

By: Senator(s) Barnett

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2791

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 BRING FORWARD
16 SECTION 47-7-27, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
17 AMENDMENT; TO AMEND SECTION 47-7-34, MISSISSIPPI CODE OF 1972, TO
18 CLARIFY ANY PERIOD OF SUPERVISED AND UNSUPERVISED POST-RELEASE
19 SUPERVISION; TO BRING FORWARD SECTION 47-7-37, MISSISSIPPI CODE OF
20 1972, FOR PURPOSES OF AMENDMENT; TO AMEND SECTION 47-7-38,
21 MISSISSIPPI CODE OF 1972, TO REQUIRE THE MISSISSIPPI DEPARTMENT OF
22 CORRECTIONS TO FIRST IMPOSE GRADUATED SANCTIONS BEFORE REQUESTING
23 THE MODIFICATION OR REVOCATION OF AN OFFENDER'S SUPERVISED
24 RELEASE; TO REPEAL SECTION 47-7-37.1, MISSISSIPPI CODE OF 1972,
25 WHICH PROVIDES SPECIFIC REASONS FOR THE REVOCATION OF PROBATION;
26 TO AMEND SECTION 9-23-5, MISSISSIPPI CODE OF 1972, TO UPDATE THE
27 DRUG COURT STATUTES TO ALLOW FOR ADDITIONAL TYPES OF
28 PROBLEM-SOLVING COURTS; TO AMEND SECTION 9-23-9, MISSISSIPPI CODE
29 OF 1972, TO EXPAND THE AUTHORITY OF THE STATE DRUG COURTS ADVISORY
30 COMMITTEE TO INCLUDE OTHER TYPES OF PROBLEM-SOLVING COURTS; TO
31 AMEND SECTIONS 9-23-15 AND 9-23-19, MISSISSIPPI CODE OF 1972, TO
32 ALLOW THE COURT TO GRANT CERTAIN RELIEF FROM PAYMENT OF FEES IN
33 CASES OF INDIGENCE, TO CONFORM TO CURRENT LAW CONCERNING
34 INELIGIBILITY OF THOSE CHARGED WITH OR CONVICTED OF CERTAIN CRIMES



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

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

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

73 63-1-71. (1) * * * Notwithstanding the provisions of
74 Section 63-11-30 * * * and in addition to any penalty authorized
75 by the Uniform Controlled Substances Law or any other statute
76 indicating the dispositions that can be ordered for an
77 adjudication of delinquency, every person convicted of driving



78 under the influence of a controlled substance, or entering a plea
79 of nolo contendere thereto, or adjudicated delinquent therefor, in
80 a court of this state, * * * the United States, another state, a
81 territory or possession of the United States, the District of
82 Columbia or the Commonwealth of Puerto Rico, shall forthwith
83 forfeit his right to operate a motor vehicle over the highways of
84 this state for a period of not less than six (6) months. In the
85 case of any person who at the time of the imposition of sentence
86 does not have a driver's license or is less than * * * sixteen
87 (16) years of age, the period of the suspension of driving
88 privileges authorized herein shall commence on the day the
89 sentence is imposed and shall run for a period of not less than
90 six (6) months after the day the person obtains a driver's license
91 or reaches the age of * * * sixteen (16) years. If the driving
92 privilege of * * * a person is under revocation or suspension at
93 the time of * * * a conviction or adjudication of delinquency
94 for * * * an offense * * * of driving under the influence of a
95 controlled substance, the revocation or suspension period imposed
96 herein shall commence as of the date of termination of the
97 existing revocation or suspension.

98 (2) The court in this state before whom any person is
99 convicted of or adjudicated delinquent for * * * an offense of
100 driving under the influence of a controlled substance must collect
101 forthwith the Mississippi driver's license of the person and
102 forward * * * the license to the Department of Public Safety along



103 with a report indicating the first and last day of the suspension
104 or revocation period imposed * * * under this section. If the
105 court is for any reason unable to collect the license of the
106 person, the court shall cause a report of the conviction or
107 adjudication of delinquency to be filed with the Commissioner of
108 Public Safety. That report shall include the complete name,
109 address, date of birth, eye color and sex of the person and shall
110 indicate the first and last day of the suspension or revocation
111 period imposed by the court * * * under this section. The court
112 shall inform the person orally and in writing that if the person
113 is convicted of personally operating a motor vehicle during the
114 period of license suspension or revocation imposed pursuant to
115 this section, the person shall, upon conviction, be subject to the
116 penalties set forth in Section 63-11-40. A person shall be
117 required to acknowledge in writing receipt of the written
118 notice * * *. Failure to receive a written notice or failure to
119 acknowledge in writing the receipt of a written notice * * * is
120 not * * * a defense to a subsequent charge of a violation of
121 Section 63-11-40. If the person is the holder of a driver's
122 license from another jurisdiction, the court shall not collect the
123 license but shall notify forthwith the Commissioner of Public
124 Safety who shall notify the appropriate officials in the licensing
125 jurisdiction. The court shall, however, in accordance with the
126 provisions of this section, revoke the person's nonresident
127 driving privilege in this state.



128 (3) The county court or circuit court having jurisdiction,
129 on petition, may reduce the suspension of driving privileges under
130 this section if the * * * suspension would constitute a hardship
131 on the offender. When the petition is filed, * * * the person
132 shall pay to the circuit clerk of the court where the petition is
133 filed a fee of Twenty Dollars (\$20.00) for each year, or portion
134 thereof, of license revocation or suspension remaining under the
135 original sentence, which shall be deposited into the State General
136 Fund to the credit of a special fund hereby created in the State
137 Treasury to be used for alcohol or drug abuse treatment and
138 education, upon appropriation by the Legislature. This fee shall
139 be in addition to any other court costs or fees required for the
140 filing of petitions.

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

143 63-1-51. (1) It shall be the duty of the court clerk, upon
144 conviction of any person holding a license issued pursuant to this
145 article where the penalty for a traffic violation is as much as
146 Ten Dollars (\$10.00), to mail a copy of abstract of the court
147 record or provide an electronically or computer generated copy of
148 abstract of the court record immediately to the commissioner at
149 Jackson, Mississippi, showing the date of conviction, penalty,
150 etc., so that a record of same may be made by the Department of
151 Public Safety. The commissioner shall forthwith revoke the
152 license of any person for a period of one (1) year upon receiving



153 a duly certified record of each person's convictions of any of the
154 following offenses when such conviction has become final:

155 (a) Manslaughter or negligent homicide resulting from
156 the operation of a motor vehicle;

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

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

162 (d) Perjury or the willful making of a false affidavit
163 or statement under oath to the department under this article or
164 under any other law relating to the ownership or operation of
165 motor vehicles;

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

169 * * *

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

173 (3) In addition to the reasons specified in this section,
174 the commissioner shall be authorized to suspend the license issued
175 to any person pursuant to this article for being out of compliance
176 with an order for support, as defined in Section 93-11-153. The
177 procedure for suspension of a license for being out of compliance



178 with an order for support, and the procedure for the reissuance or
179 reinstatement of a license suspended for that purpose, and the
180 payment of any fees for the reissuance or reinstatement of a
181 license suspended for that purpose, shall be governed by Section
182 93-11-157 or 93-11-163, as the case may be. If there is any
183 conflict between any provision of Section 93-11-157 or 93-11-163
184 and any provision of this article, the provisions of Section
185 93-11-157 or 93-11-163, as the case may be, shall control.

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

188 63-1-53. (1) Upon failure of any person to respond timely
189 and properly to a summons or citation charging such person with
190 any violation of this title, * * * the clerk of the court shall
191 give written notice to * * * the person by United States
192 first-class mail at his last-known address advising * * * the
193 person that, if within ten (10) days after such notice is
194 deposited in the mail, the person has not properly responded to
195 the summons or citation * * *, then the court will give notice
196 thereof to the Commissioner of Public Safety and the commissioner
197 may suspend the driver's license of such person. The actual cost
198 incurred by the court in the giving of * * * notice may be added
199 to any other court costs assessed in such case. If within ten
200 (10) days after the notice is given in accordance with this
201 subsection * * * the person has not * * * responded to or appeared
202 in the matter pending before the court, then the clerk of the



203 court immediately shall mail a copy of the abstract of the court
204 record, along with a certified copy of the notice given under this
205 subsection, to the commissioner, and the commissioner may suspend
206 the driver's license of such person as authorized under
207 subsections (2) and (3) of this section.

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

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

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

217 (c) Is an habitually reckless or negligent driver of a
218 motor vehicle;

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

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

224 (f) Has permitted an unlawful or fraudulent use of such
225 license;



226 (g) Has committed an offense in another state which if
227 committed in this state would be grounds for suspension or
228 revocation;

229 * * *

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

232 (* * * i) Has committed a violation for which mandatory
233 revocation of license is required upon conviction, entering a plea
234 of nolo contendere to, or adjudication of delinquency, * * * under
235 the provisions of subsection (1) of Section 63-1-71.

236 (3) Notice that a person's license is suspended or will be
237 suspended under subsection (2) of this section shall be given by
238 the commissioner in the manner and at the time provided for under
239 Section 63-1-52, and upon such person's request, he shall be
240 afforded an opportunity for a hearing as early as practicable, but
241 not to exceed twenty (20) days after receipt of such request in
242 the county wherein the licensee resides unless the department and
243 the licensee agree that * * * the hearing may be held in some
244 other county. Upon such hearing the commissioner, or his duly
245 authorized agent, may administer oaths and may issue subpoenas for
246 the attendance of witnesses and the production of relevant books
247 and papers and may require a reexamination of the licensee. Upon
248 such hearing the commissioner shall either rescind any order of
249 suspension or, good cause appearing therefor, may extend any
250 suspension of such license or revoke such license.



251 (4) If a licensee has not paid all cash appearance bonds
252 authorized under Section 99-19-3 or all fines, fees or other
253 assessments levied as a result of a violation of this title within
254 ninety (90) days after the commissioner has suspended the license
255 of a person under subsection (2)(i) of this section, the court is
256 authorized to pursue collection under Section 21-17-1(6) or
257 19-3-41(2) as for any other delinquent payment, and shall be
258 entitled to collection of all additional fees authorized under
259 those sections.

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

262 63-1-52. (1) Whenever the Commissioner of Public Safety
263 suspends, cancels or revokes the driver's license or driving
264 privileges of any person, notice of the suspension, cancellation
265 or revocation shall be given to such person by the commissioner,
266 or his duly authorized agent, in the manner provided in subsection
267 (2) of this section and at the time provided in subsection (3) of
268 this section or in the manner and at the time provided in
269 subsection (4) of this section.

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

271 (a) In writing, (i) by United States Certificate
272 of * * * Mailing; or (ii) by personal service at the person's
273 address as it appears on the driving record maintained by the
274 Department of Public Safety or at the person's last-known address;
275 or (iii) by personal notice being given by any law enforcement



276 officer of this state or any duly authorized agent of the
277 Commissioner of Public Safety on forms prescribed and furnished by
278 the Commissioner of Public Safety; whenever a person's driver's
279 license or driving privileges are suspended, revoked or cancelled
280 in accordance with the Mississippi Driver License Compact Law, the
281 Mississippi Implied Consent Law, the Mississippi Motor Vehicle
282 Safety Responsibility Law or * * * subsection (2) (c), (2) (d),
283 (2) (e) or (2) (f) of Section 63-1-53.

284 (b) In writing, by United States first-class mail,
285 whenever a person's driver's license or driving privileges are
286 suspended, revoked or cancelled in accordance with the Mississippi
287 Commercial Driver's License Law, the Youth Court Law, Chapter 23
288 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section
289 63-1-51, * * * subsection (2) (g) * * * or (2) (h) * * * of Section
290 63-1-53, or Section 63-9-25.

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

292 (a) Before suspension, revocation or cancellation,
293 whenever a person's driver's license or driving privileges are
294 suspended, revoked or cancelled in accordance with the Mississippi
295 Driver License Compact Law, the Mississippi Motor Vehicle Safety
296 Responsibility Law or * * * subsection (2) (c), (2) (d), (2) (e) or
297 (2) (f) of Section 63-1-53.

298 (b) Unless otherwise specifically provided for by law,
299 at the time of suspension, revocation or cancellation, whenever a
300 person's driver's license or driving privileges are suspended,



301 revoked or cancelled in accordance with the Mississippi Commercial
302 Driver's License Law, the Mississippi Implied Consent Law, the
303 Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972,
304 Section 63-1-45, Section 63-1-51, * * * subsection (2)(g) * * * or
305 (2)(h) * * * of Section 63-1-53, or Section 63-9-25.

306 (4) Whenever the Commissioner of Public Safety suspends,
307 revokes or cancels the driver's license or driving privileges of
308 any person in accordance with some provision of law other than a
309 provision of law referred to in subsections (2) and (3) of this
310 section, and the manner and time for giving notice is not provided
311 for in such law, then notice of such suspension, revocation or
312 cancellation shall be given in the manner and at the time provided
313 for under * * * subsections (2)(b) and (3)(b) of this section.

