

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

To: Judiciary, Division A

SENATE BILL NO. 2927

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



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

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

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



80           63-1-71. (1) \* \* \* Notwithstanding the provisions of  
81 Section 63-11-30 \* \* \* and in addition to any penalty authorized  
82 by the Uniform Controlled Substances Law or any other statute  
83 indicating the dispositions that can be ordered for an  
84 adjudication of delinquency, every person convicted of driving  
85 under the influence of a controlled substance, or entering a plea  
86 of nolo contendere thereto, or adjudicated delinquent therefor, in  
87 a court of this state, \* \* \* the United States, another state, a  
88 territory or possession of the United States, the District of  
89 Columbia or the Commonwealth of Puerto Rico, shall forthwith  
90 forfeit his right to operate a motor vehicle over the highways of  
91 this state for a period of not less than six (6) months. In the  
92 case of any person who at the time of the imposition of sentence  
93 does not have a driver's license or is less than \* \* \* sixteen  
94 (16) years of age, the period of the suspension of driving  
95 privileges authorized herein shall commence on the day the  
96 sentence is imposed and shall run for a period of not less than  
97 six (6) months after the day the person obtains a driver's license  
98 or reaches the age of \* \* \* sixteen (16) years. If the driving  
99 privilege of \* \* \* a person is under revocation or suspension at  
100 the time of \* \* \* a conviction or adjudication of delinquency  
101 for \* \* \* an offense \* \* \* of driving under the influence of a  
102 controlled substance, the revocation or suspension period imposed  
103 herein shall commence as of the date of termination of the  
104 existing revocation or suspension.



105           (2) The court in this state before whom any person is  
106 convicted of or adjudicated delinquent for \* \* \* an offense of  
107 driving under the influence of a controlled substance must collect  
108 forthwith the Mississippi driver's license of the person and  
109 forward \* \* \* the license to the Department of Public Safety along  
110 with a report indicating the first and last day of the suspension  
111 or revocation period imposed \* \* \* under this section. If the  
112 court is for any reason unable to collect the license of the  
113 person, the court shall cause a report of the conviction or  
114 adjudication of delinquency to be filed with the Commissioner of  
115 Public Safety. That report shall include the complete name,  
116 address, date of birth, eye color and sex of the person and shall  
117 indicate the first and last day of the suspension or revocation  
118 period imposed by the court \* \* \* under this section. The court  
119 shall inform the person orally and in writing that if the person  
120 is convicted of personally operating a motor vehicle during the  
121 period of license suspension or revocation imposed pursuant to  
122 this section, the person shall, upon conviction, be subject to the  
123 penalties set forth in Section 63-11-40. A person shall be  
124 required to acknowledge in writing receipt of the written  
125 notice \* \* \*. Failure to receive a written notice or failure to  
126 acknowledge in writing the receipt of a written notice \* \* \* is  
127 not \* \* \* a defense to a subsequent charge of a violation of  
128 Section 63-11-40. If the person is the holder of a driver's  
129 license from another jurisdiction, the court shall not collect the



130 license but shall notify forthwith the Commissioner of Public  
131 Safety who shall notify the appropriate officials in the licensing  
132 jurisdiction. The court shall, however, in accordance with the  
133 provisions of this section, revoke the person's nonresident  
134 driving privilege in this state.

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

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

150 63-1-51. (1) It shall be the duty of the court clerk, upon  
151 conviction of any person holding a license issued pursuant to this  
152 article where the penalty for a traffic violation is as much as  
153 Ten Dollars (\$10.00), to mail a copy of abstract of the court  
154 record or provide an electronically or computer generated copy of



155 abstract of the court record immediately to the commissioner at  
156 Jackson, Mississippi, showing the date of conviction, penalty,  
157 etc., so that a record of same may be made by the Department of  
158 Public Safety. The commissioner shall forthwith revoke the  
159 license of any person for a period of one (1) year upon receiving  
160 a duly certified record of each person's convictions of any of the  
161 following offenses when such conviction has become final:

162 (a) Manslaughter or negligent homicide resulting from  
163 the operation of a motor vehicle;

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

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

169 (d) Perjury or the willful making of a false affidavit  
170 or statement under oath to the department under this article or  
171 under any other law relating to the ownership or operation of  
172 motor vehicles;

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

176 \* \* \*

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



180 (3) In addition to the reasons specified in this section,  
181 the commissioner shall be authorized to suspend the license issued  
182 to any person pursuant to this article for being out of compliance  
183 with an order for support, as defined in Section 93-11-153. The  
184 procedure for suspension of a license for being out of compliance  
185 with an order for support, and the procedure for the reissuance or  
186 reinstatement of a license suspended for that purpose, and the  
187 payment of any fees for the reissuance or reinstatement of a  
188 license suspended for that purpose, shall be governed by Section  
189 93-11-157 or 93-11-163, as the case may be. If there is any  
190 conflict between any provision of Section 93-11-157 or 93-11-163  
191 and any provision of this article, the provisions of Section  
192 93-11-157 or 93-11-163, as the case may be, shall control.

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

195 63-1-53. (1) Upon failure of any person to respond timely  
196 and properly to a summons or citation charging such person with  
197 any violation of this title, \* \* \* the clerk of the court shall  
198 give written notice to \* \* \* the person by United States  
199 first-class mail at his last-known address advising \* \* \* the  
200 person that, if within ten (10) days after such notice is  
201 deposited in the mail, the person has not properly responded to  
202 the summons or citation \* \* \*, then the court will give notice  
203 thereof to the Commissioner of Public Safety and the commissioner  
204 may suspend the driver's license of such person. The actual cost



205 incurred by the court in the giving of \* \* \* notice may be added  
206 to any other court costs assessed in such case. If within ten  
207 (10) days after the notice is given in accordance with this  
208 subsection \* \* \* the person has not \* \* \* responded to or appeared  
209 in the matter pending before the court, then the clerk of the  
210 court immediately shall mail a copy of the abstract of the court  
211 record, along with a certified copy of the notice given under this  
212 subsection, to the commissioner, and the commissioner may suspend  
213 the driver's license of such person as authorized under  
214 subsections (2) and (3) of this section.

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

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

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

224 (c) Is an habitually reckless or negligent driver of a  
225 motor vehicle;

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





230 (e) Is incompetent to drive a motor vehicle;  
231 (f) Has permitted an unlawful or fraudulent use of such  
232 license;

233 (g) Has committed an offense in another state which if  
234 committed in this state would be grounds for suspension or  
235 revocation;

236 \* \* \*

237 ( \* \* \*h) Has failed to respond to a summons or  
238 citation which charged a violation of this title; or

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

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



255 such hearing the commissioner shall either rescind any order of  
256 suspension or, good cause appearing therefor, may extend any  
257 suspension of such license or revoke such license.

258 (4) If a licensee has not paid all cash appearance bonds  
259 authorized under Section 99-19-3 or all fines, fees or other  
260 assessments levied as a result of a violation of this title within  
261 ninety (90) days after the commissioner has suspended the license  
262 of a person under subsection (2)(i) of this section, the court is  
263 authorized to pursue collection under Section 21-17-1(6) or  
264 19-3-41(2) as for any other delinquent payment, and shall be  
265 entitled to collection of all additional fees authorized under  
266 those sections.

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

269 63-1-52. (1) Whenever the Commissioner of Public Safety  
270 suspends, cancels or revokes the driver's license or driving  
271 privileges of any person, notice of the suspension, cancellation  
272 or revocation shall be given to such person by the commissioner,  
273 or his duly authorized agent, in the manner provided in subsection  
274 (2) of this section and at the time provided in subsection (3) of  
275 this section or in the manner and at the time provided in  
276 subsection (4) of this section.

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

278 (a) In writing, (i) by United States Certificate  
279 of \* \* \* Mailing; or (ii) by personal service at the person's



280 address as it appears on the driving record maintained by the  
281 Department of Public Safety or at the person's last-known address;  
282 or (iii) by personal notice being given by any law enforcement  
283 officer of this state or any duly authorized agent of the  
284 Commissioner of Public Safety on forms prescribed and furnished by  
285 the Commissioner of Public Safety; whenever a person's driver's  
286 license or driving privileges are suspended, revoked or cancelled  
287 in accordance with the Mississippi Driver License Compact Law, the  
288 Mississippi Implied Consent Law, the Mississippi Motor Vehicle  
289 Safety Responsibility Law or \* \* \* subsection (2) (c), (2) (d),  
290 (2) (e) or (2) (f) of Section 63-1-53.

291 (b) In writing, by United States first-class mail,  
292 whenever a person's driver's license or driving privileges are  
293 suspended, revoked or cancelled in accordance with the Mississippi  
294 Commercial Driver's License Law, the Youth Court Law, Chapter 23  
295 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section  
296 63-1-51, \* \* \* subsection (2) (g) \* \* \* or (2) (h) \* \* \* of Section  
297 63-1-53, or Section 63-9-25.

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

299 (a) Before suspension, revocation or cancellation,  
300 whenever a person's driver's license or driving privileges are  
301 suspended, revoked or cancelled in accordance with the Mississippi  
302 Driver License Compact Law, the Mississippi Motor Vehicle Safety  
303 Responsibility Law or \* \* \* subsection (2) (c), (2) (d), (2) (e) or  
304 (2) (f) of Section 63-1-53.



305 (b) Unless otherwise specifically provided for by law,  
306 at the time of suspension, revocation or cancellation, whenever a  
307 person's driver's license or driving privileges are suspended,  
308 revoked or cancelled in accordance with the Mississippi Commercial  
309 Driver's License Law, the Mississippi Implied Consent Law, the  
310 Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972,  
311 Section 63-1-45, Section 63-1-51, \* \* \* subsection (2)(g) \* \* \* or  
312 (2)(h) \* \* \* of Section 63-1-53, or Section 63-9-25.

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

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

323 99-5-11. **All conservators of the peace may take recognizance**  
324 **or bond; certificate of default; alias warrant; when protection**  
325 **order registry must be checked; when bond not required.** (1) All  
326 justice court judges and all other conservators of the peace are  
327 authorized, whenever a person is brought before them charged with  
328 any offense not capital for which bail is allowed by law, to take  
329 the recognizance or bond of the person, with sufficient sureties,



330 in such penalty as the justice court judge or conservator of the  
331 peace may require, for his appearance before the justice court  
332 judge or conservator of the peace for an examination of his case  
333 at some future day. And if the person thus recognized or thus  
334 giving bond fails to appear at the appointed time, it shall be the  
335 duty of the justice court judge or conservator of the peace to  
336 return the recognizance or bond, with his certificate of default,  
337 to the court having jurisdiction of the case, and a recovery may  
338 be had therein by scire facias, as in other cases of forfeiture.  
339 The justice court judge or other conservator of the peace shall  
340 also issue an alias warrant for the defaulter.

341 (2) In circumstances involving an offense against any of the  
342 following: (a) a current or former spouse of the accused or child  
343 of that person; (b) a person living as a spouse or who formerly  
344 lived as a spouse with the accused or a child of that person; (c)  
345 a parent, grandparent, child, grandchild or someone similarly  
346 situated to the accused; (d) a person who has a current or former  
347 dating relationship with the accused; or (e) a person with whom  
348 the accused has had a biological or legally adopted child, the  
349 justice court judge or other conservator of the peace shall check,  
350 or cause to be made a check, of the status of the person for whom  
351 recognizance or bond is taken before ordering bail in the  
352 Mississippi Protection Order Registry authorized under Section  
353 93-21-25, and the existence of a domestic abuse protection order



354 against the accused shall be considered when determining  
355 appropriate bail.

356 (3) A conservator of the peace may release a misdemeanant on  
357 his or her own recognizance and, for all offenses not described in  
358 subsection (2) of this section, a misdemeanant is entitled to  
359 release on his or her own recognizance unless: (a) the  
360 misdemeanant is on probation or parole, has other unresolved  
361 charges pending, or has a history of nonappearance; or (b) the  
362 proof is evident or presumption great that: (i) the release of  
363 the misdemeanant would constitute a special danger to any other  
364 person or to the community or (ii) release on recognizance is  
365 highly unlikely to assure the appearance of the person as  
366 required.

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

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



379 probation or post-release supervision shall include those set  
380 forth in paragraphs (a) and (k) of subsection (2) of this section.

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

383 (a) Commit no offense against the laws of this or any  
384 other state of the United States, or of any federal, territorial  
385 or tribal jurisdiction of the United States;

386 (b) Avoid injurious or vicious habits;

387 (c) Avoid persons or places of disreputable or harmful  
388 character;

389 (d) Report to the probation and parole officer as  
390 directed. The failure of an offender to report to the probation  
391 and parole officer for six (6) or more consecutive months may be  
392 considered a violation of a mandatory condition for revocation  
393 purposes;

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

396 (f) Work faithfully at suitable employment so far as  
397 possible;

398 (g) Remain within a specified area;

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

400 (i) Support his dependents;

401 (j) Submit, as provided in Section 47-5-601, to any  
402 type of breath, saliva or urine chemical analysis test, the  
403 purpose of which is to detect the possible presence of alcohol or



404 a substance prohibited or controlled by any law of the State of  
405 Mississippi or the United States;

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

408 ( \* \* \*3) When any court places a defendant on misdemeanor  
409 probation, the court must cause to be conducted a search of the  
410 probationer's name or other identifying information against the  
411 registration information regarding sex offenders maintained under  
412 Title 45, Chapter 33. The search may be conducted using the  
413 Internet site maintained by the Department of Public Safety Sex  
414 Offender Registry.

