-139(f) or if
537 charged with an offense under the Mississippi Implied Consent Law.
538 Violations under the Mississippi Implied Consent Law can only be
539 nonadjudicated under the provisions of Section 63-11-30.



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

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

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

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

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

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

(b) Conditions which the circuit or county court may impose under subsection (1) of this section also include successful completion of an effective evidence-based program or a properly controlled pilot study designed to contribute to the evidence-based research literature on programs targeted at



565 reducing recidivism. Such program or pilot study may be community
566 based or institutionally based and should address risk factors
567 identified in a formal assessment of the offender's risks and
568 needs.

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

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

575 (5) Upon petition therefor, the court shall expunge the
576 record of any case in which an arrest was made, the person
577 arrested was released and the case was dismissed or the charges
578 were dropped or there was no disposition of such case.

579 (6) Upon petition therefor, the court may seal the arrest
580 record of any case, as prescribed under Sections 1 through 6 of
581 this act in which an arrest was made, the person arrested was
582 released and the case was dismissed or the charges were dropped or
583 there was no disposition of such case.

584 **SECTION 11.** Section 99-15-59, Mississippi Code of 1972, is
585 amended as follows:

586 99-15-59. Any person who is arrested, issued a citation, or
587 held for any misdemeanor and not formally charged or prosecuted
588 with an offense within twelve (12) months of arrest, or upon
589 dismissal of the charge, may apply to the court with jurisdiction



over the matter for the charges to be expunged or may have his or her arrest record sealed as authorized under Sections 1 through 6 of this act.

SECTION 12. Section 99-15-123, Mississippi Code of 1972, is amended as follows:

99-15-123. (1) In the event an offender successfully completes a pretrial intervention program, the court shall make a noncriminal disposition of the charge or charges pending against the offender.

(2) In the event the offender violates the conditions of the program agreement: (a) the district attorney may terminate the offender's participation in the program, (b) the waiver executed pursuant to Section 99-15-115 shall be void on the date the offender is removed from the program for the violation, and (c) the prosecution of pending criminal charges against the offender shall be resumed by the district attorney.

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

(4) Upon petition therefor, the court may seal the arrest record of any case, as prescribed under Sections 1 through 6 of this act in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.



615 **SECTION 13.** This act shall take effect and be in force from
616 and after July 1, 2019.