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

316 99-5-11. **All conservators of the peace may take recognizance**
317 **or bond; certificate of default; alias warrant; when protection**
318 **order registry must be checked; when bond not required.** (1) All
319 justice court judges and all other conservators of the peace are
320 authorized, whenever a person is brought before them charged with
321 any offense not capital for which bail is allowed by law, to take
322 the recognizance or bond of the person, with sufficient sureties,
323 in such penalty as the justice court judge or conservator of the
324 peace may require, for his appearance before the justice court
325 judge or conservator of the peace for an examination of his case



326 at some future day. And if the person thus recognized or thus
327 giving bond fails to appear at the appointed time, it shall be the
328 duty of the justice court judge or conservator of the peace to
329 return the recognizance or bond, with his certificate of default,
330 to the court having jurisdiction of the case, and a recovery may
331 be had therein by scire facias, as in other cases of forfeiture.
332 The justice court judge or other conservator of the peace shall
333 also issue an alias warrant for the defaulter.

334 (2) In circumstances involving an offense against any of the
335 following: (a) a current or former spouse of the accused or child
336 of that person; (b) a person living as a spouse or who formerly
337 lived as a spouse with the accused or a child of that person; (c)
338 a parent, grandparent, child, grandchild or someone similarly
339 situated to the accused; (d) a person who has a current or former
340 dating relationship with the accused; or (e) a person with whom
341 the accused has had a biological or legally adopted child, the
342 justice court judge or other conservator of the peace shall check,
343 or cause to be made a check, of the status of the person for whom
344 recognizance or bond is taken before ordering bail in the
345 Mississippi Protection Order Registry authorized under Section
346 93-21-25, and the existence of a domestic abuse protection order
347 against the accused shall be considered when determining
348 appropriate bail.

349 (3) A conservator of the peace may release a misdemeanor on
350 his or her own recognizance and, for all offenses not described in



351 subsection (2) of this section, a misdemeanant is entitled to
352 release on his or her own recognizance unless: (a) the
353 misdemeanant is on probation or parole, has other unresolved
354 charges pending, or has a history of nonappearance; or (b) the
355 proof is evident or presumption great that: (i) the release of
356 the misdemeanant would constitute a special danger to any other
357 person or to the community; or (ii) release on recognizance is
358 highly unlikely to assure the appearance of the person as
359 required.

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

362 47-7-35. (1) The courts referred to in Section 47-7-33 or
363 47-7-34 shall determine the terms and conditions of probation or
364 post-release supervision * * * based on an offender's risk and
365 needs assessment and as provided in this section. The courts may
366 alter or modify * * * the discretionary conditions consistent with
367 an offender's risk and needs assessment at any time during the
368 period of probation or post-release supervision * * *. The
369 discretionary conditions of probation or post-release supervision
370 may include any of those set forth in paragraphs (b) through (j)
371 of subsection (2) of this section. The mandatory conditions of
372 probation or post-release supervision shall include those set
373 forth in paragraphs (a) and (k) of subsection (2) of this section.

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



376 (a) Commit no offense against the laws of this or any
377 other state of the United States, or of any federal, territorial
378 or tribal jurisdiction of the United States;

379 (b) Avoid injurious or vicious habits;

380 (c) Avoid persons or places of disreputable or harmful
381 character;

382 (d) Report to the probation and parole officer as
383 directed. The failure of an offender to report to the probation
384 and parole officer for six (6) or more consecutive months may be
385 considered a violation of a mandatory condition for revocation
386 purposes;

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

389 (f) Work faithfully at suitable employment so far as
390 possible;

391 (g) Remain within a specified area;

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

393 (i) Support his dependents;

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

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



401 (* * *3) When any court places a defendant on misdemeanor
402 probation, the court must cause to be conducted a search of the
403 probationer's name or other identifying information against the
404 registration information regarding sex offenders maintained under
405 Title 45, Chapter 33. The search may be conducted using the
406 Internet site maintained by the Department of Public Safety Sex
407 Offender Registry.

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

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

412 47-7-17. Within one (1) year after his admission and at such
413 intervals thereafter as it may determine, the board shall secure
414 and consider all pertinent information regarding each offender,
415 except any under sentence of death or otherwise ineligible for
416 parole, including the circumstances of his offense, his previous
417 social history, his previous criminal record, including any
418 records of law enforcement agencies or of a youth court regarding
419 that offender's juvenile criminal history, his conduct, employment
420 and attitude while in the custody of the department, the case plan
421 created to prepare the offender for parole, and the reports of
422 such physical and mental examinations as have been made. The
423 board shall furnish at least three (3) months' written notice to
424 each such offender of the date on which he is eligible for parole.



425 Before ruling on the application for parole of any offender,
426 the board may require a parole-eligible offender to have a hearing
427 as required in this chapter before the board and to be
428 interviewed. The hearing shall be held no later than thirty (30)
429 days prior to the month of eligibility. No application for parole
430 of a person convicted of a capital offense shall be considered by
431 the board unless and until notice of the filing of such
432 application shall have been published at least once a week for two
433 (2) weeks in a newspaper published in or having general
434 circulation in the county in which the crime was committed. The
435 board shall, within thirty (30) days prior to the scheduled
436 hearing, also give notice of the filing of the application for
437 parole to the victim of the offense for which the prisoner is
438 incarcerated and being considered for parole or, in case the
439 offense be homicide, a designee of the immediate family of the
440 victim, provided the victim or designated family member has
441 furnished in writing a current address to the board for such
442 purpose. Parole release shall, at the hearing, be ordered only
443 for the best interest of society, not as an award of clemency; it
444 shall not be considered to be a reduction of sentence or pardon.
445 An offender shall be placed on parole only when arrangements have
446 been made for his proper employment or for his maintenance and
447 care, and when the board believes that he is able and willing to
448 fulfill the obligations of a law-abiding citizen. When the board
449 determines that the offender will need transitional housing upon



450 release in order to improve the likelihood of * * * the offender
451 becoming a law-abiding citizen, the board may parole the offender
452 with the condition that the inmate spends no more than six (6)
453 months in a transitional reentry center. At least fifteen (15)
454 days prior to the release of an offender on parole, the director
455 of records of the department shall give the written notice which
456 is required pursuant to Section 47-5-177. Every offender while on
457 parole shall remain in the legal custody of the department from
458 which he was released and shall be amenable to the orders of the
459 board. Upon determination by the board that an offender is
460 eligible for release by parole, notice shall also be given within
461 at least fifteen (15) days before release, by the board to the
462 victim of the offense or the victim's family member, as indicated
463 above, regarding the date when the offender's release shall occur,
464 provided a current address of the victim or the victim's family
465 member has been furnished in writing to the board for such
466 purpose.

467 Failure to provide notice to the victim or the victim's
468 family member of the filing of the application for parole or of
469 any decision made by the board regarding parole shall not
470 constitute grounds for vacating an otherwise lawful parole
471 determination nor shall it create any right or liability, civilly
472 or criminally, against the board or any member thereof.



473 A letter of protest against granting an offender parole shall
474 not be treated as the conclusive and only reason for not granting
475 parole.

476 The board may adopt such other rules not inconsistent with
477 law as it may deem proper or necessary with respect to the
478 eligibility of offenders for parole * * * or the conduct of parole
479 hearings * * *. The board shall adopt such other rules consistent
480 with subsections (1) and (2) of Section 47-7-35 regarding
481 mandatory and discretionary conditions to be imposed upon
482 parolees, including a condition that the parolee submit, as
483 provided in Section 47-5-601 to any type of breath, saliva or
484 urine chemical analysis test, the purpose of which is to detect
485 the possible presence of alcohol or a substance prohibited or
486 controlled by any law of the State of Mississippi or the United
487 States. The board shall have the authority to adopt rules related
488 to the placement of certain offenders on unsupervised parole and
489 for the operation of transitional reentry centers. However, in no
490 case shall an offender be placed on unsupervised parole before he
491 has served a minimum of fifty percent (50%) of the period of
492 supervised parole.

493 **SECTION 8.** Section 47-7-27, Mississippi Code of 1972, is
494 brought forward as follows:

495 47-7-27. (1) The board may, at any time and upon a showing
496 of probable violation of parole, issue a warrant for the return of
497 any paroled offender to the custody of the department. The



498 warrant shall authorize all persons named therein to return the
499 paroled offender to actual custody of the department from which he
500 was paroled.

501 (2) Any field supervisor may arrest an offender without a
502 warrant or may deputize any other person with power of arrest by
503 giving him a written statement setting forth that the offender
504 has, in the judgment of that field supervisor, violated the
505 conditions of his parole or earned-release supervision. The
506 written statement delivered with the offender by the arresting
507 officer to the official in charge of the department facility from
508 which the offender was released or other place of detention
509 designated by the department shall be sufficient warrant for the
510 detention of the offender.

511 (3) The field supervisor, after making an arrest, shall
512 present to the detaining authorities a similar statement of the
513 circumstances of violation. The field supervisor shall at once
514 notify the board or department of the arrest and detention of the
515 offender and shall submit a written report showing in what manner
516 the offender has violated the conditions of parole or
517 earned-release supervision. An offender for whose return a
518 warrant has been issued by the board shall, after the issuance of
519 the warrant, be deemed a fugitive from justice.

520 (4) Whenever an offender is arrested on a warrant for an
521 alleged violation of parole as herein provided, the board shall
522 hold an informal preliminary hearing within seventy-two (72) hours



523 to determine whether there is reasonable cause to believe the
524 person has violated a condition of parole. A preliminary hearing
525 shall not be required when the offender is not under arrest on a
526 warrant or the offender signed a waiver of a preliminary hearing.
527 The preliminary hearing may be conducted electronically.

528 (5) The right of the State of Mississippi to extradite
529 persons and return fugitives from justice, from other states to
530 this state, shall not be impaired by this chapter and shall remain
531 in full force and effect. An offender convicted of a felony
532 committed while on parole, whether in the State of Mississippi or
533 another state, shall immediately have his parole revoked upon
534 presentment of a certified copy of the commitment order to the
535 board. If an offender is on parole and the offender is convicted
536 of a felony for a crime committed prior to the offender being
537 placed on parole, whether in the State of Mississippi or another
538 state, the offender may have his parole revoked upon presentment
539 of a certified copy of the commitment order to the board.

540 (6) (a) The board shall hold a hearing for any parolee who
541 is detained as a result of a warrant or a violation report within
542 twenty-one (21) days of the parolee's admission to detention. The
543 board may, in its discretion, terminate the parole or modify the
544 terms and conditions thereof. If the board revokes parole for one
545 or more technical violations the board shall impose a period of
546 imprisonment to be served in a technical violation center operated
547 by the department not to exceed ninety (90) days for the first



548 revocation and not to exceed one hundred twenty (120) days for the
549 second revocation. For the third revocation, the board may impose
550 a period of imprisonment to be served in a technical violation
551 center for up to one hundred * * * eighty (180) days or the board
552 may impose the remainder of the suspended portion of the sentence.
553 For the fourth and any subsequent revocation, the board may impose
554 up to the remainder of the suspended portion of the sentence. The
555 period of imprisonment in a technical violation center imposed
556 under this section shall not be reduced in any manner.

557 (b) If the board does not hold a hearing or does not
558 take action on the violation within the twenty-one-day time frame
559 in paragraph (a) of this subsection, the parolee shall be released
560 from detention and shall return to parole status. The board may
561 subsequently hold a hearing and may revoke parole or may continue
562 parole and modify the terms and conditions of parole. If the
563 board revokes parole for one or more technical violations the
564 board shall impose a period of imprisonment to be served in a
565 technical violation center operated by the department not to
566 exceed ninety (90) days for the first revocation and not to exceed
567 one hundred twenty (120) days for the second revocation. For the
568 third revocation, the board may impose a period of imprisonment to
569 be served in a technical violation center for up to one hundred
570 eighty (180) days or the board may impose the remainder of the
571 suspended portion of the sentence. For the fourth and any
572 subsequent revocation, the board may impose up to the remainder of



573 the suspended portion of the sentence. The period of imprisonment
574 in a technical violation center imposed under this section shall
575 not be reduced in any manner.

576 (c) For a parolee charged with one or more technical
577 violations who has not been detained awaiting the revocation
578 hearing, the board may hold a hearing within a reasonable time.
579 The board may revoke parole or may continue parole and modify the
580 terms and conditions of parole. If the board revokes parole for
581 one or more technical violations the board shall impose a period
582 of imprisonment to be served in a technical violation center
583 operated by the department not to exceed ninety (90) days for the
584 first revocation and not to exceed one hundred twenty (120) days
585 for the second revocation. For the third revocation, the board
586 may impose a period of imprisonment to be served in a technical
587 violation center for up to one hundred eighty (180) days or the
588 board may impose the remainder of the suspended portion of the
589 sentence. For the fourth and any subsequent revocation, the board
590 may impose up to the remainder of the suspended portion of the
591 sentence. The period of imprisonment in a technical violation
592 center imposed under this section shall not be reduced in any
593 manner.

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



598 (8) The chairman and each member of the board and the
599 designated parole revocation hearing officer may, in the discharge
600 of their duties, administer oaths, summon and examine witnesses,
601 and take other steps as may be necessary to ascertain the truth of
602 any matter about which they have the right to inquire.