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

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

419 47-7-17. Within one (1) year after his admission and at such  
420 intervals thereafter as it may determine, the board shall secure  
421 and consider all pertinent information regarding each offender,  
422 except any under sentence of death or otherwise ineligible for  
423 parole, including the circumstances of his offense, his previous  
424 social history, his previous criminal record, including any  
425 records of law enforcement agencies or of a youth court regarding  
426 that offender's juvenile criminal history, his conduct, employment  
427 and attitude while in the custody of the department, the case plan  
428 created to prepare the offender for parole, and the reports of





429 such physical and mental examinations as have been made. The  
430 board shall furnish at least three (3) months' written notice to  
431 each such offender of the date on which he is eligible for parole.

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



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

474 Failure to provide notice to the victim or the victim's  
475 family member of the filing of the application for parole or of  
476 any decision made by the board regarding parole shall not



477 constitute grounds for vacating an otherwise lawful parole  
478 determination nor shall it create any right or liability, civilly  
479 or criminally, against the board or any member thereof.

480 A letter of protest against granting an offender parole shall  
481 not be treated as the conclusive and only reason for not granting  
482 parole.

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

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



502           47-7-27. (1) The board may, \* \* \* upon a showing of  
503 probable violation of a mandatory condition of parole, issue a  
504 warrant for the return of any paroled offender to the custody of  
505 the department. The warrant shall authorize all persons named  
506 therein to return the paroled offender to actual custody of the  
507 department from which he was paroled.

508           (2) Any field supervisor may arrest an offender without a  
509 warrant or may deputize any other person with power of arrest by  
510 giving him a written statement setting forth that the offender  
511 has, in the judgment of that field supervisor, violated the  
512 conditions of his parole or earned-release supervision. A written  
513 statement alleging a parole violation must also set forth the  
514 date, type and result of graduated sanctions imposed upon the  
515 offender. The written statement delivered with the offender by  
516 the arresting officer to the official in charge of the department  
517 facility from which the offender was released or other place of  
518 detention designated by the department shall be sufficient warrant  
519 for the detention of the offender.

520           (3) The field supervisor, after making an arrest, shall  
521 present to the detaining authorities a similar statement of the  
522 circumstances of violation. The field supervisor shall at once  
523 notify the board or department of the arrest and detention of the  
524 offender and shall submit a written report showing in what manner  
525 the offender has violated the conditions of parole or  
526 earned-release supervision. An offender for whose return a



527 warrant has been issued by the board shall, after the issuance of  
528 the warrant, be deemed a fugitive from justice.

529 (4) Whenever an offender is arrested on a warrant for an  
530 alleged violation of parole as herein provided, the board shall  
531 hold an informal preliminary hearing within seventy-two (72) hours  
532 to determine whether there is reasonable cause to believe the  
533 person has violated a condition of parole. A preliminary hearing  
534 shall not be required when the offender is not under arrest on a  
535 warrant or the offender signed a waiver of a preliminary hearing.  
536 The preliminary hearing may be conducted electronically.

537 (5) The right of the State of Mississippi to extradite  
538 persons and return fugitives from justice, from other states to  
539 this state, shall not be impaired by this chapter and shall remain  
540 in full force and effect. An offender convicted of a felony  
541 committed while on parole, whether in the State of Mississippi or  
542 another state, shall immediately have his parole revoked upon  
543 presentment of a certified copy of the commitment order to the  
544 board. If an offender is on parole and the offender is convicted  
545 of a felony for a crime committed prior to the offender being  
546 placed on parole, whether in the State of Mississippi or another  
547 state, the offender may have his parole revoked upon presentment  
548 of a certified copy of the commitment order to the board.  
549 Graduated sanctions shall not be imposed prior to revocation under  
550 the provisions of this subsection.



551           (6) (a) The board shall hold a hearing for any parolee who  
552 is detained as a result of a warrant or a violation report within  
553 twenty-one (21) days of the parolee's admission to detention. The  
554 board may, in its discretion, terminate the parole or modify the  
555 terms and conditions thereof. The board may revoke parole only if  
556 the parolee has committed a technical violation of a mandatory  
557 condition of parole. If the board revokes parole for one or more  
558 technical violations the board shall impose a period of  
559 imprisonment to be served in a technical violation center operated  
560 by the department not to exceed ninety (90) days for the first  
561 revocation and not to exceed one hundred twenty (120) days for the  
562 second revocation. For the third revocation, the board may impose  
563 a period of imprisonment to be served in a technical violation  
564 center for up to one hundred \* \* \* eighty (180) days or the board  
565 may impose the remainder of the suspended portion of the sentence.  
566 For the fourth and any subsequent revocation, the board may impose  
567 up to the remainder of the suspended portion of the sentence. The  
568 period of imprisonment in a technical violation center imposed  
569 under this section shall not be reduced in any manner.

570           (b) If the board does not hold a hearing or does not  
571 take action on the violation within the twenty-one-day time frame  
572 in paragraph (a) of this subsection, the parolee shall be released  
573 from detention and shall return to parole status. The board may  
574 subsequently hold a hearing and may revoke parole or may continue  
575 parole and modify the terms and conditions of parole. The board



576 may revoke parole only if the parolee has committed a technical  
577 violation of a mandatory condition of parole. If the board  
578 revokes parole for one or more technical violations the board  
579 shall impose a period of imprisonment to be served in a technical  
580 violation center operated by the department not to exceed ninety  
581 (90) days for the first revocation and not to exceed one hundred  
582 twenty (120) days for the second revocation. For the third  
583 revocation, the board may impose a period of imprisonment to be  
584 served in a technical violation center for up to one hundred  
585 eighty (180) days or the board may impose the remainder of the  
586 suspended portion of the sentence. For the fourth and any  
587 subsequent revocation, the board may impose up to the remainder of  
588 the suspended portion of the sentence. The period of imprisonment  
589 in a technical violation center imposed under this section shall  
590 not be reduced in any manner.

591 (c) For a parolee charged with one or more technical  
592 violations who has not been detained awaiting the revocation  
593 hearing, the board may hold a hearing within a reasonable time.  
594 The board may revoke parole or may continue parole and modify the  
595 terms and conditions of parole. The board may revoke parole only  
596 if the parolee has committed a technical violation of a mandatory  
597 condition of parole. If the board revokes parole for one or more  
598 technical violations the board shall impose a period of  
599 imprisonment to be served in a technical violation center operated  
600 by the department not to exceed ninety (90) days for the first



601 revocation and not to exceed one hundred twenty (120) days for the  
602 second revocation. For the third revocation, the board may impose  
603 a period of imprisonment to be served in a technical violation  
604 center for up to one hundred eighty (180) days or the board may  
605 impose the remainder of the suspended portion of the sentence.  
606 For the fourth and any subsequent revocation, the board may impose  
607 up to the remainder of the suspended portion of the sentence. The  
608 period of imprisonment in a technical violation center imposed  
609 under this section shall not be reduced in any manner.

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

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

619 (9) The board shall provide semiannually to the Oversight  
620 Task Force the number of warrants issued for an alleged violation  
621 of parole, the average time between detention on a warrant and  
622 preliminary hearing, the average time between detention on a  
623 warrant and revocation hearing, the number of ninety-day sentences  
624 in a technical violation center issued by the board, the number of  
625 one-hundred-twenty-day sentences in a technical violation center





626 issued by the board, the number of one-hundred-eighty-day  
627 sentences issued by the board, and the number and average length  
628 of the suspended sentences imposed by the board in response to a  
629 violation.

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

632         47-7-34. (1) When a court imposes a sentence upon a  
633 conviction for any felony committed after June 30, 1995, the  
634 court, in addition to any other punishment imposed if the other  
635 punishment includes a term of incarceration in a state or local  
636 correctional facility, may impose a term of post-release  
637 supervision. However, the total number of years of incarceration  
638 plus the total number of years of post-release supervision,  
639 whether supervised by the Mississippi Department of Corrections or  
640 any other entity, shall not exceed the maximum sentence authorized  
641 to be imposed by law for the felony committed. The defendant  
642 shall be placed under post-release supervision upon release from  
643 the term of incarceration. The period of supervision shall be  
644 established by the court and shall not exceed two (2) years. The  
645 time served on post-release supervision may be reduced pursuant to  
646 Section 47-7-40.

647         (2) The period of post-release supervision shall be  
648 conducted in the same manner as a like period of supervised  
649 probation, including a requirement that the defendant shall abide  
650 by any terms and conditions as the court may establish. Failure



651 to successfully abide by the terms and conditions shall be grounds  
652 to terminate the period of post-release supervision and to  
653 recommit the defendant to the correctional facility from which he  
654 was previously released. Procedures for termination and  
655 recommitment shall be conducted in the same manner as procedures  
656 for the revocation of probation and imposition of a suspended  
657 sentence as required pursuant to Section 47-7-37.

658 (3) Post-release supervision programs shall be operated  
659 through the probation and parole unit of the Division of Community  
660 Corrections of the department. The maximum amount of time that  
661 the Mississippi Department of Corrections may supervise an  
662 offender on the post-release supervision program is \* \* \* two (2)  
663 years.

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

666 47-7-37. (1) The period of probation shall be fixed by the  
667 court, and may at any time be extended or terminated by the court,  
668 or judge in vacation. Such period with any extension thereof  
669 shall not exceed \* \* \* two (2) years, except that in cases of  
670 desertion and/or failure to support minor children, the period of  
671 probation may be fixed and/or extended by the court for so long as  
672 the duty to support such minor children exists. The time served  
673 on probation or post-release supervision may be reduced pursuant  
674 to Section 47-7-40.



675           (2) At any time during the period of probation, the court,  
676 or judge in vacation, may issue a warrant for violating any of the  
677 mandatory conditions of probation or suspension of sentence and  
678 cause the probationer to be arrested. Any probation and parole  
679 officer may arrest a probationer without a warrant, or may  
680 deputize any other officer with power of arrest to do so by giving  
681 him a written statement setting forth that the probationer has, in  
682 the judgment of the probation and parole officer, violated the  
683 conditions of probation. The written statement shall also set  
684 forth the date, type and result of graduated sanctions imposed  
685 upon the probationer. Such written statement delivered with the  
686 probationer by the arresting officer to the official in charge of  
687 a county jail or other place of detention shall be sufficient  
688 warrant for the detention of the probationer.

689           (3) Whenever an offender is arrested on a warrant for an  
690 alleged violation of probation as herein provided, the department  
691 shall hold an informal preliminary hearing within seventy-two (72)  
692 hours of the arrest to determine whether there is reasonable cause  
693 to believe the person has violated a condition of probation. A  
694 preliminary hearing shall not be required when the offender is not  
695 under arrest on a warrant or the offender signed a waiver of a  
696 preliminary hearing. The preliminary hearing may be conducted  
697 electronically. If reasonable cause is found, the offender may be  
698 confined no more than twenty-one (21) days from the admission to  
699 detention until a revocation hearing is held. If the revocation



700 hearing is not held within twenty-one (21) days, the probationer  
701 shall be released from custody and returned to probation status.

702 (4) If a probationer or offender is subject to registration  
703 as a sex offender, the court must make a finding that the  
704 probationer or offender is not a danger to the public prior to  
705 release with or without bail. In determining the danger posed by  
706 the release of the offender or probationer, the court may consider  
707 the nature and circumstances of the violation and any new offenses  
708 charged; the offender or probationer's past and present conduct,  
709 including convictions of crimes and any record of arrests without  
710 conviction for crimes involving violence or sex crimes; any other  
711 evidence of allegations of unlawful sexual conduct or the use of  
712 violence by the offender or probationer; the offender or  
713 probationer's family ties, length of residence in the community,  
714 employment history and mental condition; the offender or  
715 probationer's history and conduct during the probation or other  
716 supervised release and any other previous supervisions, including  
717 disciplinary records of previous incarcerations; the likelihood  
718 that the offender or probationer will engage again in a criminal  
719 course of conduct; the weight of the evidence against the offender  
720 or probationer; and any other facts the court considers relevant.

721 (5) (a) The probation and parole officer after making an  
722 arrest shall present to the detaining authorities a similar  
723 statement of the circumstances of violation. The probation and  
724 parole officer shall at once notify the court of the arrest and



725 detention of the probationer and shall submit a report in writing  
726 showing in what manner the probationer has violated the conditions  
727 of probation. Within twenty-one (21) days of arrest and detention  
728 by warrant as herein provided, the court shall cause the  
729 probationer to be brought before it and may continue or revoke all  
730 or any part of the probation or the suspension of sentence. The  
731 court may only revoke probation if the probationer has committed a  
732 technical violation of a mandatory condition of probation. If the  
733 court revokes probation for one or more technical violations, the  
734 court shall impose a period of imprisonment to be served in either  
735 a technical violation center or a restitution center not to exceed  
736 ninety (90) days for the first revocation and not to exceed one  
737 hundred twenty (120) days for the second revocation. For the  
738 third revocation, the court may impose a period of imprisonment to  
739 be served in either a technical violation center or a restitution  
740 center for up to one hundred eighty (180) days or the court may  
741 impose the remainder of the suspended portion of the sentence.  
742 For the fourth and any subsequent revocation, the court may impose  
743 up to the remainder of the suspended portion of the sentence. The  
744 period of imprisonment in a technical violation center imposed  
745 under this section shall not be reduced in any manner.

746 (b) If the offender is not detained as a result of the  
747 warrant, the court shall cause the probationer to be brought  
748 before it within a reasonable time and may continue or revoke all  
749 or any part of the probation or the suspension of sentence, and



750 may cause the sentence imposed to be executed or may impose any  
751 part of the sentence which might have been imposed at the time of  
752 conviction. The court may only revoke probation if the  
753 probationer has committed a technical violation of a mandatory  
754 condition of probation. If the court revokes probation for one or  
755 more technical violations, the court shall impose a period of  
756 imprisonment to be served in either a technical violation center  
757 or a restitution center not to exceed ninety (90) days for the  
758 first revocation and not to exceed one hundred twenty (120) days  
759 for the second revocation. For the third revocation, the court  
760 may impose a period of imprisonment to be served in either a  
761 technical violation center or a restitution center for up to one  
762 hundred eighty (180) days or the court may impose the remainder of  
763 the suspended portion of the sentence. For the fourth and any  
764 subsequent revocation, the court may impose up to the remainder of  
765 the suspended portion of the sentence. The period of imprisonment  
766 in a technical violation center imposed under this section shall  
767 not be reduced in any manner.