603 (9) The board shall provide semiannually to the Oversight
604 Task Force the number of warrants issued for an alleged violation
605 of parole, the average time between detention on a warrant and
606 preliminary hearing, the average time between detention on a
607 warrant and revocation hearing, the number of ninety-day sentences
608 in a technical violation center issued by the board, the number of
609 one-hundred-twenty-day sentences in a technical violation center
610 issued by the board, the number of one-hundred-eighty-day
611 sentences issued by the board, and the number and average length
612 of the suspended sentences imposed by the board in response to a
613 violation.

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

616 47-7-34. (1) When a court imposes a sentence upon a
617 conviction for any felony committed after June 30, 1995, the
618 court, in addition to any other punishment imposed if the other
619 punishment includes a term of incarceration in a state or local
620 correctional facility, may impose a term of post-release
621 supervision. However, the total number of years of incarceration
622 plus the total number of years of post-release supervision,



623 whether supervised by the Mississippi Department of Corrections or
624 any other entity, shall not exceed the maximum sentence authorized
625 to be imposed by law for the felony committed. The defendant
626 shall be placed under post-release supervision upon release from
627 the term of incarceration. The period of supervision shall be
628 established by the court. The time served on post-release
629 supervision may be reduced under Section 47-7-40.

630 (2) The period of post-release supervision shall be
631 conducted in the same manner as a like period of supervised
632 probation, including a requirement that the defendant shall abide
633 by any terms and conditions as the court may establish. Failure
634 to successfully abide by the terms and conditions shall be grounds
635 to terminate the period of post-release supervision and to
636 recommit the defendant to the correctional facility from which he
637 was previously released. Procedures for termination and
638 recommitment shall be conducted in the same manner as procedures
639 for the revocation of probation and imposition of a suspended
640 sentence as required pursuant to Section 47-7-37.

641 (3) Post-release supervision programs shall be operated
642 through the probation and parole unit of the Division of Community
643 Corrections of the department. The maximum amount of time that
644 the Mississippi Department of Corrections may supervise an
645 offender on the post-release supervision program is five (5)
646 years.



647 **SECTION 10.** Section 47-7-37, Mississippi Code of 1972, is
648 brought forward as follows:

649 47-7-37. (1) The period of probation shall be fixed by the
650 court, and may at any time be extended or terminated by the court,
651 or judge in vacation. Such period with any extension thereof
652 shall not exceed five (5) years, except that in cases of desertion
653 and/or failure to support minor children, the period of probation
654 may be fixed and/or extended by the court for so long as the duty
655 to support such minor children exists. The time served on
656 probation or post-release supervision may be reduced pursuant to
657 Section 47-7-40.

658 (2) At any time during the period of probation, the court,
659 or judge in vacation, may issue a warrant for violating any of the
660 conditions of probation or suspension of sentence and cause the
661 probationer to be arrested. Any probation and parole officer may
662 arrest a probationer without a warrant, or may deputize any other
663 officer with power of arrest to do so by giving him a written
664 statement setting forth that the probationer has, in the judgment
665 of the probation and parole officer, violated the conditions of
666 probation. Such written statement delivered with the probationer
667 by the arresting officer to the official in charge of a county
668 jail or other place of detention shall be sufficient warrant for
669 the detention of the probationer.

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



672 shall hold an informal preliminary hearing within seventy-two (72)
673 hours of the arrest to determine whether there is reasonable cause
674 to believe the person has violated a condition of probation. A
675 preliminary hearing shall not be required when the offender is not
676 under arrest on a warrant or the offender signed a waiver of a
677 preliminary hearing. The preliminary hearing may be conducted
678 electronically. If reasonable cause is found, the offender may be
679 confined no more than twenty-one (21) days from the admission to
680 detention until a revocation hearing is held. If the revocation
681 hearing is not held within twenty-one (21) days, the probationer
682 shall be released from custody and returned to probation status.

683 (4) If a probationer or offender is subject to registration
684 as a sex offender, the court must make a finding that the
685 probationer or offender is not a danger to the public prior to
686 release with or without bail. In determining the danger posed by
687 the release of the offender or probationer, the court may consider
688 the nature and circumstances of the violation and any new offenses
689 charged; the offender or probationer's past and present conduct,
690 including convictions of crimes and any record of arrests without
691 conviction for crimes involving violence or sex crimes; any other
692 evidence of allegations of unlawful sexual conduct or the use of
693 violence by the offender or probationer; the offender or
694 probationer's family ties, length of residence in the community,
695 employment history and mental condition; the offender or
696 probationer's history and conduct during the probation or other



697 supervised release and any other previous supervisions, including
698 disciplinary records of previous incarcerations; the likelihood
699 that the offender or probationer will engage again in a criminal
700 course of conduct; the weight of the evidence against the offender
701 or probationer; and any other facts the court considers relevant.

702 (5) (a) The probation and parole officer after making an
703 arrest shall present to the detaining authorities a similar
704 statement of the circumstances of violation. The probation and
705 parole officer shall at once notify the court of the arrest and
706 detention of the probationer and shall submit a report in writing
707 showing in what manner the probationer has violated the conditions
708 of probation. Within twenty-one (21) days of arrest and detention
709 by warrant as herein provided, the court shall cause the
710 probationer to be brought before it and may continue or revoke all
711 or any part of the probation or the suspension of sentence. If
712 the court revokes probation for one or more technical violations,
713 the court shall impose a period of imprisonment to be served in
714 either a technical violation center or a restitution center not to
715 exceed ninety (90) days for the first revocation and not to exceed
716 one hundred twenty (120) days for the second revocation. For the
717 third revocation, the court may impose a period of imprisonment to
718 be served in either a technical violation center or a restitution
719 center for up to one hundred eighty (180) days or the court may
720 impose the remainder of the suspended portion of the sentence.
721 For the fourth and any subsequent revocation, the court may impose



722 up to the remainder of the suspended portion of the sentence. The
723 period of imprisonment in a technical violation center imposed
724 under this section shall not be reduced in any manner.

725 (b) If the offender is not detained as a result of the
726 warrant, the court shall cause the probationer to be brought
727 before it within a reasonable time and may continue or revoke all
728 or any part of the probation or the suspension of sentence, and
729 may cause the sentence imposed to be executed or may impose any
730 part of the sentence which might have been imposed at the time of
731 conviction. If the court revokes probation for one or more
732 technical violations, the court shall impose a period of
733 imprisonment to be served in either a technical violation center
734 or a restitution center not to exceed ninety (90) days for the
735 first revocation and not to exceed one hundred twenty (120) days
736 for the second revocation. For the third revocation, the court
737 may impose a period of imprisonment to be served in either a
738 technical violation center or a restitution center for up to one
739 hundred eighty (180) days or the court may impose the remainder of
740 the suspended portion of the sentence. For the fourth and any
741 subsequent revocation, the court may impose up to the remainder of
742 the suspended portion of the sentence. The period of imprisonment
743 in a technical violation center imposed under this section shall
744 not be reduced in any manner.

745 (c) If the court does not hold a hearing or does not
746 take action on the violation within the twenty-one-day period, the



747 offender shall be released from detention and shall return to
748 probation status. The court may subsequently hold a hearing and
749 may revoke probation or may continue probation and modify the
750 terms and conditions of probation. If the court revokes probation
751 for one or more technical violations, the court shall impose a
752 period of imprisonment to be served in either a technical
753 violation center operated by the department or a restitution
754 center not to exceed ninety (90) days for the first revocation and
755 not to exceed one hundred twenty (120) days for the second
756 revocation. For the third revocation, the court may impose a
757 period of imprisonment to be served in either a technical
758 violation center or a restitution center for up to one hundred
759 eighty (180) days or the court may impose the remainder of the
760 suspended portion of the sentence. For the fourth and any
761 subsequent revocation, the court may impose up to the remainder of
762 the suspended portion of the sentence. The period of imprisonment
763 in a technical violation center imposed under this section shall
764 not be reduced in any manner.

765 (d) For an offender charged with a technical violation
766 who has not been detained awaiting the revocation hearing, the
767 court may hold a hearing within a reasonable time. The court may
768 revoke probation or may continue probation and modify the terms
769 and conditions of probation. If the court revokes probation for
770 one or more technical violations the court shall impose a period
771 of imprisonment to be served in either a technical violation



772 center operated by the department or a restitution center not to
773 exceed ninety (90) days for the first revocation and not to exceed
774 one hundred twenty (120) days for the second revocation. For the
775 third revocation, the court may impose a period of imprisonment to
776 be served in either a technical violation center or a restitution
777 center for up to one hundred eighty (180) days or the court may
778 impose the remainder of the suspended portion of the sentence.
779 For the fourth and any subsequent revocation, the court may impose
780 up to the remainder of the suspended portion of the sentence. The
781 period of imprisonment in a technical violation center imposed
782 under this section shall not be reduced in any manner.

783 (6) If the probationer is arrested in a circuit court
784 district in the State of Mississippi other than that in which he
785 was convicted, the probation and parole officer, upon the written
786 request of the sentencing judge, shall furnish to the circuit
787 court or the county court of the county in which the arrest is
788 made, or to the judge of such court, a report concerning the
789 probationer, and such court or the judge in vacation shall have
790 authority, after a hearing, to continue or revoke all or any part
791 of probation or all or any part of the suspension of sentence, and
792 may in case of revocation proceed to deal with the case as if
793 there had been no probation. In such case, the clerk of the court
794 in which the order of revocation is issued shall forward a
795 transcript of such order to the clerk of the court of original
796 jurisdiction, and the clerk of that court shall proceed as if the



797 order of revocation had been issued by the court of original
798 jurisdiction. Upon the revocation of probation or suspension of
799 sentence of any offender, such offender shall be placed in the
800 legal custody of the State Department of Corrections and shall be
801 subject to the requirements thereof.

802 (7) Any probationer who removes himself from the State of
803 Mississippi without permission of the court placing him on
804 probation, or the court to which jurisdiction has been
805 transferred, shall be deemed and considered a fugitive from
806 justice and shall be subject to extradition as now provided by
807 law. No part of the time that one is on probation shall be
808 considered as any part of the time that he shall be sentenced to
809 serve.

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

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

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



821 (11) The Department of Corrections shall provide
822 semiannually to the Oversight Task Force the number of warrants
823 issued for an alleged violation of probation or post-release
824 supervision, the average time between detention on a warrant and
825 preliminary hearing, the average time between detention on a
826 warrant and revocation hearing, the number of ninety-day sentences
827 in a technical violation center issued by the court, the number of
828 one-hundred-twenty-day sentences in a technical violation center
829 issued by the court, the number of one-hundred-eighty-day
830 sentences issued by the court, and the number and average length
831 of the suspended sentences imposed by the court in response to a
832 violation.

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

835 47-7-38. (1) The department shall * * * impose graduated
836 sanctions * * * before requesting judicial modification or
837 revocation, as provided in Sections 47-7-27 and 47-7-37, for
838 offenders on probation, parole, or post-release supervision who
839 commit technical violations of the conditions of supervision as
840 defined by Sections 47-7-2 and 47-7-35.

841 (2) The commissioner shall develop a standardized graduated
842 sanctions system, which shall include a grid to guide field
843 officers in determining the suitable response to a technical
844 violation. The commissioner shall promulgate rules and
845 regulations for the development and application of the system of



846 sanctions. Field officers shall be required to conform to the
847 sanction grid developed.

848 (3) The system of sanctions shall include a list of
849 sanctions for the most common types of violations. When
850 determining the sanction to impose, the field officer shall take
851 into account the offender's assessed risk level, previous
852 violations and sanctions, and severity of the current and prior
853 violations.

854 (4) Field officers shall notify the sentencing court * * *
855 or the Parole Board, as applicable, when a probationer or parolee
856 has committed a technical violation, the type of violation and the
857 sanction imposed. * * * If a probationer is arrested for a new
858 criminal offense, the field officer shall notify the court within
859 forty-eight (48) hours of becoming aware of the arrest.

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

- 862 (a) Verbal warnings;
- 863 (b) Increased reporting;
- 864 (c) Increased drug and alcohol testing;
- 865 (d) Mandatory substance abuse treatment;
- 866 (e) Loss of earned-discharge credits; and
- 867 (f) Incarceration in a county jail for no more than two
868 (2) days. Incarceration as a sanction shall not be used more than
869 two (2) times per month for a total period incarcerated of no more
870 than four (4) days.



871 (6) The system shall also define positive reinforcements
872 that offenders will receive for compliance with conditions of
873 supervision. These positive reinforcements shall include, but not
874 be limited to:

- 875 (a) Verbal recognition;
- 876 (b) Reduced reporting; and
- 877 (c) Credits for earned discharge which shall be awarded
878 pursuant to Section 47-7-40.

879 (7) The Department of Corrections shall provide semiannually
880 to the Oversight Task Force the number and percentage of offenders
881 who have one or more violations during the year, the average
882 number of violations per offender during the year and the total
883 and average number of incarceration sanctions as defined in
884 subsection (5) of this section imposed during the year.

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

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

890 9-23-5. For the purposes of this chapter, the following
891 words and phrases shall have the meanings ascribed unless the
892 context clearly requires otherwise:

- 893 (a) "Chemical" tests means the analysis of an
894 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)



895 saliva, (vi) urine, or (vii) other bodily substance to determine
896 the presence of alcohol or a controlled substance.

897 (b) "Crime of violence" means an offense listed in
898 Section 97-3-2, other than burglary of a dwelling under Section
899 97-17-23(1) if the burglary victim agrees in writing that the
900 victim has no objection to the defendant's participation in drug
901 court.

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

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

907 (ii) Follows the key components of drug courts
908 published by the Drug Court Program Office of the United States
909 Department of Justice.

910 "Drug court" includes other problem-solving courts that
911 conform to standards promulgated by the State Drug Courts Advisory
912 Committee under Section 9-23-9, including, but not limited to,
913 juvenile courts, veterans courts, or any other court designed to
914 adjudicate criminal actions involving an identified classification
915 of criminal defendant using effective and proven practices that
916 reduce recidivism or substance dependency among participants.

917 (d) "Evidence-based practices" means supervision
918 policies, procedures and practices that scientific research
919 demonstrates reduce recidivism.



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

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

926 9-23-9. (1) The State Drug Courts Advisory Committee is
927 established to develop and periodically update proposed statewide
928 evaluation plans and models for monitoring all critical aspects of
929 drug courts of whatever focus or description. The committee must
930 provide the proposed evaluation plans to the Chief Justice and the
931 Administrative Office of Courts. The committee shall be chaired
932 by the Director of the Administrative Office of Courts and shall
933 consist of not less than seven (7) members nor more than eleven
934 (11) members appointed by the Supreme Court and broadly
935 representative of the courts, law enforcement, corrections,
936 juvenile justice, child protective services and substance abuse
937 treatment communities.

938 (2) The State Drug Courts Advisory Committee may also make
939 recommendations to the Chief Justice, the Director of the
940 Administrative Office of Courts and state officials concerning
941 improvements to drug court policies and procedures including the
942 drug court certification process. The committee may make
943 suggestions as to the criteria for eligibility, determination of



944 indigence, and other procedural and substantive guidelines for
945 drug court operation.

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

951 (4) The State Drug Courts Advisory Committee shall establish
952 through rules and regulations a viable and fiscally responsible
953 plan to expand the number of adult and juvenile drug court
954 programs operating in Mississippi. These rules and regulations
955 shall include plans to increase participation in existing and
956 future programs while maintaining their voluntary nature.

957 (5) The State Drug Courts Advisory Committee shall receive
958 and review the monthly reports submitted to the Administrative
959 Office of Courts by each certified drug court and provide comments
960 and make recommendations, as necessary, to the Chief Justice and
961 the Director of the Administrative Office of Courts.

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

964 9-23-15. (1) In order to be eligible for alternative
965 sentencing through a local drug court, the participant must
966 satisfy each of the following criteria:



967 (a) The participant cannot have any felony convictions
968 for any offenses that are crimes of violence as defined in * * *
969 this chapter within the previous ten (10) years.

970 (b) The crime before the court cannot be a crime of
971 violence as defined in * * * this chapter.

972 (c) Other criminal proceedings alleging commission of a
973 crime of violence, as defined in this chapter, cannot be pending
974 against the participant.

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

977 (e) The crime before the court cannot be for a charge
978 of * * * any offense that resulted in the death of a person.

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

982 (2) Participation in the services of an alcohol and drug
983 intervention component shall be open only to the individuals over
984 whom the court has jurisdiction, except that the court may agree
985 to provide the services for individuals referred from another drug
986 court. In cases transferred from another jurisdiction, the
987 receiving judge shall act as a special master and make
988 recommendations to the sentencing judge.

989 (3) (a) As a condition of participation in a drug court, a
990 participant may be required to undergo a chemical test or a series
991 of chemical tests as specified by the drug court. A participant



992 is liable for the costs of all chemical tests required under this
993 section, regardless of whether the costs are paid to the drug
994 court or the laboratory; however, if testing is available from
995 other sources or the program itself, the judge may waive any fees
996 for testing; the judge may also reduce or waive any fees for
997 testing if the participant is indigent.

998 (b) A laboratory that performs a chemical test under
999 this section shall report the results of the test to the drug
1000 court.

1001 (4) A person does not have a right to participate in drug
1002 court under this chapter. The court having jurisdiction over a
1003 person for a matter before the court shall have the final
1004 determination about whether the person may participate in drug
1005 court under this chapter.

1006 **SECTION 16.** Section 9-23-19, Mississippi Code of 1972, is
1007 amended as follows:

1008 9-23-19. (1) All monies received from any source by the
1009 drug court shall be accumulated in a fund to be used only for drug
1010 court purposes. Any funds remaining in this fund at the end of a
1011 fiscal year shall not lapse into any general fund, but shall be
1012 retained in the drug court fund for the funding of further
1013 activities by the drug court.

1014 (2) A drug court may apply for and receive the following:

1015 (a) Gifts, bequests and donations from private sources.

1016 (b) Grant and contract money from governmental sources.



1017 (c) Other forms of financial assistance approved by the
1018 court to supplement the budget of the drug court.

1019 (3) The costs of participation in an alcohol and drug
1020 intervention program required by the certified drug court may be
1021 paid by the participant or out of user fees or such other state,
1022 federal or private funds that may, from time to time, be made
1023 available.

1024 (4) The court may assess such reasonable and appropriate
1025 fees to be paid to the local drug court fund for participation in
1026 an alcohol or drug intervention program, and may waive or reduce
1027 fees for participants found to be indigent.

1028 **SECTION 17.** Section 99-19-81, Mississippi Code of 1972, is
1029 amended as follows:

1030 99-19-81. (1) Every person convicted in this state of a
1031 felony who shall have been convicted twice previously of any
1032 felony or federal crime upon charges separately brought and
1033 arising out of separate incidents at different times and who shall
1034 have been sentenced to separate terms of one (1) year or more in
1035 any state and/or federal penal institution, whether in this state
1036 or elsewhere, shall be sentenced to the maximum term of
1037 imprisonment prescribed for such felony unless the court provides
1038 an explanation in its sentencing order setting forth the cause for
1039 deviating from the maximum sentence, and such sentence shall not
1040 be reduced or suspended nor shall such person be eligible for
1041 parole or probation.



1042 (2) A prior felony conviction shall not be considered for
1043 the purposes of this section if more than ten (10) years have
1044 elapsed between the date of completion of the sentence imposed for
1045 the prior felony and the date of the commission of the offense or
1046 offenses subject to sentencing.

1047 **SECTION 18.** Section 99-19-83, Mississippi Code of 1972, is
1048 amended as follows:

1049 99-19-83. (1) Every person convicted in this state of a
1050 felony who shall have been convicted twice previously of any
1051 felony or federal crime upon charges separately brought and
1052 arising out of separate incidents at different times and who shall
1053 have been sentenced to and served separate terms of one (1) year
1054 or more, whether served concurrently or not, in any state and/or
1055 federal penal institution, whether in this state or elsewhere, and
1056 where any one (1) of such felonies shall have been a crime of
1057 violence, as defined by Section 97-3-2, shall be sentenced to life
1058 imprisonment, and such sentence shall not be reduced or suspended
1059 nor shall such person be eligible for parole, probation or any
1060 other form of early release from actual physical custody within
1061 the Department of Corrections.

1062 (2) A prior felony conviction shall not be considered for
1063 the purposes of this section if more than ten (10) years have
1064 elapsed between the date of completion of the sentence imposed for
1065 the prior felony and the date of the commission of the offense or
1066 offenses subject to sentencing.



1067 **SECTION 19.** Section 63-1-216, Mississippi Code of 1972, is
1068 amended as follows:

1069 63-1-216. (1) (a) A person shall be disqualified from
1070 driving a commercial motor vehicle for a period of one (1) year if
1071 the person's license or permit to drive has been administratively
1072 suspended under Section 63-11-23 or the person has been convicted
1073 of a first violation of:

1074 (i) Operating, attempting to operate, or being in
1075 actual physical control of a commercial motor vehicle on a highway
1076 with an alcohol concentration of four one-hundredths percent
1077 (0.04%) or more, or under the influence of other drugs as provided
1078 in Section 63-11-30;

1079 (ii) Failure to stop and render aid as required
1080 under the laws of this state in the event of a motor vehicle
1081 accident resulting in the death or personal injury of another;

1082 (iii) Using a motor vehicle in the commission of
1083 any offense under state or federal law that is punishable by
1084 imprisonment for a term exceeding one (1) year;

1085 (iv) Refusal to submit to a test to determine the
1086 operator's alcohol concentration, as provided in Title 63, Chapter
1087 11, Mississippi Code of 1972, while operating a commercial motor
1088 vehicle;

1089 (v) Operating, attempting to operate, or being in
1090 actual physical control of a noncommercial motor vehicle on a
1091 highway with an alcohol concentration of eight one-hundredths



1092 percent (0.08%) or more, or under the influence of intoxicating
1093 liquor or other substance, as provided in Section 63-11-30;

1094 (vi) Operating, attempting to operate, or being in
1095 actual physical control of a noncommercial motor vehicle on a
1096 highway when the person is under the influence of any other drug
1097 or under the combined influence of alcohol and any other drug to a
1098 degree which renders the person incapable of driving safely as
1099 provided in Section 63-11-30;

1100 (vii) Operating or attempting to operate a
1101 commercial motor vehicle while the license is revoked, suspended,
1102 cancelled, or disqualified;

1103 (viii) Operating a commercial motor vehicle in a
1104 negligent manner resulting in a fatal injury.

1105 (b) A person shall be disqualified from driving a
1106 commercial motor vehicle for three (3) years if convicted of a
1107 violation listed in subsection (1) of this section, if the
1108 violation occurred while transporting a hazardous material
1109 required to be placarded.

1110 (c) A person shall be disqualified from driving a
1111 commercial motor vehicle for life if convicted of two (2) or more
1112 violations or a combination of them listed in subsection (1) of
1113 this section arising from two (2) or more separate occurrences.

1114 (d) A person shall be disqualified from driving a
1115 commercial motor vehicle for a period of sixty (60) days if
1116 convicted of two (2) serious traffic violations, or one hundred



1117 twenty (120) days if convicted of three (3) serious traffic
1118 violations, arising from separate incidents occurring within a
1119 three-year period. A disqualification for three (3) serious
1120 traffic violations must be imposed consecutively to any other
1121 previous period of disqualification.

1122 (e) A person shall be disqualified from driving a
1123 commercial motor vehicle for life if the person uses a motor
1124 vehicle in the commission of any offense under state or federal
1125 law that is punishable by imprisonment for a term exceeding one
1126 (1) year involving the manufacture, distribution, or dispensing of
1127 a regulated drug, or possession with intent to manufacture,
1128 distribute, or dispense a regulated drug and for which the person
1129 was convicted.

1130 (f) A person who is disqualified from driving a
1131 commercial motor vehicle shall surrender the person's Mississippi
1132 commercial driver's license no later than the effective date of
1133 the disqualification. Upon receipt of the person's commercial
1134 driver's license, that person, if otherwise eligible, may apply
1135 for a non-CDL, and upon payment of sufficient fees receive the
1136 driver's license.

1137 (g) The commissioner shall adopt rules establishing
1138 guidelines, including conditions, under which a disqualification
1139 for life under this section, except for a disqualification issued
1140 pursuant to paragraph (e) of this subsection, may be reduced to a
1141 period of not less than ten (10) years.



1142 (h) A person shall be disqualified from driving a
1143 commercial motor vehicle for a period of sixty (60) days if the
1144 driver is convicted of a first violation of a railroad-highway
1145 grade crossing violation.

1146 (i) A person shall be disqualified from driving a
1147 commercial motor vehicle for a period of one hundred twenty (120)
1148 days if, during any three-year period, the driver is convicted of
1149 a second railroad-highway grade crossing violation in a separate
1150 incident.

1151 (j) A person shall be disqualified from driving a
1152 commercial motor vehicle for a period of one (1) year if, during
1153 any three-year period, the driver is convicted of a third or
1154 subsequent railroad-highway grade crossing violation in separate
1155 incidents.

1156 (k) A person who is simultaneously subject to a
1157 disqualification issued by the administrator of the Federal Motor
1158 Carrier Safety Administration pursuant to 49 CFR, Part 383.52 and
1159 a disqualification under any other provision of this section shall
1160 serve those disqualification periods concurrently.

1161 (2) (a) A person's privilege to operate a commercial motor
1162 vehicle in the State of Mississippi shall be suspended for one (1)
1163 year, if:

1164 (i) The person is convicted of a first violation
1165 of operating, attempting to operate or being in actual physical
1166 control of a commercial motor vehicle on a highway with an alcohol



1167 concentration of four one-hundredths percent (0.04%) or more, or
1168 under the influence, as provided in Section 63-11-30; and

1169 (ii) The person's commercial driver's license is
1170 issued by a state or country that does not issue commercial
1171 driver's licenses and disqualify persons in accordance with 49
1172 CFR, Parts 383 and 384.