768 (c) If the court does not hold a hearing or does not  
769 take action on the violation within the twenty-one-day period, the  
770 offender shall be released from detention and shall return to  
771 probation status. The court may subsequently hold a hearing and  
772 may revoke probation or may continue probation and modify the  
773 terms and conditions of probation. The court may only revoke  
774 probation if the probationer has committed a technical violation



775 of a mandatory condition of probation. If the court revokes  
776 probation for one or more technical violations, the court shall  
777 impose a period of imprisonment to be served in either a technical  
778 violation center operated by the department or a restitution  
779 center not to exceed ninety (90) days for the first revocation and  
780 not to exceed one hundred twenty (120) days for the second  
781 revocation. For the third revocation, the court may impose a  
782 period of imprisonment to be served in either a technical  
783 violation center or a restitution center for up to one hundred  
784 eighty (180) days or the court may impose the remainder of the  
785 suspended portion of the sentence. For the fourth and any  
786 subsequent revocation, the court may impose up to the remainder of  
787 the suspended portion of the sentence. The period of imprisonment  
788 in a technical violation center imposed under this section shall  
789 not be reduced in any manner.

790 (d) For an offender charged with a technical violation  
791 who has not been detained awaiting the revocation hearing, the  
792 court may hold a hearing within a reasonable time. The court may  
793 revoke probation or may continue probation and modify the terms  
794 and conditions of probation. The court may only revoke probation  
795 if the probationer has committed a technical violation of a  
796 mandatory condition of probation. If the court revokes probation  
797 for one or more technical violations the court shall impose a  
798 period of imprisonment to be served in either a technical  
799 violation center operated by the department or a restitution



800 center not to exceed ninety (90) days for the first revocation and  
801 not to exceed one hundred twenty (120) days for the second  
802 revocation. For the third revocation, the court may impose a  
803 period of imprisonment to be served in either a technical  
804 violation center or a restitution center for up to one hundred  
805 eighty (180) days or the court may impose the remainder of the  
806 suspended portion of the sentence. For the fourth and any  
807 subsequent revocation, the court may impose up to the remainder of  
808 the suspended portion of the sentence. The period of imprisonment  
809 in a technical violation center imposed under this section shall  
810 not be reduced in any manner.

811 (6) If the probationer is arrested in a circuit court  
812 district in the State of Mississippi other than that in which he  
813 was convicted, the probation and parole officer, upon the written  
814 request of the sentencing judge, shall furnish to the circuit  
815 court or the county court of the county in which the arrest is  
816 made, or to the judge of such court, a report concerning the  
817 probationer, and such court or the judge in vacation shall have  
818 authority, after a hearing, to continue or revoke all or any part  
819 of probation or all or any part of the suspension of sentence, and  
820 may in case of revocation proceed to deal with the case as if  
821 there had been no probation. However, the court is only  
822 authorized to revoke probation upon finding that the probationer  
823 has committed a technical violation of a mandatory condition of  
824 his probation. In such case, the clerk of the court in which the





825 order of revocation is issued shall forward a transcript of such  
826 order to the clerk of the court of original jurisdiction, and the  
827 clerk of that court shall proceed as if the order of revocation  
828 had been issued by the court of original jurisdiction. Upon the  
829 revocation of probation or suspension of sentence of any offender,  
830 such offender shall be placed in the legal custody of the State  
831 Department of Corrections and shall be subject to the requirements  
832 thereof.

833 (7) Any probationer who removes himself from the State of  
834 Mississippi without permission of the court placing him on  
835 probation, or the court to which jurisdiction has been  
836 transferred, shall be deemed and considered a fugitive from  
837 justice and shall be subject to extradition as now provided by  
838 law. No part of the time that one is on probation shall be  
839 considered as any part of the time that he shall be sentenced to  
840 serve.

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

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

848 (10) Unless good cause for the delay is established in the  
849 record of the proceeding, the probation revocation charge shall be



850 dismissed if the revocation hearing is not held within thirty (30)  
851 days of the warrant being issued.

852 (11) The Department of Corrections shall provide  
853 semiannually to the Oversight Task Force the number of warrants  
854 issued for an alleged violation of probation or post-release  
855 supervision, the average time between detention on a warrant and  
856 preliminary hearing, the average time between detention on a  
857 warrant and revocation hearing, the number of ninety-day sentences  
858 in a technical violation center issued by the court, the number of  
859 one-hundred-twenty-day sentences in a technical violation center  
860 issued by the court, the number of one-hundred-eighty-day  
861 sentences issued by the court, and the number and average length  
862 of the suspended sentences imposed by the court in response to a  
863 violation.

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

866 47-7-38. (1) The department shall \* \* \* impose graduated  
867 sanctions \* \* \* before requesting judicial modification or  
868 revocation, as provided in Sections 47-7-27 and 47-7-37, for  
869 offenders on probation, parole, or post-release supervision who  
870 commit technical violations of the conditions of supervision as  
871 defined by Sections 47-7-2 and 47-7-35.

872 (2) The commissioner shall develop a standardized graduated  
873 sanctions system, which shall include a grid to guide field  
874 officers in determining the suitable response to a technical



875 violation. The commissioner shall promulgate rules and  
876 regulations for the development and application of the system of  
877 sanctions. Field officers shall be required to conform to the  
878 sanction grid developed.

879 (3) The system of sanctions shall include a list of  
880 sanctions for the most common types of violations. When  
881 determining the sanction to impose, the field officer shall take  
882 into account the offender's assessed risk level, previous  
883 violations and sanctions, and severity of the current and prior  
884 violations.

885 (4) Field officers shall notify the sentencing court \* \* \*  
886 or the Parole Board, as applicable, when a probationer or parolee  
887 has committed a technical violation, the type of violation and the  
888 sanction imposed. \* \* \* If a probationer is arrested for a new  
889 criminal offense, the field officer shall notify the court within  
890 forty-eight (48) hours of becoming aware of the arrest.

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

- 893 (a) Verbal warnings;
- 894 (b) Increased reporting;
- 895 (c) Increased drug and alcohol testing;
- 896 (d) Mandatory substance abuse treatment;
- 897 (e) Loss of earned-discharge credits; and
- 898 (f) Incarceration in a county jail for no more than two

899 (2) days. Incarceration as a sanction shall not be used more than



900 two (2) times per month for a total period incarcerated of no more  
901 than four (4) days.

902 (6) The system shall also define positive reinforcements  
903 that offenders will receive for compliance with conditions of  
904 supervision. These positive reinforcements shall include, but not  
905 be limited to:

906 (a) Verbal recognition;

907 (b) Reduced reporting; and

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

910 (7) The Department of Corrections shall provide semiannually  
911 to the Oversight Task Force the number and percentage of offenders  
912 who have one or more violations during the year, the average  
913 number of violations per offender during the year and the total  
914 and average number of incarceration sanctions as defined in  
915 subsection (5) of this section imposed during the year.

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

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

921 9-23-5. For the purposes of this chapter, the following  
922 words and phrases shall have the meanings ascribed unless the  
923 context clearly requires otherwise:



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

928 (b) "Crime of violence" means an offense listed in  
929 Section 97-3-2, other than burglary of a dwelling under Section  
930 97-17-23(1).

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

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

936 (ii) Follows the key components of drug courts  
937 published by the Drug Court Program Office of the United States  
938 Department of Justice.

939 "Drug court" includes other problem-solving courts that  
940 conform to standards promulgated by the State Drug Courts Advisory  
941 Committee under Section 9-23-9, including, but not limited to,  
942 juvenile courts, veterans courts, or any other court designed to  
943 adjudicate criminal actions involving an identified classification  
944 of criminal defendant using effective and proven practices that  
945 reduce recidivism or substance dependency among participants.

946 (d) "Evidence-based practices" means supervision  
947 policies, procedures and practices that scientific research  
948 demonstrates reduce recidivism.



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

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

955 9-23-9. (1) The State Drug Courts Advisory Committee is  
956 established to develop and periodically update proposed statewide  
957 evaluation plans and models for monitoring all critical aspects of  
958 drug courts of whatever focus or description. The committee must  
959 provide the proposed evaluation plans to the Chief Justice and the  
960 Administrative Office of Courts. The committee shall be chaired  
961 by the Director of the Administrative Office of Courts and shall  
962 consist of not less than seven (7) members nor more than eleven  
963 (11) members appointed by the Supreme Court and broadly  
964 representative of the courts, law enforcement, corrections,  
965 juvenile justice, child protective services and substance abuse  
966 treatment communities.

967 (2) The State Drug Courts Advisory Committee may also make  
968 recommendations to the Chief Justice, the Director of the  
969 Administrative Office of Courts and state officials concerning  
970 improvements to drug court policies and procedures including the  
971 drug court certification process. The committee may make  
972 suggestions as to the criteria for eligibility, determination of



973 indigence, and other procedural and substantive guidelines for  
974 drug court operation.

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

980 (4) The State Drug Courts Advisory Committee shall establish  
981 through rules and regulations a viable and fiscally responsible  
982 plan to expand the number of adult and juvenile drug court  
983 programs operating in Mississippi. These rules and regulations  
984 shall include plans to increase participation in existing and  
985 future programs while maintaining their voluntary nature.

986 (5) The State Drug Courts Advisory Committee shall receive  
987 and review the monthly reports submitted to the Administrative  
988 Office of Courts by each certified drug court and provide comments  
989 and make recommendations, as necessary, to the Chief Justice and  
990 the Director of the Administrative Office of Courts.

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

993 9-23-15. (1) In order to be eligible for alternative  
994 sentencing through a local drug court, the participant must  
995 satisfy each of the following criteria:

996 (a) The participant cannot have any felony convictions  
997 for any offenses that are crimes of violence as defined in Section



998 97-3-2, other than a conviction for burglary of a dwelling under  
999 Section 97-17-23(1), within the previous ten (10) years.

1000 (b) The crime before the court cannot be a crime of  
1001 violence as defined in Section 97-3-2, other than a conviction for  
1002 burglary of a dwelling under Section 97-17-23(1).

1003 (c) Other criminal proceedings alleging commission of a  
1004 crime of violence, other than a conviction for burglary of a  
1005 dwelling under Section 97-17-23(1), cannot be pending against the  
1006 participant.

1007 (d) The participant cannot be currently charged with  
1008 burglary of a dwelling under Section 97-17-23(2) or 97-17-37.

1009 (e) The crime before the court cannot be for a charge  
1010 of \* \* \* any offense that resulted in the death of a person.

1011 (f) The crime charged cannot be one of trafficking in  
1012 controlled substances under Section 41-29-139(f), nor can the  
1013 participant have a prior conviction for same.

1014 (2) Participation in the services of an alcohol and drug  
1015 intervention component shall be open only to the individuals over  
1016 whom the court has jurisdiction, except that the court may agree  
1017 to provide the services for individuals referred from another drug  
1018 court. In cases transferred from another jurisdiction, the  
1019 receiving judge shall act as a special master and make  
1020 recommendations to the sentencing judge.

1021 (3) (a) As a condition of participation in a drug court, a  
1022 participant may be required to undergo a chemical test or a series





1023 of chemical tests as specified by the drug court. A participant  
1024 is liable for the costs of all chemical tests required under this  
1025 section, regardless of whether the costs are paid to the drug  
1026 court or the laboratory; however, if testing is available from  
1027 other sources or the program itself, the judge may waive any fees  
1028 for testing; the judge may also reduce or waive any fees for  
1029 testing if the participant is indigent.

1030 (b) A laboratory that performs a chemical test under  
1031 this section shall report the results of the test to the drug  
1032 court.

1033 (4) A person does not have a right to participate in drug  
1034 court under this chapter. The court having jurisdiction over a  
1035 person for a matter before the court shall have the final  
1036 determination about whether the person may participate in drug  
1037 court under this chapter.

1038 **SECTION 16.** Section 9-23-19, Mississippi Code of 1972, is  
1039 amended as follows:

1040 9-23-19. (1) All monies received from any source by the  
1041 drug court shall be accumulated in a fund to be used only for drug  
1042 court purposes. Any funds remaining in this fund at the end of a  
1043 fiscal year shall not lapse into any general fund, but shall be  
1044 retained in the drug court fund for the funding of further  
1045 activities by the drug court.

1046 (2) A drug court may apply for and receive the following:

1047 (a) Gifts, bequests and donations from private sources.



1048 (b) Grant and contract money from governmental sources.

1049 (c) Other forms of financial assistance approved by the  
1050 court to supplement the budget of the drug court.

1051 (3) The costs of participation in an alcohol and drug  
1052 intervention program required by the certified drug court may be  
1053 paid by the participant or out of user fees or such other state,  
1054 federal or private funds that may, from time to time, be made  
1055 available.

1056 (4) The court may assess such reasonable and appropriate  
1057 fees to be paid to the local drug court fund for participation in  
1058 an alcohol or drug intervention program, and may waive or reduce  
1059 fees for participants found to be indigent.

1060 **SECTION 17.** Section 41-29-139, Mississippi Code of 1972, is  
1061 amended as follows:

1062 41-29-139. (a) **Transfer and possession with intent to**  
1063 **transfer.** Except as authorized by this article, it is unlawful  
1064 for any person knowingly or intentionally:

1065 (1) To sell, barter, transfer, manufacture, distribute,  
1066 dispense or possess with intent to sell, barter, transfer,  
1067 manufacture, distribute or dispense, a controlled substance; or

1068 (2) To create, sell, barter, transfer, distribute,  
1069 dispense or possess with intent to create, sell, barter, transfer,  
1070 distribute or dispense, a counterfeit substance.