1173 (b) A person's privilege to operate a commercial motor
1174 vehicle in the State of Mississippi shall be suspended for three
1175 (3) years if the person is convicted of violating subsection (1)
1176 of this section, and the violation occurred while the person was
1177 transporting a hazardous material required to be placarded.

1178 (c) A person's privilege to operate a commercial motor
1179 vehicle in the State of Mississippi shall be suspended for life if
1180 the person is convicted a second time of violating subsection (1)
1181 of this section, * * * if the convictions arise out of separate
1182 occurrences.

1183 (d) A person's privilege to operate a commercial motor
1184 vehicle in the State of Mississippi shall be suspended for sixty
1185 (60) days if the person is convicted of two (2) serious traffic
1186 violations, or for one hundred twenty (120) days if the person is
1187 convicted of three (3) serious traffic violations, arising from
1188 separate incidents occurring within a three-year period.

1189 (e) A person's privilege to operate a commercial motor
1190 vehicle in the State of Mississippi shall be suspended for life if
1191 the person uses a commercial motor vehicle in the commission of



1192 any offense under state or federal law that is punishable by
1193 imprisonment for a term exceeding one (1) year, involving the
1194 manufacture, distribution, or dispensing of a regulated drug, or
1195 possession with intent to manufacture, distribute, or dispense a
1196 regulated drug, and for which the person was convicted.

1197 (f) In addition to the reasons specified in this
1198 section for suspension of the commercial driver's license, the
1199 commissioner shall be authorized to suspend the commercial
1200 driver's license of any person for being out of compliance with an
1201 order for support, as defined in Section 93-11-153. The procedure
1202 for suspension of a commercial driver's license for being out of
1203 compliance with an order for support, and the procedure for the
1204 reissuance or reinstatement of a commercial driver's license
1205 suspended for that purpose, and the payment of any fees for the
1206 reissuance or reinstatement of a commercial driver's license
1207 suspended for that purpose, shall be governed by Section 93-11-157
1208 or 93-11-163, as the case may be. If there is any conflict
1209 between any provision of Section 93-11-157 or 93-11-163 and any
1210 provision of this article, the provisions of Section 93-11-157 or
1211 93-11-163, as the case may be, shall control.

1212 **SECTION 20.** (1) **Legal effect of an order to expunge;**
1213 **eligibility.** (a) "Expungement" or "expunction" means the
1214 deletion, by court order, of the records of criminal offenses from
1215 a person's public records.



1216 (b) (i) Upon entering an order of expunction under
1217 this section, a nonpublic record thereof shall be retained by the
1218 Mississippi Criminal Information Center solely for the purpose of
1219 determining whether, in subsequent proceedings, the person is a
1220 first offender.

1221 (ii) The order of expunction shall not preclude a
1222 district attorney's office from retaining a nonpublic record
1223 thereof for law enforcement purposes only.

1224 (iii) The existence of an order of expunction
1225 shall not preclude an employer from asking a prospective employee
1226 if the employee has had an order of expunction entered on his
1227 behalf.

1228 (c) (i) The effect of an expunction order shall be to
1229 restore the person, in the contemplation of the law, to the status
1230 he occupied before any arrest or indictment for which convicted,
1231 and the person thereafter legally stands as though he had never
1232 been arrested, indicted, or convicted of the expunged offense or
1233 offenses and may lawfully so respond to any query of prior
1234 convictions.

1235 (ii) No person as to whom an expunction order has
1236 been entered shall be held thereafter under any provision of law
1237 to be guilty of perjury or to have otherwise given a false
1238 statement by reason of his failure to recite or acknowledge such
1239 arrest, indictment or conviction in response to any inquiry made
1240 of him for any purpose other than the purpose of determining, in



1241 any subsequent proceedings under this section, whether the person
1242 is a first offender. A person as to whom an order has been
1243 entered, upon request, shall be required to advise the court, in
1244 camera, of the previous conviction and expunction in any legal
1245 proceeding wherein the person has been called as a prospective
1246 juror. The court shall thereafter and before the selection of the
1247 jury advise the attorneys representing the parties of the previous
1248 conviction and expunction.

1249 (d) No public official is eligible for expunction of
1250 any felony or misdemeanor conviction related to his official
1251 duties.

1252 (2) **Expunction of misdemeanor convictions.** (a) **First**
1253 **offender.** Any person who has been convicted of a misdemeanor that
1254 is not a traffic violation, and who is a first offender, may
1255 petition the justice, county, circuit or municipal court in which
1256 the conviction was had for an order to expunge any such conviction
1257 from all public records

1258 (b) **Multiple misdemeanors.** Upon prior notice to the
1259 appropriate prosecuting attorney and upon a showing in open court
1260 of rehabilitation, good conduct for a period of two (2) years
1261 since the last conviction in any court, and that the best interest
1262 of society would be served, the justice, municipal, county, or
1263 circuit court may, in its discretion, order the record of
1264 conviction of a person of any or all misdemeanors in that court
1265 expunged



1266 (c) **Records that may not be expunged.** The confidential
1267 records of law enforcement agencies and the driving record of a
1268 person maintained under Title 63, Mississippi Code of 1972, are
1269 not subject to expunction under this subsection (2).

1270 (3) **Expunction of felony convictions.** (a) Any person who
1271 has been convicted of a felony that is not a crime of violence
1272 listed in Section 97-3-2, and who has paid all criminal fines and
1273 costs of court imposed in the sentence for the conviction, may
1274 petition the court in which the conviction was had for an order to
1275 expunge the conviction from all public records seven (7) years
1276 after the successful completion of all terms and conditions of the
1277 sentence for the conviction unless the felony, in the
1278 determination of the circuit court, is related to the distribution
1279 or trafficking of a controlled substance and, in the court's
1280 discretion, should not be expunged.

1281 (b) The petitioner shall give ten (10) days' written
1282 notice to the district attorney before any hearing on the
1283 petition. In all cases, the court wherein the petition is filed
1284 may grant the petition if the court determines, on the record or
1285 in writing, that the applicant is rehabilitated from the offense
1286 which is the subject of the petition. In those cases where the
1287 court denies the petition, the findings of the court in this
1288 respect shall be identified specifically and not generally.

1289 (4) **Convictions for purchase of light wine or beer by person**
1290 **under age of twenty-one (21).** A person who has been charged with



1291 a violation of subsection (1) or (2) of Section 67-3-70 may, not
1292 sooner than one (1) year after the dismissal and discharge or
1293 completion of any sentence and payment of any fine, apply to the
1294 court for an order to expunge from all official records all
1295 recordation relating to his arrest, trial, finding or plea of
1296 guilty, and dismissal and discharge. If the court determines that
1297 such person was dismissed and the proceedings against him
1298 discharged or that such person had satisfactorily served his
1299 sentence and paid any fine, penalties and assessments, it shall
1300 enter such order.

1301 (5) **Nonconvictions.** (a) **Expunction of misdemeanor charges.**

1302 Any person who is arrested, issued a citation, or held for any
1303 misdemeanor and is not formally charged or prosecuted for the
1304 offense within twelve (12) months of arrest, or upon dismissal of
1305 the charge, may apply to the court with jurisdiction over the
1306 matter for the charges to be expunged.

1307 (b) **Nonadjudication of drug offenses.** Upon the
1308 dismissal of the charges against a person and discharge of
1309 proceedings against him under Section 41-29-150(d), the person may
1310 apply to the court for an order to expunge from all official
1311 records, other than the nonpublic records to be retained by the
1312 bureau under Section 41-29-150(d), all recordation relating to his
1313 arrest, indictment, trial, finding of guilt, and dismissal and
1314 discharge pursuant to Section 41-29-150. If the court determines,
1315 after hearing, that the charge against the person was dismissed



1316 and the proceedings against him discharged, or that the person had
1317 satisfactorily served his sentence or period of probation and
1318 parole, it shall enter an order of expunction.

1319 (c) Upon petition therefor, any circuit, county,
1320 justice, or municipal court with jurisdiction over a criminal
1321 offense shall expunge the record of any case in which an arrest
1322 was made, the person arrested was released and the case was
1323 dismissed, the charges were dropped or there was no disposition of
1324 the case.

1325 (d) From and after July 1, 2018, upon entry of an order
1326 of dismissal or nolle prosequi, the court shall automatically
1327 issue an order of expunction on its own motion and send a copy of
1328 the order to the defendant or the defendant's attorney.

1329 (6) **Filing fees.** (a) **Felony convictions in circuit court.**
1330 A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby
1331 levied on each petition to expunge the record of a conviction in
1332 circuit or county court to be collected by the circuit clerk and
1333 distributed as follows:

1334 (i) One Hundred Forty Dollars (\$140.00) to be
1335 deposited into the State General Fund; and

1336 (ii) Ten Dollars (\$10.00) to be retained by the
1337 circuit clerk collecting the fee for administration purposes.

1338 (b) **No filing fee in certain cases.** There shall be no
1339 filing fee levied on petitions seeking expunction of offenses in
1340 cases where the petitioner was arrested and released and the case



1341 was dismissed or the charges were dropped or there was no
1342 disposition of the case.

1343 (c) **Misdemeanor convictions in justice and municipal**
1344 **courts.** The filing fee for expunction shall be as provided by
1345 law.

1346 (7) **Interstate Identification Index reports.** Upon notice of
1347 the filing of an expungement petition, the appropriate prosecuting
1348 attorney or criminal court clerk shall run a background check
1349 through the Federal Bureau of Investigation's National Crime
1350 Information Center Interstate Identification Index and present the
1351 results of the report to the criminal court.

1352 (8) **Post-expungement records.** A certified copy of every
1353 expunction order shall be sent by the clerk of the circuit,
1354 county, justice, or municipal court that issued the order to the
1355 Mississippi Criminal Information Center where it shall be
1356 maintained in a separate confidential database accessible only
1357 upon written request by a district attorney, a county prosecuting
1358 attorney, a municipal court prosecuting attorney, the Attorney
1359 General of Mississippi and the Mississippi Board on Law
1360 Enforcement Officer Standards and Training. A criminal conviction
1361 that has been expunged may be used for the purpose of determining
1362 habitual offender status and for the use of the Mississippi Board
1363 on Law Enforcement Officer Standards and Training in granting or
1364 denying law enforcement certification, and to ensure that a person
1365 is only eligible for first-offender status one (1) time.



1366 **SECTION 21.** Section 9-11-15, Mississippi Code of 1972, is
1367 amended as follows:

1368 9-11-15. (1) Justice court judges shall hold regular terms
1369 of their courts, at such times as they may appoint, not exceeding
1370 two (2) and not less than one (1) in every month, at the
1371 appropriate justice court courtroom established by the board of
1372 supervisors; and they may continue to hold their courts from day
1373 to day so long as business may require; and all process shall be
1374 returnable, and all trials shall take place at such regular terms,
1375 except where it is otherwise provided; but where the defendant is
1376 a nonresident or transient person, and it shall be shown by the
1377 oath of either party that a delay of the trial until the regular
1378 term will be of material injury to him, it shall be lawful for the
1379 judge to have the parties brought before him at any reasonable
1380 time and hear the evidence and give judgment or where the
1381 defendant is a nonresident or transient person and the judge and
1382 all parties agree, it shall be lawful for the judge to have the
1383 parties brought before him on the day a citation is made and hear
1384 the evidence and give judgment. Such court shall be a court of
1385 record, with all the power incident to a court of record,
1386 including power to fine in the amount of fine and length of
1387 imprisonment as is authorized for a municipal court in Section
1388 21-23-7(11) for contempt of court.

1389 (2) (a) In counties with a population of less than one
1390 hundred fifty thousand (150,000), each justice court shall



1391 designate at least one-half (1/2) day each month as a traffic
1392 court day, sufficient to handle the traffic violations docket of
1393 that court, and shall notify all appropriate law enforcement
1394 agencies of the date or dates. On the day or days so designated,
1395 the justice court shall give priority to all cases involving
1396 traffic violations.

1397 (b) In counties with a population of one hundred fifty
1398 thousand (150,000) or more, each justice court shall designate at
1399 least one (1) day each month as a traffic court day, sufficient to
1400 handle the traffic violations of that court, and shall notify all
1401 appropriate law enforcement agencies of the date or dates. On the
1402 day or days so designated, the justice court shall give priority
1403 to all cases involving traffic violations. The one (1) day may be
1404 one (1) whole day or it may be divided into half days as long as
1405 one-half (1/2) day is held in the morning and one-half (1/2) day
1406 is held in the afternoon, in the discretion of the court.