1071 (b) **Punishment for transfer and possession with intent to**  
1072 **transfer.** Except as otherwise provided in Section 41-29-142, any



1073 person who violates subsection (a) of this section shall be, if  
1074 convicted, sentenced as follows:

1075 (1) For controlled substances classified in Schedule I  
1076 or II, as set out in Sections 41-29-113 and 41-29-115, other than  
1077 marijuana or synthetic cannabinoids:

1078 (A) If less than two (2) grams or ten (10) dosage  
1079 units, by imprisonment for not more than eight (8) years or a fine  
1080 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1081 (B) If two (2) or more grams or ten (10) or more  
1082 dosage units, but less than ten (10) grams or twenty (20) dosage  
1083 units, by imprisonment for not less than three (3) years nor more  
1084 than twenty (20) years or a fine of not more than Two Hundred  
1085 Fifty Thousand Dollars (\$250,000.00), or both.

1086 (C) If ten (10) or more grams or twenty (20) or  
1087 more dosage units, but less than thirty (30) grams or forty (40)  
1088 dosage units, by imprisonment for not less than five (5) years nor  
1089 more than thirty (30) years or a fine of not more than Five  
1090 Hundred Thousand Dollars (\$500,000.00), or both.

1091 (2) (A) For marijuana:

1092 1. If thirty (30) grams or less, by  
1093 imprisonment for not more than three (3) years or a fine of not  
1094 more than Three Thousand Dollars (\$3,000.00), or both;

1095 2. If more than thirty (30) grams but less  
1096 than two hundred fifty (250) grams, by imprisonment for not more



1097 than five (5) years or a fine of not more than Five Thousand  
1098 Dollars (\$5,000.00), or both;

1099                   3. If two hundred fifty (250) or more grams  
1100 but less than five hundred (500) grams, by imprisonment for not  
1101 less than three (3) years nor more than ten (10) years or a fine  
1102 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

1103                   4. If five hundred (500) or more grams but  
1104 less than one (1) kilogram, by imprisonment for not less than five  
1105 (5) years nor more than twenty (20) years or a fine of not more  
1106 than Twenty Thousand Dollars (\$20,000.00), or both.

1107                   (B) For synthetic cannabinoids:

1108                   1. If ten (10) grams or less, by imprisonment  
1109 for not more than three (3) years or a fine of not more than Three  
1110 Thousand Dollars (\$3,000.00), or both;

1111                   2. If more than ten (10) grams but less than  
1112 twenty (20) grams, by imprisonment for not more than five (5)  
1113 years or a fine of not more than Five Thousand Dollars  
1114 (\$5,000.00), or both;

1115                   3. If twenty (20) or more grams but less than  
1116 forty (40) grams, by imprisonment for not less than three (3)  
1117 years nor more than ten (10) years or a fine of not more than  
1118 Fifteen Thousand Dollars (\$15,000.00), or both;

1119                   4. If forty (40) or more grams but less than  
1120 two hundred (200) grams, by imprisonment for not less than five



1121 (5) years nor more than twenty (20) years or a fine of not more  
1122 than Twenty Thousand Dollars (\$20,000.00), or both.

1123 (3) For controlled substances classified in Schedules  
1124 III and IV, as set out in Sections 41-29-117 and 41-29-119:

1125 (A) If less than two (2) grams or ten (10) dosage  
1126 units, by imprisonment for not more than five (5) years or a fine  
1127 of not more than Five Thousand Dollars (\$5,000.00), or both;

1128 (B) If two (2) or more grams or ten (10) or more  
1129 dosage units, but less than ten (10) grams or twenty (20) dosage  
1130 units, by imprisonment for not more than eight (8) years or a fine  
1131 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1132 (C) If ten (10) or more grams or twenty (20) or  
1133 more dosage units, but less than thirty (30) grams or forty (40)  
1134 dosage units, by imprisonment for not more than fifteen (15) years  
1135 or a fine of not more than One Hundred Thousand Dollars  
1136 (\$100,000.00), or both;

1137 (D) If thirty (30) or more grams or forty (40) or  
1138 more dosage units, but less than five hundred (500) grams or two  
1139 thousand five hundred (2,500) dosage units, by imprisonment for  
1140 not more than twenty (20) years or a fine of not more than Two  
1141 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

1142 (4) For controlled substances classified in Schedule V,  
1143 as set out in Section 41-29-121:



1144 (A) If less than two (2) grams or ten (10) dosage  
1145 units, by imprisonment for not more than one (1) year or a fine of  
1146 not more than Five Thousand Dollars (\$5,000.00), or both;

1147 (B) If two (2) or more grams or ten (10) or more  
1148 dosage units, but less than ten (10) grams or twenty (20) dosage  
1149 units, by imprisonment for not more than five (5) years or a fine  
1150 of not more than Ten Thousand Dollars (\$10,000.00), or both;

1151 (C) If ten (10) or more grams or twenty (20) or  
1152 more dosage units, but less than thirty (30) grams or forty (40)  
1153 dosage units, by imprisonment for not more than ten (10) years or  
1154 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or  
1155 both;

1156 (D) For thirty (30) or more grams or forty (40) or  
1157 more dosage units, but less than five hundred (500) grams or two  
1158 thousand five hundred (2,500) dosage units, by imprisonment for  
1159 not more than fifteen (15) years or a fine of not more than Fifty  
1160 Thousand Dollars (\$50,000.00), or both.

1161 (c) **Simple possession.** It is unlawful for any person  
1162 knowingly or intentionally to possess any controlled substance  
1163 unless the substance was obtained directly from, or pursuant to, a  
1164 valid prescription or order of a practitioner while acting in the  
1165 course of his professional practice, or except as otherwise  
1166 authorized by this article. The penalties for any violation of  
1167 this subsection (c) with respect to a controlled substance  
1168 classified in Schedules I, II, III, IV or V, as set out in Section



1169 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including  
1170 marijuana or synthetic cannabinoids, shall be based on dosage unit  
1171 as defined herein or the weight of the controlled substance as set  
1172 forth herein as appropriate:

1173 "Dosage unit (d.u.)" means a tablet or capsule, or in the  
1174 case of a liquid solution, one (1) milliliter. In the case of  
1175 lysergic acid diethylamide (LSD) the term, "dosage unit" means a  
1176 stamp, square, dot, microdot, tablet or capsule of a controlled  
1177 substance.

1178 For any controlled substance that does not fall within the  
1179 definition of the term "dosage unit," the penalties shall be based  
1180 upon the weight of the controlled substance.

1181 The weight set forth refers to the entire weight of any  
1182 mixture or substance containing a detectable amount of the  
1183 controlled substance.

1184 If a mixture or substance contains more than one (1)  
1185 controlled substance, the weight of the mixture or substance is  
1186 assigned to the controlled substance that results in the greater  
1187 punishment.

1188 A first or second offense under this subsection (c) that does  
1189 not amount to trafficking under subsection (f) is a misdemeanor  
1190 punishable under Section 99-19-31 unless this subsection (c)  
1191 provides a lesser penalty as to fine or incarceration. For a  
1192 third or subsequent offense under this section within ten (10)



1193 years, a person shall be charged and sentenced as follows for a  
1194 violation of this subsection with respect to:

1195 (1) A controlled substance classified in Schedule I or  
1196 II, except marijuana and synthetic cannabinoids:

1197 (A) If less than one-tenth (0.1) gram or two (2)  
1198 dosage units, the violation is a misdemeanor and punishable by  
1199 imprisonment for not more than one (1) year or a fine of not more  
1200 than One Thousand Dollars (\$1,000.00), or both.

1201 (B) If one-tenth (0.1) gram or more or two (2) or  
1202 more dosage units, but less than two (2) grams or ten (10) dosage  
1203 units, by imprisonment for not more than three (3) years or a fine  
1204 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1205 (C) If two (2) or more grams or ten (10) or more  
1206 dosage units, but less than ten (10) grams or twenty (20) dosage  
1207 units, by imprisonment for not more than eight (8) years or a fine  
1208 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),  
1209 or both.

1210 (D) If ten (10) or more grams or twenty (20) or  
1211 more dosage units, but less than thirty (30) grams or forty (40)  
1212 dosage units, by imprisonment for not less than three (3) years  
1213 nor more than twenty (20) years or a fine of not more than Five  
1214 Hundred Thousand Dollars (\$500,000.00), or both.

1215 (2) (A) Marijuana and synthetic cannabinoids:

1216 1. If thirty (30) grams or less of marijuana  
1217 or ten (10) grams or less of synthetic cannabinoids, by a fine of





1218 not less than One Hundred Dollars (\$100.00) nor more than Two  
1219 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph  
1220 (2) (A) may be enforceable by summons if the offender provides  
1221 proof of identity satisfactory to the arresting officer and gives  
1222 written promise to appear in court satisfactory to the arresting  
1223 officer, as directed by the summons. A second conviction under  
1224 this section within two (2) years is a misdemeanor punishable by a  
1225 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty  
1226 (60) days in the county jail, and mandatory participation in a  
1227 drug education program approved by the Division of Alcohol and  
1228 Drug Abuse of the State Department of Mental Health, unless the  
1229 court enters a written finding that a drug education program is  
1230 inappropriate. A third or subsequent conviction under this  
1231 paragraph (2) (A) within two (2) years is a misdemeanor punishable  
1232 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor  
1233 more than One Thousand Dollars (\$1,000.00) and confinement for not  
1234 more than six (6) months in the county jail.

1235       Upon a first or second conviction under this paragraph  
1236 (2) (A), the courts shall forward a report of the conviction to the  
1237 Mississippi Bureau of Narcotics which shall make and maintain a  
1238 private, nonpublic record for a period not to exceed two (2) years  
1239 from the date of conviction. The private, nonpublic record shall  
1240 be solely for the use of the courts in determining the penalties  
1241 which attach upon conviction under this paragraph (2) (A) and shall  
1242 not constitute a criminal record for the purpose of private or



1243 administrative inquiry and the record of each conviction shall be  
1244 expunged at the end of the period of two (2) years following the  
1245 date of such conviction;

1246                   2. Additionally, a person who is the operator  
1247 of a motor vehicle, who possesses on his person or knowingly keeps  
1248 or allows to be kept in a motor vehicle within the area of the  
1249 vehicle normally occupied by the driver or passengers, more than  
1250 one (1) gram, but not more than thirty (30) grams of marijuana or  
1251 not more than ten (10) grams of synthetic cannabinoids is guilty  
1252 of a misdemeanor and, upon conviction, may be fined not more than  
1253 One Thousand Dollars (\$1,000.00) or confined for not more than  
1254 ninety (90) days in the county jail, or both. For the purposes of  
1255 this subsection, such area of the vehicle shall not include the  
1256 trunk of the motor vehicle or the areas not normally occupied by  
1257 the driver or passengers if the vehicle is not equipped with a  
1258 trunk. A utility or glove compartment shall be deemed to be  
1259 within the area occupied by the driver and passengers;

1260                   (B) Marijuana:

1261                   1. If more than thirty (30) grams but less  
1262 than two hundred fifty (250) grams, by a fine of not more than One  
1263 Thousand Dollars (\$1,000.00), or confinement in the county jail  
1264 for not more than one (1) year, or both; or by a fine of not more  
1265 than Three Thousand Dollars (\$3,000.00), or imprisonment in the  
1266 custody of the Department of Corrections for not more than three  
1267 (3) years, or both;



1268                   2. If two hundred fifty (250) or more grams  
1269 but less than five hundred (500) grams, by imprisonment for not  
1270 less than two (2) years nor more than eight (8) years or by a fine  
1271 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1272                   3. If five hundred (500) or more grams but  
1273 less than one (1) kilogram, by imprisonment for not less than four  
1274 (4) years nor more than sixteen (16) years or a fine of not more  
1275 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1276                   4. If one (1) kilogram or more but less than  
1277 five (5) kilograms, by imprisonment for not less than six (6)  
1278 years nor more than twenty-four (24) years or a fine of not more  
1279 than Five Hundred Thousand Dollars (\$500,000.00), or both;

1280                   5. If five (5) kilograms or more, by  
1281 imprisonment for not less than ten (10) years nor more than thirty  
1282 (30) years or a fine of not more than One Million Dollars  
1283 (\$1,000,000.00), or both.

1284                   (C) Synthetic cannabinoids:

1285                   1. If more than ten (10) grams but less than  
1286 twenty (20) grams, by a fine of not more than One Thousand Dollars  
1287 (\$1,000.00), or confinement in the county jail for not more than  
1288 one (1) year, or both; or by a fine of not more than Three  
1289 Thousand Dollars (\$3,000.00), or imprisonment in the custody of  
1290 the Department of Corrections for not more than three (3) years,  
1291 or both;



1292                   2. If twenty (20) or more grams but less than  
1293 forty (40) grams, by imprisonment for not less than two (2) years  
1294 nor more than eight (8) years or by a fine of not more than Fifty  
1295 Thousand Dollars (\$50,000.00), or both;

1296                   3. If forty (40) or more grams but less than  
1297 two hundred (200) grams, by imprisonment for not less than four  
1298 (4) years nor more than sixteen (16) years or a fine of not more  
1299 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1300                   4. If two hundred (200) or more grams, by  
1301 imprisonment for not less than six (6) years nor more than  
1302 twenty-four (24) years or a fine of not more than Five Hundred  
1303 Thousand Dollars (\$500,000.00), or both.

1304                   (3) A controlled substance classified in Schedule III,  
1305 IV or V as set out in Sections 41-29-117 through 41-29-121, upon  
1306 conviction, may be punished as follows:

1307                   (A) If less than fifty (50) grams or less than one  
1308 hundred (100) dosage units, the offense is a misdemeanor and  
1309 punishable by not more than one (1) year or a fine of not more  
1310 than One Thousand Dollars (\$1,000.00), or both.

1311                   (B) If fifty (50) or more grams or one hundred  
1312 (100) or more dosage units, but less than one hundred fifty (150)  
1313 grams or five hundred (500) dosage units, by imprisonment for not  
1314 less than one (1) year nor more than four (4) years or a fine of  
1315 not more than Ten Thousand Dollars (\$10,000.00), or both.



1316 (C) If one hundred fifty (150) or more grams or  
1317 five hundred (500) or more dosage units, but less than three  
1318 hundred (300) grams or one thousand (1,000) dosage units, by  
1319 imprisonment for not less than two (2) years nor more than eight  
1320 (8) years or a fine of not more than Fifty Thousand Dollars  
1321 (\$50,000.00), or both.

1322 (D) If three hundred (300) or more grams or one  
1323 thousand (1,000) or more dosage units, but less than five hundred  
1324 (500) grams or two thousand five hundred (2,500) dosage units, by  
1325 imprisonment for not less than four (4) years nor more than  
1326 sixteen (16) years or a fine of not more than Two Hundred Fifty  
1327 Thousand Dollars (\$250,000.00), or both.

1328 (d) **Paraphernalia.** (1) It is unlawful for a person who is  
1329 not authorized by the State Board of Medical Licensure, State  
1330 Board of Pharmacy, or other lawful authority to use, or to possess  
1331 with intent to use, paraphernalia to plant, propagate, cultivate,  
1332 grow, harvest, manufacture, compound, convert, produce, process,  
1333 prepare, test, analyze, pack, repack, store, contain, conceal,  
1334 inject, ingest, inhale or otherwise introduce into the human body  
1335 a controlled substance in violation of the Uniform Controlled  
1336 Substances Law. Any person who violates this subsection (d)(1) is  
1337 guilty of a misdemeanor and, upon conviction, may be confined in  
1338 the county jail for not more than six (6) months, or fined not  
1339 more than Five Hundred Dollars (\$500.00), or both; however, no  
1340 person shall be charged with a violation of this subsection when



1341 such person is also charged with the possession of thirty (30)  
1342 grams or less of marijuana under subsection (c) (2) (A) of this  
1343 section.

1344 (2) It is unlawful for any person to deliver, sell,  
1345 possess with intent to deliver or sell, or manufacture with intent  
1346 to deliver or sell, paraphernalia, knowing, or under circumstances  
1347 where one reasonably should know, that it will be used to plant,  
1348 propagate, cultivate, grow, harvest, manufacture, compound,  
1349 convert, produce, process, prepare, test, analyze, pack, repack,  
1350 store, contain, conceal, inject, ingest, inhale, or otherwise  
1351 introduce into the human body a controlled substance in violation  
1352 of the Uniform Controlled Substances Law. Except as provided in  
1353 subsection (d) (3), a person who violates this subsection (d) (2) is  
1354 guilty of a misdemeanor and, upon conviction, may be confined in  
1355 the county jail for not more than six (6) months, or fined not  
1356 more than Five Hundred Dollars (\$500.00), or both.

1357 (3) Any person eighteen (18) years of age or over who  
1358 violates subsection (d) (2) of this section by delivering or  
1359 selling paraphernalia to a person under eighteen (18) years of age  
1360 who is at least three (3) years his junior is guilty of a  
1361 misdemeanor and, upon conviction, may be confined in the county  
1362 jail for not more than one (1) year, or fined not more than One  
1363 Thousand Dollars (\$1,000.00), or both.

1364 (4) It is unlawful for any person to place in any  
1365 newspaper, magazine, handbill, or other publication any



1366 advertisement, knowing, or under circumstances where one  
1367 reasonably should know, that the purpose of the advertisement, in  
1368 whole or in part, is to promote the sale of objects designed or  
1369 intended for use as paraphernalia. Any person who violates this  
1370 subsection is guilty of a misdemeanor and, upon conviction, may be  
1371 confined in the county jail for not more than six (6) months, or  
1372 fined not more than Five Hundred Dollars (\$500.00), or both.

1373 (e) It shall be unlawful for any physician practicing  
1374 medicine in this state to prescribe, dispense or administer any  
1375 amphetamine or amphetamine-like anorectics and/or central nervous  
1376 system stimulants classified in Schedule II, pursuant to Section  
1377 41-29-115, for the exclusive treatment of obesity, weight control  
1378 or weight loss. Any person who violates this subsection, upon  
1379 conviction, is guilty of a misdemeanor and may be confined for a  
1380 period not to exceed six (6) months, or fined not more than One  
1381 Thousand Dollars (\$1,000.00), or both.

1382 (f) **Trafficking.** (1) Any person trafficking in controlled  
1383 substances shall be guilty of a felony and, upon conviction, shall  
1384 be imprisoned for a term of not less than ten (10) years nor more  
1385 than forty (40) years and shall be fined not less than Five  
1386 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
1387 (\$1,000,000.00). The ten-year mandatory sentence shall not be  
1388 reduced or suspended. The person shall not be eligible for  
1389 probation or parole, the provisions of Sections 41-29-149,  
1390 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.



1391 (2) "Trafficking in controlled substances" as used  
1392 herein means:

1393 (A) A violation of subsection (a) of this section  
1394 involving thirty (30) or more grams or forty (40) or more dosage  
1395 units of a Schedule I or II controlled substance except marijuana  
1396 and synthetic cannabinoids;

1397 (B) A violation of subsection (a) of this section  
1398 involving five hundred (500) or more grams or two thousand five  
1399 hundred (2,500) or more dosage units of a Schedule III, IV or V  
1400 controlled substance;

1401 (C) A violation of subsection (c) of this section  
1402 involving thirty (30) or more grams or forty (40) or more dosage  
1403 units of a Schedule I or II controlled substance except marijuana  
1404 and synthetic cannabinoids;

1405 (D) A violation of subsection (c) of this section  
1406 involving five hundred (500) or more grams or two thousand five  
1407 hundred (2,500) or more dosage units of a Schedule III, IV or V  
1408 controlled substance; or

1409 (E) A violation of subsection (a) of this section  
1410 involving one (1) kilogram or more of marijuana or two hundred  
1411 (200) grams or more of synthetic cannabinoids.

1412 (g) **Aggravated trafficking.** Any person trafficking in  
1413 Schedule I or II controlled substances, except marijuana and  
1414 synthetic cannabinoids, of two hundred (200) grams or more shall  
1415 be guilty of aggravated trafficking and, upon conviction, shall be





1416 sentenced to a term of not less than twenty-five (25) years nor  
1417 more than life in prison and shall be fined not less than Five  
1418 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
1419 (\$1,000,000.00). The twenty-five-year sentence shall be a  
1420 mandatory sentence and shall not be reduced or suspended. The  
1421 person shall not be eligible for probation or parole, the  
1422 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to  
1423 the contrary notwithstanding.

1424 (h) **Sentence mitigation.** (1) Notwithstanding any provision  
1425 of this section, a person who has been convicted of an offense  
1426 under this section that requires the judge to impose a prison  
1427 sentence which cannot be suspended or reduced and is ineligible  
1428 for probation or parole may, at the discretion of the court,  
1429 receive a sentence of imprisonment that is no less than  
1430 twenty-five percent (25%) of the sentence prescribed by the  
1431 applicable statute. In considering whether to apply the departure  
1432 from the sentence prescribed, the court shall conclude that:

1433 (A) The offender was not a leader of the criminal  
1434 enterprise;

1435 (B) The offender did not use violence or a weapon  
1436 during the crime;

1437 (C) The offense did not result in a death or  
1438 serious bodily injury of a person not a party to the criminal  
1439 enterprise; and



1440 (D) The interests of justice are not served by the  
1441 imposition of the prescribed mandatory sentence.

1442 The court may also consider whether information and  
1443 assistance were furnished to a law enforcement agency, or its  
1444 designee, which, in the opinion of the trial judge, objectively  
1445 should or would have aided in the arrest or prosecution of others  
1446 who violate this subsection. The accused shall have adequate  
1447 opportunity to develop and make a record of all information and  
1448 assistance so furnished.

1449 (2) If the court reduces the prescribed sentence  
1450 pursuant to this subsection, it must specify on the record the  
1451 circumstances warranting the departure.

1452 **SECTION 18.** Section 99-19-81, Mississippi Code of 1972, is  
1453 amended as follows:

1454 99-19-81. (1) Every person convicted in this state of a  
1455 felony who shall have been convicted twice previously of any  
1456 felony or federal crime upon charges separately brought and  
1457 arising out of separate incidents at different times and who shall  
1458 have been sentenced to separate terms of one (1) year or more in  
1459 any state and/or federal penal institution, whether in this state  
1460 or elsewhere, shall be sentenced to the maximum term of  
1461 imprisonment prescribed for such felony unless the court provides  
1462 an explanation in its sentencing order setting forth the cause for  
1463 deviating from the maximum sentence, and such sentence shall not



1464 be reduced or suspended nor shall such person be eligible for  
1465 parole or probation.

1466 (2) A prior felony conviction shall not be considered for  
1467 the purposes of this section if more than ten (10) years have  
1468 elapsed between the date of completion of the sentence imposed for  
1469 the prior felony and the date of the commission of the offense or  
1470 offenses subject to sentencing.

1471 **SECTION 19.** Section 99-19-83, Mississippi Code of 1972, is  
1472 amended as follows:

1473 99-19-83. (1) Every person convicted in this state of a  
1474 felony who shall have been convicted twice previously of any  
1475 felony or federal crime upon charges separately brought and  
1476 arising out of separate incidents at different times and who shall  
1477 have been sentenced to and served separate terms of one (1) year  
1478 or more, whether served concurrently or not, in any state and/or  
1479 federal penal institution, whether in this state or elsewhere, and  
1480 where any one (1) of such felonies shall have been a crime of  
1481 violence, as defined by Section 97-3-2, shall be sentenced to life  
1482 imprisonment, and such sentence shall not be reduced or suspended  
1483 nor shall such person be eligible for parole, probation or any  
1484 other form of early release from actual physical custody within  
1485 the Department of Corrections.

1486 (2) A prior felony conviction shall not be considered for  
1487 the purposes of this section if more than ten (10) years have  
1488 elapsed between the date of completion of the sentence imposed for



1489 the prior felony and the date of the commission of the offense or  
1490 offenses subject to sentencing.

1491 **SECTION 20.** Section 63-1-216, Mississippi Code of 1972, is  
1492 amended as follows:

1493 63-1-216. (1) (a) A person shall be disqualified from  
1494 driving a commercial motor vehicle for a period of one (1) year if  
1495 the person's license or permit to drive has been administratively  
1496 suspended under Section 63-11-23 or the person has been convicted  
1497 of a first violation of:

1498 (i) Operating, attempting to operate, or being in  
1499 actual physical control of a commercial motor vehicle on a highway  
1500 with an alcohol concentration of four one-hundredths percent  
1501 (0.04%) or more, or under the influence of other drugs as provided  
1502 in Section 63-11-30;

1503 (ii) Failure to stop and render aid as required  
1504 under the laws of this state in the event of a motor vehicle  
1505 accident resulting in the death or personal injury of another;

1506 (iii) Using a motor vehicle in the commission of  
1507 any offense under state or federal law that is punishable by  
1508 imprisonment for a term exceeding one (1) year;

1509 (iv) Refusal to submit to a test to determine the  
1510 operator's alcohol concentration, as provided in Title 63, Chapter  
1511 11, Mississippi Code of 1972, while operating a commercial motor  
1512 vehicle;



1513 (v) Operating, attempting to operate, or being in  
1514 actual physical control of a noncommercial motor vehicle on a  
1515 highway with an alcohol concentration of eight one-hundredths  
1516 percent (0.08%) or more, or under the influence of intoxicating  
1517 liquor or other substance, as provided in Section 63-11-30;

1518 (vi) Operating, attempting to operate, or being in  
1519 actual physical control of a noncommercial motor vehicle on a  
1520 highway when the person is under the influence of any other drug  
1521 or under the combined influence of alcohol and any other drug to a  
1522 degree which renders the person incapable of driving safely as  
1523 provided in Section 63-11-30;

1524 (vii) Operating or attempting to operate a  
1525 commercial motor vehicle while the license is revoked, suspended,  
1526 cancelled, or disqualified;

1527 (viii) Operating a commercial motor vehicle in a  
1528 negligent manner resulting in a fatal injury.

1529 (b) A person shall be disqualified from driving a  
1530 commercial motor vehicle for three (3) years if convicted of a  
1531 violation listed in subsection (1) of this section, if the  
1532 violation occurred while transporting a hazardous material  
1533 required to be placarded.

1534 (c) A person shall be disqualified from driving a  
1535 commercial motor vehicle for life if convicted of two (2) or more  
1536 violations or a combination of them listed in subsection (1) of  
1537 this section arising from two (2) or more separate occurrences.



1538           (d) A person shall be disqualified from driving a  
1539 commercial motor vehicle for a period of sixty (60) days if  
1540 convicted of two (2) serious traffic violations, or one hundred  
1541 twenty (120) days if convicted of three (3) serious traffic  
1542 violations, arising from separate incidents occurring within a  
1543 three-year period. A disqualification for three (3) serious  
1544 traffic violations must be imposed consecutively to any other  
1545 previous period of disqualification.

1546           (e) A person shall be disqualified from driving a  
1547 commercial motor vehicle for life if the person uses a motor  
1548 vehicle in the commission of any offense under state or federal  
1549 law that is punishable by imprisonment for a term exceeding one  
1550 (1) year involving the manufacture, distribution, or dispensing of  
1551 a regulated drug, or possession with intent to manufacture,  
1552 distribute, or dispense a regulated drug and for which the person  
1553 was convicted.

1554           (f) A person who is disqualified from driving a  
1555 commercial motor vehicle shall surrender the person's Mississippi  
1556 commercial driver's license no later than the effective date of  
1557 the disqualification. Upon receipt of the person's commercial  
1558 driver's license, that person, if otherwise eligible, may apply  
1559 for a non-CDL, and upon payment of sufficient fees receive the  
1560 driver's license.