1407 * * *

1408 **SECTION 22.** Section 21-23-7, Mississippi Code of 1972, is
1409 amended as follows:

1410 21-23-7. (1) The municipal judge shall hold court in a
1411 public building designated by the governing authorities of the
1412 municipality and may hold court every day except Sundays and legal
1413 holidays if the business of the municipality so requires;
1414 provided, however, the municipal judge may hold court outside the
1415 boundaries of the municipality but not more than within a



1416 sixty-mile radius of the municipality to handle preliminary
1417 matters and criminal matters such as initial appearances and
1418 felony preliminary hearings. The municipal judge may hold court
1419 outside the boundaries of the municipality but not more than
1420 within a one-mile radius of the municipality for any purpose. The
1421 municipal judge shall have the jurisdiction to hear and determine,
1422 without a jury and without a record of the testimony, all cases
1423 charging violations of the municipal ordinances and state
1424 misdemeanor laws made offenses against the municipality and to
1425 punish offenders therefor as may be prescribed by law. Except as
1426 otherwise provided by law, criminal proceedings shall be brought
1427 by sworn complaint filed in the municipal court. Such complaint
1428 shall state the essential elements of the offense charged and the
1429 statute or ordinance relied upon. Such complaint shall not be
1430 required to conclude with a general averment that the offense is
1431 against the peace and dignity of the state or in violation of the
1432 ordinances of the municipality. He may sit as a committing court
1433 in all felonies committed within the municipality, and he shall
1434 have the power to bind over the accused to the grand jury or to
1435 appear before the proper court having jurisdiction to try the
1436 same, and to set the amount of bail or refuse bail and commit the
1437 accused to jail in cases not bailable. The municipal judge is a
1438 conservator of the peace within his municipality. He may conduct
1439 preliminary hearings in all violations of the criminal laws of
1440 this state occurring within the municipality, and any person



1441 arrested for a violation of law within the municipality may be
1442 brought before him for initial appearance. The municipal court
1443 shall have jurisdiction of any case remanded to it by a circuit
1444 court grand jury. The municipal court shall have civil
1445 jurisdiction over actions filed pursuant to and as provided in
1446 Title 93, Chapter 21, Mississippi Code of 1972, the Protection
1447 from Domestic Abuse Act.

1448 (2) In the discretion of the court, where the objects of
1449 justice would be more likely met, as an alternative to imposition
1450 or payment of fine and/or incarceration, the municipal judge shall
1451 have the power to sentence convicted offenders to work on a public
1452 service project where the court has established such a program of
1453 public service by written guidelines filed with the clerk for
1454 public record. Such programs shall provide for reasonable
1455 supervision of the offender and the work shall be commensurate
1456 with the fine and/or incarceration that would have ordinarily been
1457 imposed. Such program of public service may be utilized in the
1458 implementation of the provisions of Section 99-19-20, and public
1459 service work thereunder may be supervised by persons other than
1460 the sheriff.

1461 (3) The municipal judge may solemnize marriages, take oaths,
1462 affidavits and acknowledgments, and issue orders, subpoenas,
1463 summonses, citations, warrants for search and arrest upon a
1464 finding of probable cause, and other such process under seal of
1465 the court to any county or municipality, in a criminal case, to be



1466 executed by the lawful authority of the county or the municipality
1467 of the respondent, and enforce obedience thereto. The absence of
1468 a seal shall not invalidate the process.

1469 (4) When a person shall be charged with an offense in
1470 municipal court punishable by confinement, the municipal judge,
1471 being satisfied that such person is an indigent person and is
1472 unable to employ counsel, may, in the discretion of the court,
1473 appoint counsel from the membership of The Mississippi Bar
1474 residing in his county who shall represent him. Compensation for
1475 appointed counsel in criminal cases shall be approved and allowed
1476 by the municipal judge and shall be paid by the municipality. The
1477 maximum compensation shall not exceed Two Hundred Dollars
1478 (\$200.00) for any one (1) case. The governing authorities of a
1479 municipality may, in their discretion, appoint a public
1480 defender(s) who must be a licensed attorney and who shall receive
1481 a salary to be fixed by the governing authorities.

1482 (5) The municipal judge of any municipality is hereby
1483 authorized to suspend the sentence and to suspend the execution of
1484 the sentence, or any part thereof, on such terms as may be imposed
1485 by the municipal judge. However, the suspension of imposition or
1486 execution of a sentence hereunder may not be revoked after a
1487 period of two (2) years. The municipal judge shall have the power
1488 to establish and operate a probation program, dispute resolution
1489 program and other practices or procedures appropriate to the
1490 judiciary and designed to aid in the administration of justice.



1491 Any such program shall be established by the court with written
1492 policies and procedures filed with the clerk of the court for
1493 public record. Subsequent to original sentencing, the municipal
1494 judge, in misdemeanor cases, is hereby authorized to suspend
1495 sentence and to suspend the execution of a sentence, or any part
1496 thereof, on such terms as may be imposed by the municipal judge,
1497 if (a) the judge or his or her predecessor was authorized to order
1498 such suspension when the sentence was originally imposed; and (b)
1499 such conviction (i) has not been appealed; or (ii) has been
1500 appealed and the appeal has been voluntarily dismissed.

1501 (6) * * * [Deleted]

1502 (7) * * * [Deleted]

1503 (8) In the discretion of the court, a plea of nolo
1504 contendere may be entered to any charge in municipal court. Upon
1505 the entry of a plea of nolo contendere the court shall convict the
1506 defendant of the offense charged and shall proceed to sentence the
1507 defendant according to law. The judgment of the court shall
1508 reflect that the conviction was on a plea of nolo contendere. An
1509 appeal may be made from a conviction on a plea of nolo contendere
1510 as in other cases.

1511 (9) Upon execution of a sworn complaint charging a
1512 misdemeanor, the municipal court may, in its discretion and in
1513 lieu of an arrest warrant, issue a citation requiring the
1514 appearance of the defendant to answer the charge made against him.
1515 On default of appearance, an arrest warrant may be issued for the



1516 defendant. The clerk of the court or deputy clerk may issue such
1517 citations.

1518 (10) The municipal court shall have the power to make rules
1519 for the administration of the court's business, which rules, if
1520 any, shall be in writing filed with the clerk of the court and
1521 shall include the enactment of rules related to the court's
1522 authority to issue domestic abuse protection orders pursuant to
1523 Section 93-21-1 et seq.

1524 (11) The municipal court shall have the power to impose
1525 punishment of a fine of not more than One Thousand Dollars
1526 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
1527 of court. The municipal court may have the power to impose
1528 reasonable costs of court, not in excess of the following:

1529	Dismissal of any affidavit, complaint or charge	
1530	in municipal court.....	\$ 50.00
1531	Suspension of a minor's driver's license in lieu of	
1532	conviction.....	\$ 50.00
1533	Service of scire facias or return "not found".....	\$ 20.00
1534	Causing search warrant to issue or causing	
1535	prosecution without reasonable cause or refusing to	
1536	cooperate after initiating action.....	\$ 100.00
1537	Certified copy of the court record.....	\$ 5.00
1538	Service of arrest warrant for failure to answer	
1539	citation or traffic summons.....	\$ 25.00



1540 Jail cost per day - actual jail cost paid by the municipality but
 1541 not to exceed..... \$ 35.00
 1542 Service of court documents related to the filing
 1543 of a petition or issuance of a protection from domestic
 1544 abuse order under Title 93, Chapter 21, Mississippi
 1545 Code of 1972\$ 25.00
 1546 Expungement.....\$ 50.00
 1547 Any other item of court cost.....\$ 50.00

1548 No filing fee or such cost shall be imposed for the bringing
 1549 of an action in municipal court.

1550 (12) A municipal court judge shall not dismiss a criminal
 1551 case but may transfer the case to the justice court of the county
 1552 if the municipal court judge is prohibited from presiding over the
 1553 case by the Canons of Judicial Conduct and provided that venue and
 1554 jurisdiction are proper in the justice court. Upon transfer of
 1555 any such case, the municipal court judge shall give the municipal
 1556 court clerk a written order to transmit the affidavit or complaint
 1557 and all other records and evidence in the court's possession to
 1558 the justice court by certified mail or to instruct the arresting
 1559 officer to deliver such documents and records to the justice
 1560 court. There shall be no court costs charged for the transfer of
 1561 the case to the justice court.

1562 * * *

1563 **SECTION 23.** Section 41-29-150, Mississippi Code of 1972, is
 1564 amended as follows:



1565 41-29-150. (a) Any person convicted under Section 41-29-139
1566 may be required, in the discretion of the court, as a part of the
1567 sentence otherwise imposed, or in lieu of imprisonment in cases of
1568 probation or suspension of sentence, to attend a course of
1569 instruction conducted by the bureau, the State Board of Health, or
1570 any similar agency, on the effects, medically, psychologically and
1571 socially, of the misuse of controlled substances. The course may
1572 be conducted at any correctional institution, detention center or
1573 hospital, or at any center or treatment facility established for
1574 the purpose of education and rehabilitation of those persons
1575 committed because of abuse of controlled substances.

1576 (b) Any person convicted under Section 41-29-139 who is
1577 found to be dependent upon or addicted to any controlled substance
1578 shall be required, as a part of the sentence otherwise imposed, or
1579 in lieu of imprisonment in cases of parole, probation or
1580 suspension of sentence, to receive medical treatment for such
1581 dependency or addiction. The regimen of medical treatment may
1582 include confinement in a medical facility of any correctional
1583 institution, detention center or hospital, or at any center or
1584 facility established for treatment of those persons committed
1585 because of a dependence or addiction to controlled substances.

1586 (c) Those persons previously convicted of a felony under
1587 Section 41-29-139 and who are now confined at the Mississippi
1588 State Hospital at Whitfield, Mississippi, or at the East
1589 Mississippi State Hospital at Meridian, Mississippi, for the term



1590 of their sentence shall remain under the jurisdiction of the
1591 Mississippi Department of Corrections and shall be required to
1592 abide by all reasonable rules and regulations promulgated by the
1593 director and staff of said institutions and of the Department of
1594 Corrections. Any persons so confined who shall refuse to abide by
1595 said rules or who attempt an escape or who shall escape shall be
1596 transferred to the State Penitentiary or to a county jail, where
1597 appropriate, to serve the remainder of the term of imprisonment;
1598 this provision shall not preclude prosecution and conviction for
1599 escape from said institutions.

1600 (d) (1) If any person who has not previously been convicted
1601 of violating Section 41-29-139, or the laws of the United States
1602 or of another state relating to narcotic drugs, stimulant or
1603 depressant substances, other controlled substances or marihuana is
1604 found to be guilty of a violation of subsection (c) or (d) of
1605 Section 41-29-139, after trial or upon a plea of guilty, the court
1606 may, without entering a judgment of guilty and with the consent of
1607 such person, defer further proceedings and place him on probation
1608 upon such reasonable conditions as it may require and for such
1609 period, not to exceed three (3) years, as the court may prescribe.
1610 Upon violation of a condition of the probation, the court may
1611 enter an adjudication of guilt and proceed as otherwise provided.
1612 The court may, in its discretion, dismiss the proceedings against
1613 such person and discharge him from probation before the expiration
1614 of the maximum period prescribed for such person's probation. If



1615 during the period of his probation such person does not violate
1616 any of the conditions of the probation, then upon expiration of
1617 such period the court shall discharge such person and dismiss the
1618 proceedings against him. Discharge and dismissal under this
1619 subsection shall be without court adjudication of guilt, but a
1620 nonpublic record thereof shall be retained by the bureau solely
1621 for the purpose of use by the courts in determining whether or
1622 not, in subsequent proceedings, such person qualifies under this
1623 subsection. Such discharge or dismissal shall not be deemed a
1624 conviction for purposes of disqualifications or disabilities
1625 imposed by law upon conviction of a crime, including the penalties
1626 prescribed under this article for second or subsequent conviction,
1627 or for any other purpose. Discharge and dismissal under this
1628 subsection may occur only once with respect to any person; and

1629 (2) Upon the dismissal of a person and discharge of
1630 proceedings against him under paragraph (1) of this subsection,
1631 the person may apply to the court for an expunction order * * *
1632 under Section 21 of this act.

1633 (e) Every person who has been or may hereafter be convicted
1634 of a felony offense under Section 41-29-139 and sentenced under
1635 Section 41-29-150(c) shall be under the jurisdiction of the
1636 Mississippi Department of Corrections.

1637 (f) It shall be unlawful for any person confined under the
1638 provisions of subsection (b) or (c) of this section to escape or
1639 attempt to escape from said institution, and, upon conviction,



1640 said person shall be guilty of a felony and shall be imprisoned
1641 for a term not to exceed two (2) years.

1642 (g) It is the intent and purpose of the Legislature to
1643 promote the rehabilitation of persons convicted of offenses under
1644 the Uniform Controlled Substances Law.

1645 **SECTION 24.** Section 45-27-21, Mississippi Code of 1972, is
1646 amended as follows:

1647 45-27-21. A certified copy of every * * * nonadjudication
1648 order shall be sent by the circuit clerk to the Mississippi
1649 Criminal Information Center where it shall be maintained in a
1650 separate confidential database accessible only upon written
1651 request by a district attorney, a county prosecuting attorney, a
1652 municipal court prosecuting attorney, the Attorney General of
1653 Mississippi and the Mississippi Law Enforcement Standards and
1654 Training Board. Any criminal conviction which has been * * *
1655 nonadjudicated may be used for the purpose of determining habitual
1656 offender status and for the use of the Mississippi Law Enforcement
1657 Standards and Training Board in * * * granting or denying law
1658 enforcement certification, and to ensure that a person is only
1659 eligible for first-offender status one (1) time.