1561           (g) The commissioner shall adopt rules establishing  
1562 guidelines, including conditions, under which a disqualification



1563 for life under this section, except for a disqualification issued  
1564 pursuant to paragraph (e) of this subsection, may be reduced to a  
1565 period of not less than ten (10) years.

1566 (h) A person shall be disqualified from driving a  
1567 commercial motor vehicle for a period of sixty (60) days if the  
1568 driver is convicted of a first violation of a railroad-highway  
1569 grade crossing violation.

1570 (i) A person shall be disqualified from driving a  
1571 commercial motor vehicle for a period of one hundred twenty (120)  
1572 days if, during any three-year period, the driver is convicted of  
1573 a second railroad-highway grade crossing violation in a separate  
1574 incident.

1575 (j) A person shall be disqualified from driving a  
1576 commercial motor vehicle for a period of one (1) year if, during  
1577 any three-year period, the driver is convicted of a third or  
1578 subsequent railroad-highway grade crossing violation in separate  
1579 incidents.

1580 (k) A person who is simultaneously subject to a  
1581 disqualification issued by the administrator of the Federal Motor  
1582 Carrier Safety Administration pursuant to 49 CFR, Part 383.52 and  
1583 a disqualification under any other provision of this section shall  
1584 serve those disqualification periods concurrently.

1585 (2) (a) A person's privilege to operate a commercial motor  
1586 vehicle in the State of Mississippi shall be suspended for one (1)  
1587 year, if:



1588 (i) The person is convicted of a first violation  
1589 of operating, attempting to operate or being in actual physical  
1590 control of a commercial motor vehicle on a highway with an alcohol  
1591 concentration of four one-hundredths percent (0.04%) or more, or  
1592 under the influence, as provided in Section 63-11-30; and

1593 (ii) The person's commercial driver's license is  
1594 issued by a state or country that does not issue commercial  
1595 driver's licenses and disqualify persons in accordance with 49  
1596 CFR, Parts 383 and 384.

1597 (b) A person's privilege to operate a commercial motor  
1598 vehicle in the State of Mississippi shall be suspended for three  
1599 (3) years if the person is convicted of violating subsection (1)  
1600 of this section, and the violation occurred while the person was  
1601 transporting a hazardous material required to be placarded.

1602 (c) A person's privilege to operate a commercial motor  
1603 vehicle in the State of Mississippi shall be suspended for life if  
1604 the person is convicted a second time of violating subsection (1)  
1605 of this section, \* \* \* if the convictions arise out of separate  
1606 occurrences.

1607 (d) A person's privilege to operate a commercial motor  
1608 vehicle in the State of Mississippi shall be suspended for sixty  
1609 (60) days if the person is convicted of two (2) serious traffic  
1610 violations, or for one hundred twenty (120) days if the person is  
1611 convicted of three (3) serious traffic violations, arising from  
1612 separate incidents occurring within a three-year period.





1613 (e) A person's privilege to operate a commercial motor  
1614 vehicle in the State of Mississippi shall be suspended for life if  
1615 the person uses a commercial motor vehicle in the commission of  
1616 any offense under state or federal law that is punishable by  
1617 imprisonment for a term exceeding one (1) year, involving the  
1618 manufacture, distribution, or dispensing of a regulated drug, or  
1619 possession with intent to manufacture, distribute, or dispense a  
1620 regulated drug, and for which the person was convicted.

1621 (f) In addition to the reasons specified in this  
1622 section for suspension of the commercial driver's license, the  
1623 commissioner shall be authorized to suspend the commercial  
1624 driver's license of any person for being out of compliance with an  
1625 order for support, as defined in Section 93-11-153. The procedure  
1626 for suspension of a commercial driver's license for being out of  
1627 compliance with an order for support, and the procedure for the  
1628 reissuance or reinstatement of a commercial driver's license  
1629 suspended for that purpose, and the payment of any fees for the  
1630 reissuance or reinstatement of a commercial driver's license  
1631 suspended for that purpose, shall be governed by Section 93-11-157  
1632 or 93-11-163, as the case may be. If there is any conflict  
1633 between any provision of Section 93-11-157 or 93-11-163 and any  
1634 provision of this article, the provisions of Section 93-11-157 or  
1635 93-11-163, as the case may be, shall control.

1636 **SECTION 21.** (1) **Legal effect of an order to expunge;**  
1637 **eligibility.** (a) "Expungement" or "expunction" means the



1638 deletion, by court order, of the records of criminal offenses from  
1639 a person's public records.

1640           (b) (i) Upon entering an order of expunction under  
1641 this section, a nonpublic record thereof shall be retained by the  
1642 Mississippi Criminal Information Center solely for the purpose of  
1643 determining whether, in subsequent proceedings, the person is a  
1644 first offender.

1645                   (ii) The order of expunction shall not preclude a  
1646 district attorney's office from retaining a nonpublic record  
1647 thereof for law enforcement purposes only.

1648                   (iii) The existence of an order of expunction  
1649 shall not preclude an employer from asking a prospective employee  
1650 if the employee has had an order of expunction entered on his  
1651 behalf.

1652           (c) (i) The effect of an expunction order shall be to  
1653 restore the person, in the contemplation of the law, to the status  
1654 he occupied before any arrest or indictment for which convicted,  
1655 and the person thereafter legally stands as though he had never  
1656 been arrested, indicted, or convicted of the expunged offense or  
1657 offenses and may lawfully so respond to any query of prior  
1658 convictions.

1659                   (ii) No person as to whom an expunction order has  
1660 been entered shall be held thereafter under any provision of law  
1661 to be guilty of perjury or to have otherwise given a false  
1662 statement by reason of his failure to recite or acknowledge such



1663 arrest, indictment or conviction in response to any inquiry made  
1664 of him for any purpose other than the purpose of determining, in  
1665 any subsequent proceedings under this section, whether the person  
1666 is a first offender. A person as to whom an order has been  
1667 entered, upon request, shall be required to advise the court, in  
1668 camera, of the previous conviction and expunction in any legal  
1669 proceeding wherein the person has been called as a prospective  
1670 juror. The court shall thereafter and before the selection of the  
1671 jury advise the attorneys representing the parties of the previous  
1672 conviction and expunction.

1673 (d) No public official is eligible for expunction of  
1674 any felony or misdemeanor conviction related to his official  
1675 duties.

1676 (2) **Expunction of misdemeanor convictions.** (a) **First**  
1677 **offender.** Any person who has been convicted of a misdemeanor that  
1678 is not a traffic violation, and who is a first offender, may  
1679 petition the justice, county, circuit or municipal court in which  
1680 the conviction was had for an order to expunge any such conviction  
1681 from all public records

1682 (b) **Multiple misdemeanors.** Upon prior notice to the  
1683 appropriate prosecuting attorney and upon a showing in open court  
1684 of rehabilitation, good conduct for a period of two (2) years  
1685 since the last conviction in any court, and that the best interest  
1686 of society would be served, the justice, municipal, county, or  
1687 circuit court may, in its discretion, order the record of



1688 conviction of a person of any or all misdemeanors in that court  
1689 expunged

1690 (c) **Records that may not be expunged.** The confidential  
1691 records of law enforcement agencies and the driving record of a  
1692 person maintained under Title 63, Mississippi Code of 1972, are  
1693 not subject to expunction under this subsection (2).

1694 (3) **Expunction of felony convictions.** (a) Any person who  
1695 has been convicted of a felony that is not a crime of violence  
1696 listed in Section 97-3-2, Mississippi Code of 1972, may petition  
1697 the court in which the conviction was had for an order to expunge  
1698 the conviction from all public records seven (7) years after the  
1699 successful completion of all terms and conditions of the sentence  
1700 for the conviction unless the felony, in the determination of the  
1701 circuit court, is related to the distribution or trafficking of a  
1702 controlled substance and, in the court's discretion, should not be  
1703 expunged.

1704 (b) The petitioner shall give ten (10) days' written  
1705 notice to the district attorney before any hearing on the  
1706 petition. In all cases, the court wherein the petition is filed  
1707 may grant the petition if the court determines, on the record or  
1708 in writing, that the applicant is rehabilitated from the offense  
1709 which is the subject of the petition. In those cases where the  
1710 court denies the petition, the findings of the court in this  
1711 respect shall be identified specifically and not generally.



1712           (4)   **Convictions for purchase of light wine or beer by person**  
1713 **under age of twenty-one (21).** A person who has been charged with  
1714 a violation of subsection (1) or (2) of Section 67-3-70 may, not  
1715 sooner than one (1) year after the dismissal and discharge or  
1716 completion of any sentence and payment of any fine, apply to the  
1717 court for an order to expunge from all official records all  
1718 recordation relating to his arrest, trial, finding or plea of  
1719 guilty, and dismissal and discharge. If the court determines that  
1720 such person was dismissed and the proceedings against him  
1721 discharged or that such person had satisfactorily served his  
1722 sentence and paid any fine, penalties and assessments, it shall  
1723 enter such order.

1724           (5)   **Nonconvictions. (a) Expunction of misdemeanor charges.**  
1725 Any person who is arrested, issued a citation, or held for any  
1726 misdemeanor and is not formally charged or prosecuted for the  
1727 offense within twelve (12) months of arrest, or upon dismissal of  
1728 the charge, may apply to the court with jurisdiction over the  
1729 matter for the charges to be expunged.

1730                   (b)   **Nonadjudication of drug offenses.** Upon the  
1731 dismissal of the charges against a person and discharge of  
1732 proceedings against him under Section 41-29-150(d), the person may  
1733 apply to the court for an order to expunge from all official  
1734 records, other than the nonpublic records to be retained by the  
1735 bureau under Section 41-29-150(d), all recordation relating to his  
1736 arrest, indictment, trial, finding of guilt, and dismissal and



1737 discharge pursuant to Section 41-29-150. If the court determines,  
1738 after hearing, that the charge against the person was dismissed  
1739 and the proceedings against him discharged, or that the person had  
1740 satisfactorily served his sentence or period of probation and  
1741 parole, it shall enter an order of expunction.

1742 (c) Upon petition therefor, any circuit, county,  
1743 justice, or municipal court with jurisdiction over a criminal  
1744 offense shall expunge the record of any case in which an arrest  
1745 was made, the person arrested was released and the case was  
1746 dismissed, the charges were dropped or there was no disposition of  
1747 the case.

1748 (d) From and after July 1, 2018, upon entry of an order  
1749 of dismissal or nolle prosequi, the court shall automatically  
1750 issue an order of expunction on its own motion and send a copy of  
1751 the order to the defendant or the defendant's attorney.

1752 (6) **Filing fees.** (a) **Felony convictions in circuit court.**  
1753 A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby  
1754 levied on each petition to expunge the record of a conviction in  
1755 circuit or county court to be collected by the circuit clerk and  
1756 distributed as follows:

1757 (i) One Hundred Forty Dollars (\$140.00) to be  
1758 deposited into the State General Fund; and

1759 (ii) Ten Dollars (\$10.00) to be retained by the  
1760 circuit clerk collecting the fee for administration purposes.



1761           (b) **No filing fee in certain cases.** There shall be no  
1762 filing fee levied on petitions seeking expunction of offenses in  
1763 cases where the petitioner was arrested and released and the case  
1764 was dismissed or the charges were dropped or there was no  
1765 disposition of the case.

1766           (c) **Misdemeanor convictions in justice and municipal**  
1767 **courts.** The filing fee for expunction shall be as provided by  
1768 law.

1769           (7) **Interstate Identification Index reports.** Upon notice of  
1770 the filing of an expungement petition, the appropriate prosecuting  
1771 attorney or criminal court clerk shall run a background check  
1772 through the Federal Bureau of Investigation's National Crime  
1773 Information Center Interstate Identification Index and present the  
1774 results of the report to the criminal court.

1775           (8) **Post-expungement records.** A certified copy of every  
1776 expunction order shall be sent by the clerk of the circuit,  
1777 county, justice, or municipal court that issued the order to the  
1778 Mississippi Criminal Information Center where it shall be  
1779 maintained in a separate confidential database accessible only  
1780 upon written request by a district attorney, a county prosecuting  
1781 attorney, a municipal court prosecuting attorney, the Attorney  
1782 General of Mississippi and the Mississippi Board on Law  
1783 Enforcement Officer Standards and Training. A criminal conviction  
1784 that has been expunged may be used for the purpose of determining  
1785 habitual offender status and for the use of the Mississippi Board



1786 on Law Enforcement Officer Standards and Training in granting or  
1787 denying law enforcement certification, and to ensure that a person  
1788 is only eligible for first-offender status one (1) time.

1789 **SECTION 22.** Section 9-11-15, Mississippi Code of 1972, is  
1790 amended as follows:

1791 9-11-15. (1) Justice court judges shall hold regular terms  
1792 of their courts, at such times as they may appoint, not exceeding  
1793 two (2) and not less than one (1) in every month, at the  
1794 appropriate justice court courtroom established by the board of  
1795 supervisors; and they may continue to hold their courts from day  
1796 to day so long as business may require; and all process shall be  
1797 returnable, and all trials shall take place at such regular terms,  
1798 except where it is otherwise provided; but where the defendant is  
1799 a nonresident or transient person, and it shall be shown by the  
1800 oath of either party that a delay of the trial until the regular  
1801 term will be of material injury to him, it shall be lawful for the  
1802 judge to have the parties brought before him at any reasonable  
1803 time and hear the evidence and give judgment or where the  
1804 defendant is a nonresident or transient person and the judge and  
1805 all parties agree, it shall be lawful for the judge to have the  
1806 parties brought before him on the day a citation is made and hear  
1807 the evidence and give judgment. Such court shall be a court of  
1808 record, with all the power incident to a court of record,  
1809 including power to fine in the amount of fine and length of





1810 imprisonment as is authorized for a municipal court in Section  
1811 21-23-7(11) for contempt of court.