1660 **SECTION 25.** Section 63-11-30, Mississippi Code of 1972, is
1661 amended as follows:

1662 63-11-30. (1) It is unlawful for a person to drive or
1663 otherwise operate a vehicle within this state if the person:

1664 (a) Is under the influence of intoxicating liquor;



1665 (b) Is under the influence of any other substance that
1666 has impaired the person's ability to operate a motor vehicle;

1667 (c) Is under the influence of any drug or controlled
1668 substance, the possession of which is unlawful under the
1669 Mississippi Controlled Substances Law; or

1670 (d) Has an alcohol concentration in the person's blood,
1671 based upon grams of alcohol per one hundred (100) milliliters of
1672 blood, or grams of alcohol per two hundred ten (210) liters of
1673 breath, as shown by a chemical analysis of the person's breath,
1674 blood or urine administered as authorized by this chapter, of:

1675 (i) Eight one-hundredths percent (.08%) or more
1676 for a person who is above the legal age to purchase alcoholic
1677 beverages under state law;

1678 (ii) Two one-hundredths percent (.02%) or more for
1679 a person who is below the legal age to purchase alcoholic
1680 beverages under state law; or

1681 (iii) Four one-hundredths percent (.04%) or more
1682 for a person operating a commercial motor vehicle.

1683 (2) Except as otherwise provided in subsection (3) of this
1684 section (Zero Tolerance for Minors):

1685 (a) **First offense DUI.** (i) Upon conviction of any
1686 person for the first offense of violating subsection (1) of this
1687 section where chemical tests under Section 63-11-5 were given, or
1688 where chemical test results are not available, the person shall be
1689 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more



1690 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
1691 than forty-eight (48) hours in jail, or both; the court shall
1692 order the person to attend and complete an alcohol safety
1693 education program as provided in Section 63-11-32 within six (6)
1694 months of sentencing. The court may substitute attendance at a
1695 victim impact panel instead of forty-eight (48) hours in jail.

1696 (ii) Suspension of commercial driving privileges
1697 is governed by Section 63-1-216.

1698 (iii) A qualifying first offense may be
1699 nonadjudicated by the court under subsection (14) of this
1700 section. * * *

1701 (iv) Eligibility for an interlock-restricted
1702 license is governed by Section 63-11-31 and suspension of regular
1703 driving privileges is governed by Section 63-11-23.

1704 (b) **Second offense DUI.** (i) Upon any second
1705 conviction of any person violating subsection (1) of this section,
1706 the offenses being committed within a period of five (5) years,
1707 the person shall be guilty of a misdemeanor, fined not less than
1708 Six Hundred Dollars (\$600.00) nor more than One Thousand Five
1709 Hundred Dollars (\$1,500.00), shall be imprisoned not less than
1710 five (5) days nor more than six (6) months and sentenced to
1711 community service work for not less than ten (10) days nor more
1712 than six (6) months. The minimum penalties shall not be suspended
1713 or reduced by the court and no prosecutor shall offer any
1714 suspension or sentence reduction as part of a plea bargain.



1715 (ii) Suspension of commercial driving privileges
1716 is governed by Section 63-1-216.

1717 (iii) Eligibility for an interlock-restricted
1718 license is governed by Section 63-11-31 and suspension of regular
1719 driving privileges is governed by Section 63-11-23.

1720 (c) **Third offense DUI.** (i) For a third conviction of
1721 a person for violating subsection (1) of this section, the
1722 offenses being committed within a period of five (5) years, the
1723 person shall be guilty of a felony and fined not less than Two
1724 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
1725 (\$5,000.00), and shall serve not less than one (1) year nor more
1726 than five (5) years in the custody of the Department of
1727 Corrections. For any offense that does not result in serious
1728 injury or death to any person, the sentence of incarceration may
1729 be served in the county jail rather than in the State Penitentiary
1730 at the discretion of the circuit court judge. The minimum
1731 penalties shall not be suspended or reduced by the court and no
1732 prosecutor shall offer any suspension or sentence reduction as
1733 part of a plea bargain.

1734 (ii) The suspension of commercial driving
1735 privileges is governed by Section 63-1-216.

1736 (iii) The suspension of regular driving privileges
1737 is governed by Section 63-11-23.

1738 (d) **Fourth and subsequent offense DUI.** (i) For any
1739 fourth or subsequent conviction of a violation of subsection (1)



1740 of this section, without regard to the time period within which
1741 the violations occurred, the person shall be guilty of a felony
1742 and fined not less than Three Thousand Dollars (\$3,000.00) nor
1743 more than Ten Thousand Dollars (\$10,000.00), and shall serve not
1744 less than two (2) years nor more than ten (10) years in the
1745 custody of the Department of Corrections.

1746 (ii) The suspension of commercial driving
1747 privileges is governed by Section 63-1-216.

1748 (iii) A person convicted of a fourth or subsequent
1749 offense is ineligible to exercise the privilege to operate a motor
1750 vehicle that is not equipped with an ignition-interlock device for
1751 ten (10) years.

1752 (e) Any person convicted of a second or subsequent
1753 violation of subsection (1) of this section shall receive an
1754 in-depth diagnostic assessment, and if as a result of the
1755 assessment is determined to be in need of treatment for alcohol or
1756 drug abuse, the person must successfully complete treatment at a
1757 program site certified by the Department of Mental Health. Each
1758 person who receives a diagnostic assessment shall pay a fee
1759 representing the cost of the assessment. Each person who
1760 participates in a treatment program shall pay a fee representing
1761 the cost of treatment.

1762 (f) The use of ignition-interlock devices is governed
1763 by Section 63-11-31.



1764 (3) **Zero Tolerance for Minors.** (a) This subsection shall
1765 be known and may be cited as Zero Tolerance for Minors. The
1766 provisions of this subsection shall apply only when a person under
1767 the age of twenty-one (21) years has a blood alcohol concentration
1768 of two one-hundredths percent (.02%) or more, but lower than eight
1769 one-hundredths percent (.08%). If the person's blood alcohol
1770 concentration is eight one-hundredths percent (.08%) or more, the
1771 provisions of subsection (2) shall apply.

1772 (b) (i) A person under the age of twenty-one (21) is
1773 eligible for nonadjudication of a qualifying first offense by the
1774 court pursuant to subsection (14) of this section.

1775 (ii) Upon conviction of any person under the age
1776 of twenty-one (21) years for the first offense of violating
1777 subsection (1) of this section where chemical tests provided for
1778 under Section 63-11-5 were given, or where chemical test results
1779 are not available, the person shall be fined Two Hundred Fifty
1780 Dollars (\$250.00); the court shall order the person to attend and
1781 complete an alcohol safety education program as provided in
1782 Section 63-11-32 within six (6) months. The court may also
1783 require attendance at a victim impact panel.

1784 (c) A person under the age of twenty-one (21) years who
1785 is convicted of a second violation of subsection (1) of this
1786 section, the offenses being committed within a period of five (5)
1787 years, shall be fined not more than Five Hundred Dollars
1788 (\$500.00).



1789 (d) A person under the age of twenty-one (21) years who
1790 is convicted of a third or subsequent violation of subsection (1)
1791 of this section, the offenses being committed within a period of
1792 five (5) years, shall be fined not more than One Thousand Dollars
1793 (\$1,000.00).

1794 (e) License suspension is governed by Section 63-11-23
1795 and ignition interlock is governed by Section 63-11-31.

1796 (f) Any person under the age of twenty-one (21) years
1797 convicted of a third or subsequent violation of subsection (1) of
1798 this section must complete treatment of an alcohol or drug abuse
1799 program at a site certified by the Department of Mental Health.

1800 (4) **DUI test refusal.** In addition to the other penalties
1801 provided in this section, every person refusing a law enforcement
1802 officer's request to submit to a chemical test of the person's
1803 breath as provided in this chapter, or who was unconscious at the
1804 time of a chemical test and refused to consent to the introduction
1805 of the results of the test in any prosecution, shall suffer an
1806 additional administrative suspension of driving privileges as set
1807 forth in Section 63-11-23.

1808 (5) **Aggravated DUI.** (a) Every person who operates any
1809 motor vehicle in violation of the provisions of subsection (1) of
1810 this section and who in a negligent manner causes the death of
1811 another or mutilates, disfigures, permanently disables or destroys
1812 the tongue, eye, lip, nose or any other limb, organ or member of
1813 another shall, upon conviction, be guilty of a separate felony for



1814 each victim who suffers death, mutilation, disfigurement or other
1815 injury and shall be committed to the custody of the State
1816 Department of Corrections for a period of time of not less than
1817 five (5) years and not to exceed twenty-five (25) years for each
1818 death, mutilation, disfigurement or other injury, and the
1819 imprisonment for the second or each subsequent conviction, in the
1820 discretion of the court, shall commence either at the termination
1821 of the imprisonment for the preceding conviction or run
1822 concurrently with the preceding conviction. Any person charged
1823 with causing the death of another as described in this subsection
1824 shall be required to post bail before being released after arrest.

1825 (b) A holder of a commercial driver's license who is
1826 convicted of operating a commercial motor vehicle with an alcohol
1827 concentration of eight one-hundredths percent (.08%) or more shall
1828 be guilty of a felony and shall be committed to the custody of the
1829 Department of Corrections for not less than two (2) years and not
1830 more than ten (10) years.

1831 (c) The court shall order an ignition-interlock
1832 restriction on the offender's privilege to drive as a condition of
1833 probation or post-release supervision not to exceed five (5) years
1834 unless a longer restriction is required under other law. The
1835 ignition-interlock restriction shall not be applied to commercial
1836 license privileges until the driver serves the full
1837 disqualification period required by Section 63-1-216.



1838 (6) **DUI citations.** (a) Upon conviction of a violation of
1839 subsection (1) of this section, the trial judge shall sign in the
1840 place provided on the traffic ticket, citation or affidavit
1841 stating that the person arrested either employed an attorney or
1842 waived his right to an attorney after having been properly
1843 advised. If the person arrested employed an attorney, the name,
1844 address and telephone number of the attorney shall be written on
1845 the ticket, citation or affidavit. The court clerk must
1846 immediately send a copy of the traffic ticket, citation or
1847 affidavit, and any other pertinent documents concerning the
1848 conviction or other order of the court, to the Department of
1849 Public Safety as provided in Section 63-11-37.

1850 (b) A copy of the traffic ticket, citation or affidavit
1851 and any other pertinent documents, having been attested as true
1852 and correct by the Commissioner of Public Safety, or his designee,
1853 shall be sufficient proof of the conviction for purposes of
1854 determining the enhanced penalty for any subsequent convictions of
1855 violations of subsection (1) of this section. The Department of
1856 Public Safety shall maintain a central database for verification
1857 of prior offenses and convictions.

1858 (7) **Out-of-state prior convictions.** Convictions in another
1859 state, territory or possession of the United States, or under the
1860 law of a federally recognized Native American tribe, of violations
1861 for driving or operating a vehicle while under the influence of an
1862 intoxicating liquor or while under the influence of any other



1863 substance that has impaired the person's ability to operate a
1864 motor vehicle occurring within five (5) years before an offense
1865 shall be counted for the purposes of determining if a violation of
1866 subsection (1) of this section is a second, third, fourth or
1867 subsequent offense and the penalty that shall be imposed upon
1868 conviction for a violation of subsection (1) of this section.

1869 (8) **Charging of subsequent offenses.** (a) For the purposes
1870 of determining how to impose the sentence for a second, third,
1871 fourth or subsequent conviction under this section, the affidavit
1872 or indictment shall not be required to enumerate previous
1873 convictions. It shall only be necessary that the affidavit or
1874 indictment states the number of times that the defendant has been
1875 convicted and sentenced within the past five (5) years for a
1876 second or third offense, or without a time limitation for a fourth
1877 or subsequent offense, under this section to determine if an
1878 enhanced penalty shall be imposed. The amount of fine and
1879 imprisonment imposed in previous convictions shall not be
1880 considered in calculating offenses to determine a second, third,
1881 fourth or subsequent offense of this section.

1882 (b) Before a defendant enters a plea of guilty to an
1883 offense under this section, law enforcement must submit
1884 certification to the prosecutor that the defendant's driving
1885 record, the confidential registry and National Crime Information
1886 Center record have been searched for all prior convictions,
1887 nonadjudications, pretrial diversions and arrests for driving or



1888 operating a vehicle while under the influence of an intoxicating
1889 liquor or while under the influence of any other substance that
1890 has impaired the person's ability to operate a motor vehicle. The
1891 results of the search must be included in the certification.

1892 (9) **License eligibility for underage offenders.** A person
1893 who is under the legal age to obtain a license to operate a motor
1894 vehicle at the time of the offense and who is convicted under this
1895 section shall not be eligible to receive a driver's license until
1896 the person reaches the age of eighteen (18) years.

1897 (10) **License suspensions and restrictions to run**
1898 **consecutively.** Suspension or restriction of driving privileges
1899 for any person convicted of or nonadjudicated for violations of
1900 subsection (1) of this section shall run consecutively to and not
1901 concurrently with any other administrative license suspension.

1902 (11) **Ignition interlock.** If the court orders installation
1903 and use of an ignition-interlock device as provided in Section
1904 63-11-31 for every vehicle operated by a person convicted or
1905 nonadjudicated under this section, each device shall be installed,
1906 maintained and removed as provided in Section 63-11-31.

1907 (12) **DUI child endangerment.** A person over the age of
1908 twenty-one (21) who violates subsection (1) of this section while
1909 transporting in a motor vehicle a child under the age of sixteen
1910 (16) years is guilty of the separate offense of endangering a
1911 child by driving under the influence of alcohol or any other
1912 substance which has impaired the person's ability to operate a



1913 motor vehicle. The offense of endangering a child by driving
1914 under the influence of alcohol or any other substance which has
1915 impaired the person's ability to operate a motor vehicle shall not
1916 be merged with an offense of violating subsection (1) of this
1917 section for the purposes of prosecution and sentencing. An
1918 offender who is convicted of a violation of this subsection shall
1919 be punished as follows:

1920 (a) A person who commits a violation of this subsection
1921 which does not result in the serious injury or death of a child
1922 and which is a first conviction shall be guilty of a misdemeanor
1923 and, upon conviction, shall be fined not more than One Thousand
1924 Dollars (\$1,000.00) or shall be imprisoned for not more than
1925 twelve (12) months, or both;

1926 (b) A person who commits a violation of this subsection
1927 which does not result in the serious injury or death of a child
1928 and which is a second conviction shall be guilty of a misdemeanor
1929 and, upon conviction, shall be fined not less than One Thousand
1930 Dollars (\$1,000.00) nor more than Five Thousand Dollars
1931 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

1932 (c) A person who commits a violation of this subsection
1933 which does not result in the serious injury or death of a child
1934 and which is a third or subsequent conviction shall be guilty of a
1935 felony and, upon conviction, shall be fined not less than Ten
1936 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
1937 than one (1) year nor more than five (5) years, or both; and



1938 (d) A person who commits a violation of this subsection
1939 which results in the serious injury or death of a child, without
1940 regard to whether the offense was a first, second, third or
1941 subsequent offense, shall be guilty of a felony and, upon
1942 conviction, shall be punished by a fine of not less than Ten
1943 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
1944 than five (5) years nor more than twenty-five (25) years.

1945 (13) **Expunction.** (a) Any person convicted under subsection
1946 (2) or (3) of this section of a first offense of driving under the
1947 influence and who was not the holder of a commercial driver's
1948 license or a commercial learning permit at the time of the offense
1949 may petition the circuit court of the county in which the
1950 conviction was had for an order to expunge the record of the
1951 conviction at least five (5) years after successful completion of
1952 all terms and conditions of the sentence imposed for the
1953 conviction. Expunction under this subsection will only be
1954 available to a person:

1955 (i) Who has successfully completed all terms and
1956 conditions of the sentence imposed for the conviction;

1957 (ii) Who did not refuse to submit to a test of his
1958 blood or breath;

1959 (iii) Whose blood alcohol concentration tested
1960 below sixteen one-hundredths percent (.16%) if test results are
1961 available;



1962 (iv) Who has not been convicted of and does not
1963 have pending any other offense of driving under the influence;

1964 (v) Who has provided the court with justification
1965 as to why the conviction should be expunged; and

1966 (vi) Who has not previously had a nonadjudication
1967 or expunction of a violation of this section.

1968 (b) A person is eligible for only one (1) expunction
1969 under this subsection, and the Department of Public Safety shall
1970 maintain a permanent confidential registry of all cases of
1971 expunction under this subsection for the sole purpose of
1972 determining a person's eligibility for expunction, for
1973 nonadjudication, or as a first offender under this section.

1974 (c) The court in its order of expunction shall state in
1975 writing the justification for which the expunction was granted and
1976 forward the order to the Department of Public Safety within five
1977 (5) days of the entry of the order.

1978 (14) **Nonadjudication.** (a) For the purposes of this
1979 chapter, "nonadjudication" means that the court withholds
1980 adjudication of guilt and sentencing, either at the conclusion of
1981 a trial on the merits or upon the entry of a plea of guilt by a
1982 defendant, and places the defendant in a nonadjudication program
1983 conditioned upon the successful completion of the requirements
1984 imposed by the court under this subsection.

1985 (b) A person is eligible for nonadjudication of an
1986 offense under this Section 63-11-30 only one (1) time under any



1987 provision of a law that authorizes nonadjudication and only for an
1988 offender:

1989 (i) Who has successfully completed all terms and
1990 conditions imposed by the court after placement of the defendant
1991 in a nonadjudication program;

1992 (ii) Who was not * * * operating a
1993 commercial * * * motor vehicle at the time of the offense;

1994 (iii) Who has not previously been convicted of and
1995 does not have pending any former or subsequent charges under this
1996 section; and

1997 (iv) Who has provided the court with justification
1998 as to why nonadjudication is appropriate.

1999 (c) Nonadjudication may be initiated upon the filing of
2000 a petition for nonadjudication or at any stage of the proceedings
2001 in the discretion of the court; the court may withhold
2002 adjudication of guilt, defer sentencing, and upon the agreement of
2003 the offender to participate in a nonadjudication program, enter an
2004 order imposing requirements on the offender for a period of court
2005 supervision before the order of nonadjudication is entered.
2006 Failure to successfully complete a nonadjudication program
2007 subjects the person to adjudication of the charges against him and
2008 to imposition of all penalties previously withheld due to entrance
2009 into a nonadjudication program. The court shall immediately
2010 inform the commissioner of the conviction as required in Section
2011 63-11-37.



2012 (i) The court shall order the person to:

2013 1. Pay the nonadjudication fee imposed under

2014 Section 63-11-31 if applicable;

2015 2. Pay all fines, penalties and assessments

2016 that would have been imposed for conviction;

2017 3. Attend and complete an alcohol safety

2018 education program as provided in Section 63-11-32 within six (6)

2019 months of the date of the order;

2020 4. a. If the court determines that the

2021 person violated this section with respect to alcohol or

2022 intoxicating liquor, the person must install an ignition-interlock

2023 device on every motor vehicle operated by the person, obtain an

2024 interlock-restricted license, and maintain that license for one

2025 hundred twenty (120) days or suffer a one-hundred-twenty-day

2026 suspension of the person's regular driver's license, during which

2027 time the person must not operate any vehicle.

2028 b. If the court determines that the

2029 person violated this section by operating a vehicle when under the

2030 influence of a substance other than alcohol that has impaired the

2031 person's ability to operate a motor vehicle, including any drug or

2032 controlled substance which is unlawful to possess under the

2033 Mississippi Controlled Substances Law, the person must submit to a

2034 one-hundred-twenty-day period of a nonadjudication program that

2035 includes court-ordered drug testing at the person's own expense

2036 not less often than every thirty (30) days, during which time the



2037 person may drive if compliant with the terms of the program, or
2038 suffer a one-hundred-twenty-day suspension of the person's regular
2039 driver's license, during which time the person will not operate
2040 any vehicle.

2041 (ii) Other conditions that may be imposed by the
2042 court include, but are not limited to, alcohol or drug screening,
2043 or both, proof that the person has not committed any other traffic
2044 violations while under court supervision, proof of immobilization
2045 or impoundment of vehicles owned by the offender if required, and
2046 attendance at a victim-impact panel.

2047 (d) The court may enter an order of nonadjudication
2048 only if the court finds, after a hearing or after ex parte
2049 examination of reliable documentation of compliance, that the
2050 offender has successfully completed all conditions imposed by law
2051 and previous orders of the court. The court shall retain
2052 jurisdiction over cases involving nonadjudication for a period of
2053 not more than two (2) years.

2054 (e) (i) The clerk shall immediately forward a record
2055 of every person placed in a nonadjudication program and of every
2056 nonadjudication order to the Department of Public Safety for
2057 inclusion in the permanent confidential registry of all cases that
2058 are nonadjudicated under this subsection (14).

2059 (ii) Judges, clerks and prosecutors involved in
2060 the trial of implied consent violations and law enforcement
2061 officers involved in the issuance of citations for implied consent



2062 violations shall have secure online access to the confidential
2063 registry for the purpose of determining whether a person has
2064 previously been the subject of a nonadjudicated case and 1. is
2065 therefore ineligible for another nonadjudication; 2. is ineligible
2066 as a first offender for a violation of this section; or 3. is
2067 ineligible for expunction of a conviction of a violation of this
2068 section.

2069 (iii) The Driver Services Bureau of the department
2070 shall have access to the confidential registry for the purpose of
2071 determining whether a person is eligible for a form of license not
2072 restricted to operating a vehicle equipped with an
2073 ignition-interlock device.

2074 (iv) The Mississippi Alcohol Safety Education
2075 Program shall have secure online access to the confidential
2076 registry for research purposes only.

2077 **SECTION 26.** Section 99-15-26, Mississippi Code of 1972, is
2078 amended as follows:

2079 99-15-26. (1) (a) In all criminal cases, felony and
2080 misdemeanor, other than crimes against the person, a crime of
2081 violence as defined in Section 97-3-2 or a violation of Section
2082 97-11-31, the circuit or county court shall be empowered, upon the
2083 entry of a plea of guilty by a criminal defendant made on or after
2084 July 1, 2014, to withhold acceptance of the plea and sentence
2085 thereon pending successful completion of such conditions as may be
2086 imposed by the court pursuant to subsection (2) of this section.



2087 (b) In all misdemeanor criminal cases, other than
2088 crimes against the person, the justice or municipal court shall be
2089 empowered, upon the entry of a plea of guilty by a criminal
2090 defendant, to withhold acceptance of the plea and sentence thereon
2091 pending successful completion of such conditions as may be imposed
2092 by the court pursuant to subsection (2) of this section.

2093 (c) Notwithstanding paragraph (a) of this subsection
2094 (1), in all criminal cases charging a misdemeanor of domestic
2095 violence as defined in Section 99-3-7(5), a circuit, county,
2096 justice or municipal court shall be empowered, upon the entry of a
2097 plea of guilty by the criminal defendant, to withhold acceptance
2098 of the plea and sentence thereon pending successful completion of
2099 such conditions as may be imposed by the court pursuant to
2100 subsection (2) of this section.

2101 (d) No person having previously qualified under the
2102 provisions of this section shall be eligible to qualify for
2103 release in accordance with this section for a repeat offense. A
2104 person shall not be eligible to qualify for release in accordance
2105 with this section if charged with the offense of trafficking of a
2106 controlled substance as provided in Section 41-29-139(f) or if
2107 charged with an offense under the Mississippi Implied Consent Law.
2108 Violations under the Mississippi Implied Consent Law can only be
2109 nonadjudicated under the provisions of Section 63-11-30.



2110 (2) (a) Conditions which the circuit, county, justice or
2111 municipal court may impose under subsection (1) of this section
2112 shall consist of:

2113 (i) Reasonable restitution to the victim of the
2114 crime.

2115 (ii) Performance of not more than nine hundred
2116 sixty (960) hours of public service work approved by the court.

2117 (iii) Payment of a fine not to exceed the
2118 statutory limit.

2119 (iv) Successful completion of drug, alcohol,
2120 psychological or psychiatric treatment, successful completion of a
2121 program designed to bring about the cessation of domestic abuse,
2122 or any combination thereof, if the court deems treatment
2123 necessary.

2124 (v) The circuit or county court, in its
2125 discretion, may require the defendant to remain in the program
2126 subject to good behavior for a period of time not to exceed five
2127 (5) years. The justice or municipal court, in its discretion, may
2128 require the defendant to remain in the program subject to good
2129 behavior for a period of time not to exceed two (2) years.

2130 (b) Conditions which the circuit or county court may
2131 impose under subsection (1) of this section also include
2132 successful completion of an effective evidence-based program or a
2133 properly controlled pilot study designed to contribute to the
2134 evidence-based research literature on programs targeted at



2135 reducing recidivism. Such program or pilot study may be community
2136 based or institutionally based and should address risk factors
2137 identified in a formal assessment of the offender's risks and
2138 needs.

2139 (3) When the court has imposed upon the defendant the
2140 conditions set out in this section, the court shall release the
2141 bail bond, if any.

2142 (4) Upon successful completion of the court-imposed
2143 conditions permitted by subsection (2) of this section, the court
2144 shall direct that the cause be dismissed and the case be closed.

2145 * * *

2146 **SECTION 27.** As provided in 21 USC Section 862a(d)(1),
2147 Mississippi opts out of the application of 21 USC Section 862a(a)
2148 to all individuals domiciled in the state.

2149 **SECTION 28.** Section 99-15-59, Mississippi Code of 1972,
2150 which provides that any person who is arrested, issued a citation,
2151 or held for any misdemeanor and not formally charged or prosecuted
2152 with an offense within twelve (12) months of arrest, or upon
2153 dismissal of the charge, may apply to the court with jurisdiction
2154 over the matter for the charges to be expunged, is repealed.

2155 **SECTION 29.** Section 99-19-71, Mississippi Code of 1972,
2156 which provides for expunction of certain felony and misdemeanor
2157 conviction records, is repealed.



2158 **SECTION 30.** Section 99-19-72, Mississippi Code of 1972,
2159 which provides for filing fees for certain petitions for
2160 expunction and the disposition thereof, is repealed.

2161 **SECTION 31.** This act shall take effect and be in force from
2162 and after July 1, 2019, and shall stand repealed from and after
2163 June 30, 2019.