1812           (2) (a) In counties with a population of less than one  
1813 hundred fifty thousand (150,000), each justice court shall  
1814 designate at least one-half (1/2) day each month as a traffic  
1815 court day, sufficient to handle the traffic violations docket of  
1816 that court, and shall notify all appropriate law enforcement  
1817 agencies of the date or dates. On the day or days so designated,  
1818 the justice court shall give priority to all cases involving  
1819 traffic violations.

1820           (b) In counties with a population of one hundred fifty  
1821 thousand (150,000) or more, each justice court shall designate at  
1822 least one (1) day each month as a traffic court day, sufficient to  
1823 handle the traffic violations of that court, and shall notify all  
1824 appropriate law enforcement agencies of the date or dates. On the  
1825 day or days so designated, the justice court shall give priority  
1826 to all cases involving traffic violations. The one (1) day may be  
1827 one (1) whole day or it may be divided into half days as long as  
1828 one-half (1/2) day is held in the morning and one-half (1/2) day  
1829 is held in the afternoon, in the discretion of the court.

1830       \* \* \*

1831       **SECTION 23.** Section 21-23-7, Mississippi Code of 1972, is  
1832 amended as follows:

1833       21-23-7. (1) The municipal judge shall hold court in a  
1834 public building designated by the governing authorities of the



1835 municipality and may hold court every day except Sundays and legal  
1836 holidays if the business of the municipality so requires;  
1837 provided, however, the municipal judge may hold court outside the  
1838 boundaries of the municipality but not more than within a  
1839 sixty-mile radius of the municipality to handle preliminary  
1840 matters and criminal matters such as initial appearances and  
1841 felony preliminary hearings. The municipal judge may hold court  
1842 outside the boundaries of the municipality but not more than  
1843 within a one-mile radius of the municipality for any purpose. The  
1844 municipal judge shall have the jurisdiction to hear and determine,  
1845 without a jury and without a record of the testimony, all cases  
1846 charging violations of the municipal ordinances and state  
1847 misdemeanor laws made offenses against the municipality and to  
1848 punish offenders therefor as may be prescribed by law. Except as  
1849 otherwise provided by law, criminal proceedings shall be brought  
1850 by sworn complaint filed in the municipal court. Such complaint  
1851 shall state the essential elements of the offense charged and the  
1852 statute or ordinance relied upon. Such complaint shall not be  
1853 required to conclude with a general averment that the offense is  
1854 against the peace and dignity of the state or in violation of the  
1855 ordinances of the municipality. He may sit as a committing court  
1856 in all felonies committed within the municipality, and he shall  
1857 have the power to bind over the accused to the grand jury or to  
1858 appear before the proper court having jurisdiction to try the  
1859 same, and to set the amount of bail or refuse bail and commit the



1860 accused to jail in cases not bailable. The municipal judge is a  
1861 conservator of the peace within his municipality. He may conduct  
1862 preliminary hearings in all violations of the criminal laws of  
1863 this state occurring within the municipality, and any person  
1864 arrested for a violation of law within the municipality may be  
1865 brought before him for initial appearance. The municipal court  
1866 shall have jurisdiction of any case remanded to it by a circuit  
1867 court grand jury. The municipal court shall have civil  
1868 jurisdiction over actions filed pursuant to and as provided in  
1869 Title 93, Chapter 21, Mississippi Code of 1972, the Protection  
1870 from Domestic Abuse Act.

1871 (2) In the discretion of the court, where the objects of  
1872 justice would be more likely met, as an alternative to imposition  
1873 or payment of fine and/or incarceration, the municipal judge shall  
1874 have the power to sentence convicted offenders to work on a public  
1875 service project where the court has established such a program of  
1876 public service by written guidelines filed with the clerk for  
1877 public record. Such programs shall provide for reasonable  
1878 supervision of the offender and the work shall be commensurate  
1879 with the fine and/or incarceration that would have ordinarily been  
1880 imposed. Such program of public service may be utilized in the  
1881 implementation of the provisions of Section 99-19-20, and public  
1882 service work thereunder may be supervised by persons other than  
1883 the sheriff.



1884 (3) The municipal judge may solemnize marriages, take oaths,  
1885 affidavits and acknowledgments, and issue orders, subpoenas,  
1886 summonses, citations, warrants for search and arrest upon a  
1887 finding of probable cause, and other such process under seal of  
1888 the court to any county or municipality, in a criminal case, to be  
1889 executed by the lawful authority of the county or the municipality  
1890 of the respondent, and enforce obedience thereto. The absence of  
1891 a seal shall not invalidate the process.

1892 (4) When a person shall be charged with an offense in  
1893 municipal court punishable by confinement, the municipal judge,  
1894 being satisfied that such person is an indigent person and is  
1895 unable to employ counsel, may, in the discretion of the court,  
1896 appoint counsel from the membership of The Mississippi Bar  
1897 residing in his county who shall represent him. Compensation for  
1898 appointed counsel in criminal cases shall be approved and allowed  
1899 by the municipal judge and shall be paid by the municipality. The  
1900 maximum compensation shall not exceed Two Hundred Dollars  
1901 (\$200.00) for any one (1) case. The governing authorities of a  
1902 municipality may, in their discretion, appoint a public  
1903 defender(s) who must be a licensed attorney and who shall receive  
1904 a salary to be fixed by the governing authorities.

1905 (5) The municipal judge of any municipality is hereby  
1906 authorized to suspend the sentence and to suspend the execution of  
1907 the sentence, or any part thereof, on such terms as may be imposed  
1908 by the municipal judge. However, the suspension of imposition or



1909 execution of a sentence hereunder may not be revoked after a  
1910 period of two (2) years. The municipal judge shall have the power  
1911 to establish and operate a probation program, dispute resolution  
1912 program and other practices or procedures appropriate to the  
1913 judiciary and designed to aid in the administration of justice.  
1914 Any such program shall be established by the court with written  
1915 policies and procedures filed with the clerk of the court for  
1916 public record. Subsequent to original sentencing, the municipal  
1917 judge, in misdemeanor cases, is hereby authorized to suspend  
1918 sentence and to suspend the execution of a sentence, or any part  
1919 thereof, on such terms as may be imposed by the municipal judge,  
1920 if (a) the judge or his or her predecessor was authorized to order  
1921 such suspension when the sentence was originally imposed; and (b)  
1922 such conviction (i) has not been appealed; or (ii) has been  
1923 appealed and the appeal has been voluntarily dismissed.

1924 (6) \* \* \* [Deleted]

1925 (7) \* \* \* [Deleted]

1926 (8) In the discretion of the court, a plea of nolo  
1927 contendere may be entered to any charge in municipal court. Upon  
1928 the entry of a plea of nolo contendere the court shall convict the  
1929 defendant of the offense charged and shall proceed to sentence the  
1930 defendant according to law. The judgment of the court shall  
1931 reflect that the conviction was on a plea of nolo contendere. An  
1932 appeal may be made from a conviction on a plea of nolo contendere  
1933 as in other cases.



1934 (9) Upon execution of a sworn complaint charging a  
1935 misdemeanor, the municipal court may, in its discretion and in  
1936 lieu of an arrest warrant, issue a citation requiring the  
1937 appearance of the defendant to answer the charge made against him.  
1938 On default of appearance, an arrest warrant may be issued for the  
1939 defendant. The clerk of the court or deputy clerk may issue such  
1940 citations.

1941 (10) The municipal court shall have the power to make rules  
1942 for the administration of the court's business, which rules, if  
1943 any, shall be in writing filed with the clerk of the court and  
1944 shall include the enactment of rules related to the court's  
1945 authority to issue domestic abuse protection orders pursuant to  
1946 Section 93-21-1 et seq.

1947 (11) The municipal court shall have the power to impose  
1948 punishment of a fine of not more than One Thousand Dollars  
1949 (\$1,000.00) or six (6) months imprisonment, or both, for contempt  
1950 of court. The municipal court may have the power to impose  
1951 reasonable costs of court, not in excess of the following:

1952	Dismissal of any affidavit, complaint or charge	
1953	in municipal court.....	\$ 50.00
1954	Suspension of a minor's driver's license in lieu of	
1955	conviction.....	\$ 50.00
1956	Service of scire facias or return "not found".....	\$ 20.00
1957	Causing search warrant to issue or causing	
1958	prosecution without reasonable cause or refusing to	



1959 cooperate after initiating action.....\$ 100.00  
 1960 Certified copy of the court record.....\$ 5.00  
 1961 Service of arrest warrant for failure to answer  
 1962 citation or traffic summons.....\$ 25.00  
 1963 Jail cost per day - actual jail cost paid by the municipality but  
 1964 not to exceed..... \$ 35.00  
 1965 Service of court documents related to the filing  
 1966 of a petition or issuance of a protection from domestic  
 1967 abuse order under Title 93, Chapter 21, Mississippi  
 1968 Code of 1972 .....\$ 25.00  
 1969 Expungement.....\$ 50.00  
 1970 Any other item of court cost.....\$ 50.00

1971 No filing fee or such cost shall be imposed for the bringing  
 1972 of an action in municipal court.

1973 (12) A municipal court judge shall not dismiss a criminal  
 1974 case but may transfer the case to the justice court of the county  
 1975 if the municipal court judge is prohibited from presiding over the  
 1976 case by the Canons of Judicial Conduct and provided that venue and  
 1977 jurisdiction are proper in the justice court. Upon transfer of  
 1978 any such case, the municipal court judge shall give the municipal  
 1979 court clerk a written order to transmit the affidavit or complaint  
 1980 and all other records and evidence in the court's possession to  
 1981 the justice court by certified mail or to instruct the arresting  
 1982 officer to deliver such documents and records to the justice



1983 court. There shall be no court costs charged for the transfer of  
1984 the case to the justice court.

1985 \* \* \*

1986 **SECTION 24.** Section 41-29-150, Mississippi Code of 1972, is  
1987 amended as follows:

1988 41-29-150. (a) Any person convicted under Section 41-29-139  
1989 may be required, in the discretion of the court, as a part of the  
1990 sentence otherwise imposed, or in lieu of imprisonment in cases of  
1991 probation or suspension of sentence, to attend a course of  
1992 instruction conducted by the bureau, the State Board of Health, or  
1993 any similar agency, on the effects, medically, psychologically and  
1994 socially, of the misuse of controlled substances. The course may  
1995 be conducted at any correctional institution, detention center or  
1996 hospital, or at any center or treatment facility established for  
1997 the purpose of education and rehabilitation of those persons  
1998 committed because of abuse of controlled substances.

1999 (b) Any person convicted under Section 41-29-139 who is  
2000 found to be dependent upon or addicted to any controlled substance  
2001 shall be required, as a part of the sentence otherwise imposed, or  
2002 in lieu of imprisonment in cases of parole, probation or  
2003 suspension of sentence, to receive medical treatment for such  
2004 dependency or addiction. The regimen of medical treatment may  
2005 include confinement in a medical facility of any correctional  
2006 institution, detention center or hospital, or at any center or





2007 facility established for treatment of those persons committed  
2008 because of a dependence or addiction to controlled substances.

2009 (c) Those persons previously convicted of a felony under  
2010 Section 41-29-139 and who are now confined at the Mississippi  
2011 State Hospital at Whitfield, Mississippi, or at the East  
2012 Mississippi State Hospital at Meridian, Mississippi, for the term  
2013 of their sentence shall remain under the jurisdiction of the  
2014 Mississippi Department of Corrections and shall be required to  
2015 abide by all reasonable rules and regulations promulgated by the  
2016 director and staff of said institutions and of the Department of  
2017 Corrections. Any persons so confined who shall refuse to abide by  
2018 said rules or who attempt an escape or who shall escape shall be  
2019 transferred to the State Penitentiary or to a county jail, where  
2020 appropriate, to serve the remainder of the term of imprisonment;  
2021 this provision shall not preclude prosecution and conviction for  
2022 escape from said institutions.

2023 (d) (1) If any person who has not previously been convicted  
2024 of violating Section 41-29-139, or the laws of the United States  
2025 or of another state relating to narcotic drugs, stimulant or  
2026 depressant substances, other controlled substances or marihuana is  
2027 found to be guilty of a violation of subsection (c) or (d) of  
2028 Section 41-29-139, after trial or upon a plea of guilty, the court  
2029 may, without entering a judgment of guilty and with the consent of  
2030 such person, defer further proceedings and place him on probation  
2031 upon such reasonable conditions as it may require and for such



2032 period, not to exceed three (3) years, as the court may prescribe.  
2033 Upon violation of a condition of the probation, the court may  
2034 enter an adjudication of guilt and proceed as otherwise provided.  
2035 The court may, in its discretion, dismiss the proceedings against  
2036 such person and discharge him from probation before the expiration  
2037 of the maximum period prescribed for such person's probation. If  
2038 during the period of his probation such person does not violate  
2039 any of the conditions of the probation, then upon expiration of  
2040 such period the court shall discharge such person and dismiss the  
2041 proceedings against him. Discharge and dismissal under this  
2042 subsection shall be without court adjudication of guilt, but a  
2043 nonpublic record thereof shall be retained by the bureau solely  
2044 for the purpose of use by the courts in determining whether or  
2045 not, in subsequent proceedings, such person qualifies under this  
2046 subsection. Such discharge or dismissal shall not be deemed a  
2047 conviction for purposes of disqualifications or disabilities  
2048 imposed by law upon conviction of a crime, including the penalties  
2049 prescribed under this article for second or subsequent conviction,  
2050 or for any other purpose. Discharge and dismissal under this  
2051 subsection may occur only once with respect to any person; and  
2052 (2) Upon the dismissal of a person and discharge of  
2053 proceedings against him under paragraph (1) of this subsection,  
2054 the person may apply to the court for an expunction order \* \* \*  
2055 under Section 21 of this act.



2056 (e) Every person who has been or may hereafter be convicted  
2057 of a felony offense under Section 41-29-139 and sentenced under  
2058 Section 41-29-150(c) shall be under the jurisdiction of the  
2059 Mississippi Department of Corrections.

2060 (f) It shall be unlawful for any person confined under the  
2061 provisions of subsection (b) or (c) of this section to escape or  
2062 attempt to escape from said institution, and, upon conviction,  
2063 said person shall be guilty of a felony and shall be imprisoned  
2064 for a term not to exceed two (2) years.

2065 (g) It is the intent and purpose of the Legislature to  
2066 promote the rehabilitation of persons convicted of offenses under  
2067 the Uniform Controlled Substances Law.

2068 **SECTION 25.** Section 45-27-21, Mississippi Code of 1972, is  
2069 amended as follows:

2070 45-27-21. A certified copy of every \* \* \* nonadjudication  
2071 order shall be sent by the circuit clerk to the Mississippi  
2072 Criminal Information Center where it shall be maintained in a  
2073 separate confidential database accessible only upon written  
2074 request by a district attorney, a county prosecuting attorney, a  
2075 municipal court prosecuting attorney, the Attorney General of  
2076 Mississippi and the Mississippi Law Enforcement Standards and  
2077 Training Board. Any criminal conviction which has been \* \* \*  
2078 nonadjudicated may be used for the purpose of determining habitual  
2079 offender status and for the use of the Mississippi Law Enforcement  
2080 Standards and Training Board in \* \* \* granting or denying law



2081 enforcement certification, and to ensure that a person is only  
2082 eligible for first-offender status one (1) time.

2083         **SECTION 26.** Section 63-11-30, Mississippi Code of 1972, is  
2084 amended as follows:

2085         63-11-30. (1) It is unlawful for a person to drive or  
2086 otherwise operate a vehicle within this state if the person:

2087                 (a) Is under the influence of intoxicating liquor;

2088                 (b) Is under the influence of any other substance that  
2089 has impaired the person's ability to operate a motor vehicle;

2090                 (c) Is under the influence of any drug or controlled  
2091 substance, the possession of which is unlawful under the  
2092 Mississippi Controlled Substances Law; or

2093                 (d) Has an alcohol concentration in the person's blood,  
2094 based upon grams of alcohol per one hundred (100) milliliters of  
2095 blood, or grams of alcohol per two hundred ten (210) liters of  
2096 breath, as shown by a chemical analysis of the person's breath,  
2097 blood or urine administered as authorized by this chapter, of:

2098                         (i) Eight one-hundredths percent (.08%) or more  
2099 for a person who is above the legal age to purchase alcoholic  
2100 beverages under state law;

2101                         (ii) Two one-hundredths percent (.02%) or more for  
2102 a person who is below the legal age to purchase alcoholic  
2103 beverages under state law; or

2104                         (iii) Four one-hundredths percent (.04%) or more  
2105 for a person operating a commercial motor vehicle.



2106 (2) Except as otherwise provided in subsection (3) of this  
2107 section (Zero Tolerance for Minors):

2108 (a) **First offense DUI.** (i) Upon conviction of any  
2109 person for the first offense of violating subsection (1) of this  
2110 section where chemical tests under Section 63-11-5 were given, or  
2111 where chemical test results are not available, the person shall be  
2112 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more  
2113 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
2114 than forty-eight (48) hours in jail, or both; the court shall  
2115 order the person to attend and complete an alcohol safety  
2116 education program as provided in Section 63-11-32 within six (6)  
2117 months of sentencing. The court may substitute attendance at a  
2118 victim impact panel instead of forty-eight (48) hours in jail.

2119 (ii) Suspension of commercial driving privileges  
2120 is governed by Section 63-1-216.

2121 (iii) A qualifying first offense may be  
2122 nonadjudicated by the court under subsection (14) of this  
2123 section. \* \* \*

2124 (iv) Eligibility for an interlock-restricted  
2125 license is governed by Section 63-11-31 and suspension of regular  
2126 driving privileges is governed by Section 63-11-23.

2127 (b) **Second offense DUI.** (i) Upon any second  
2128 conviction of any person violating subsection (1) of this section,  
2129 the offenses being committed within a period of five (5) years,  
2130 the person shall be guilty of a misdemeanor, fined not less than



2131 Six Hundred Dollars (\$600.00) nor more than One Thousand Five  
2132 Hundred Dollars (\$1,500.00), shall be imprisoned not less than  
2133 five (5) days nor more than six (6) months and sentenced to  
2134 community service work for not less than ten (10) days nor more  
2135 than six (6) months. The minimum penalties shall not be suspended  
2136 or reduced by the court and no prosecutor shall offer any  
2137 suspension or sentence reduction as part of a plea bargain.

2138 (ii) Suspension of commercial driving privileges  
2139 is governed by Section 63-1-216.

2140 (iii) Eligibility for an interlock-restricted  
2141 license is governed by Section 63-11-31 and suspension of regular  
2142 driving privileges is governed by Section 63-11-23.

2143 (c) **Third offense DUI.** (i) For a third conviction of  
2144 a person for violating subsection (1) of this section, the  
2145 offenses being committed within a period of five (5) years, the  
2146 person shall be guilty of a felony and fined not less than Two  
2147 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars  
2148 (\$5,000.00), and shall serve not less than one (1) year nor more  
2149 than five (5) years in the custody of the Department of  
2150 Corrections. For any offense that does not result in serious  
2151 injury or death to any person, the sentence of incarceration may  
2152 be served in the county jail rather than in the State Penitentiary  
2153 at the discretion of the circuit court judge. The minimum  
2154 penalties shall not be suspended or reduced by the court and no



2155 prosecutor shall offer any suspension or sentence reduction as  
2156 part of a plea bargain.

2157 (ii) The suspension of commercial driving  
2158 privileges is governed by Section 63-1-216.

2159 (iii) The suspension of regular driving privileges  
2160 is governed by Section 63-11-23.

2161 (d) **Fourth and subsequent offense DUI.** (i) For any  
2162 fourth or subsequent conviction of a violation of subsection (1)  
2163 of this section, without regard to the time period within which  
2164 the violations occurred, the person shall be guilty of a felony  
2165 and fined not less than Three Thousand Dollars (\$3,000.00) nor  
2166 more than Ten Thousand Dollars (\$10,000.00), and shall serve not  
2167 less than two (2) years nor more than ten (10) years in the  
2168 custody of the Department of Corrections.

2169 (ii) The suspension of commercial driving  
2170 privileges is governed by Section 63-1-216.

2171 (iii) A person convicted of a fourth or subsequent  
2172 offense is ineligible to exercise the privilege to operate a motor  
2173 vehicle that is not equipped with an ignition-interlock device for  
2174 ten (10) years.

2175 (e) Any person convicted of a second or subsequent  
2176 violation of subsection (1) of this section shall receive an  
2177 in-depth diagnostic assessment, and if as a result of the  
2178 assessment is determined to be in need of treatment for alcohol or  
2179 drug abuse, the person must successfully complete treatment at a



2180 program site certified by the Department of Mental Health. Each  
2181 person who receives a diagnostic assessment shall pay a fee  
2182 representing the cost of the assessment. Each person who  
2183 participates in a treatment program shall pay a fee representing  
2184 the cost of treatment.

2185 (f) The use of ignition-interlock devices is governed  
2186 by Section 63-11-31.

2187 (3) **Zero Tolerance for Minors.** (a) This subsection shall  
2188 be known and may be cited as Zero Tolerance for Minors. The  
2189 provisions of this subsection shall apply only when a person under  
2190 the age of twenty-one (21) years has a blood alcohol concentration  
2191 of two one-hundredths percent (.02%) or more, but lower than eight  
2192 one-hundredths percent (.08%). If the person's blood alcohol  
2193 concentration is eight one-hundredths percent (.08%) or more, the  
2194 provisions of subsection (2) shall apply.

2195 (b) (i) A person under the age of twenty-one (21) is  
2196 eligible for nonadjudication of a qualifying first offense by the  
2197 court pursuant to subsection (14) of this section.

2198 (ii) Upon conviction of any person under the age  
2199 of twenty-one (21) years for the first offense of violating  
2200 subsection (1) of this section where chemical tests provided for  
2201 under Section 63-11-5 were given, or where chemical test results  
2202 are not available, the person shall be fined Two Hundred Fifty  
2203 Dollars (\$250.00); the court shall order the person to attend and  
2204 complete an alcohol safety education program as provided in





2205 Section 63-11-32 within six (6) months. The court may also  
2206 require attendance at a victim impact panel.

2207 (c) A person under the age of twenty-one (21) years who  
2208 is convicted of a second violation of subsection (1) of this  
2209 section, the offenses being committed within a period of five (5)  
2210 years, shall be fined not more than Five Hundred Dollars  
2211 (\$500.00).

2212 (d) A person under the age of twenty-one (21) years who  
2213 is convicted of a third or subsequent violation of subsection (1)  
2214 of this section, the offenses being committed within a period of  
2215 five (5) years, shall be fined not more than One Thousand Dollars  
2216 (\$1,000.00).

2217 (e) License suspension is governed by Section 63-11-23  
2218 and ignition interlock is governed by Section 63-11-31.

2219 (f) Any person under the age of twenty-one (21) years  
2220 convicted of a third or subsequent violation of subsection (1) of  
2221 this section must complete treatment of an alcohol or drug abuse  
2222 program at a site certified by the Department of Mental Health.

2223 (4) **DUI test refusal.** In addition to the other penalties  
2224 provided in this section, every person refusing a law enforcement  
2225 officer's request to submit to a chemical test of the person's  
2226 breath as provided in this chapter, or who was unconscious at the  
2227 time of a chemical test and refused to consent to the introduction  
2228 of the results of the test in any prosecution, shall suffer an



2229 additional administrative suspension of driving privileges as set  
2230 forth in Section 63-11-23.

2231           (5) **Aggravated DUI.** (a) Every person who operates any  
2232 motor vehicle in violation of the provisions of subsection (1) of  
2233 this section and who in a negligent manner causes the death of  
2234 another or mutilates, disfigures, permanently disables or destroys  
2235 the tongue, eye, lip, nose or any other limb, organ or member of  
2236 another shall, upon conviction, be guilty of a separate felony for  
2237 each victim who suffers death, mutilation, disfigurement or other  
2238 injury and shall be committed to the custody of the State  
2239 Department of Corrections for a period of time of not less than  
2240 five (5) years and not to exceed twenty-five (25) years for each  
2241 death, mutilation, disfigurement or other injury, and the  
2242 imprisonment for the second or each subsequent conviction, in the  
2243 discretion of the court, shall commence either at the termination  
2244 of the imprisonment for the preceding conviction or run  
2245 concurrently with the preceding conviction. Any person charged  
2246 with causing the death of another as described in this subsection  
2247 shall be required to post bail before being released after arrest.

2248           (b) A holder of a commercial driver's license who is  
2249 convicted of operating a commercial motor vehicle with an alcohol  
2250 concentration of eight one-hundredths percent (.08%) or more shall  
2251 be guilty of a felony and shall be committed to the custody of the  
2252 Department of Corrections for not less than two (2) years and not  
2253 more than ten (10) years.



2254 (c) The court shall order an ignition-interlock  
2255 restriction on the offender's privilege to drive as a condition of  
2256 probation or post-release supervision not to exceed five (5) years  
2257 unless a longer restriction is required under other law. The  
2258 ignition-interlock restriction shall not be applied to commercial  
2259 license privileges until the driver serves the full  
2260 disqualification period required by Section 63-1-216.

2261 (6) **DUI citations.** (a) Upon conviction of a violation of  
2262 subsection (1) of this section, the trial judge shall sign in the  
2263 place provided on the traffic ticket, citation or affidavit  
2264 stating that the person arrested either employed an attorney or  
2265 waived his right to an attorney after having been properly  
2266 advised. If the person arrested employed an attorney, the name,  
2267 address and telephone number of the attorney shall be written on  
2268 the ticket, citation or affidavit. The court clerk must  
2269 immediately send a copy of the traffic ticket, citation or  
2270 affidavit, and any other pertinent documents concerning the  
2271 conviction or other order of the court, to the Department of  
2272 Public Safety as provided in Section 63-11-37.

2273 (b) A copy of the traffic ticket, citation or affidavit  
2274 and any other pertinent documents, having been attested as true  
2275 and correct by the Commissioner of Public Safety, or his designee,  
2276 shall be sufficient proof of the conviction for purposes of  
2277 determining the enhanced penalty for any subsequent convictions of  
2278 violations of subsection (1) of this section. The Department of



2279 Public Safety shall maintain a central database for verification  
2280 of prior offenses and convictions.

2281       (7) **Out-of-state prior convictions.** Convictions in another  
2282 state, territory or possession of the United States, or under the  
2283 law of a federally recognized Native American tribe, of violations  
2284 for driving or operating a vehicle while under the influence of an  
2285 intoxicating liquor or while under the influence of any other  
2286 substance that has impaired the person's ability to operate a  
2287 motor vehicle occurring within five (5) years before an offense  
2288 shall be counted for the purposes of determining if a violation of  
2289 subsection (1) of this section is a second, third, fourth or  
2290 subsequent offense and the penalty that shall be imposed upon  
2291 conviction for a violation of subsection (1) of this section.

2292       (8) **Charging of subsequent offenses.** (a) For the purposes  
2293 of determining how to impose the sentence for a second, third,  
2294 fourth or subsequent conviction under this section, the affidavit  
2295 or indictment shall not be required to enumerate previous  
2296 convictions. It shall only be necessary that the affidavit or  
2297 indictment states the number of times that the defendant has been  
2298 convicted and sentenced within the past five (5) years for a  
2299 second or third offense, or without a time limitation for a fourth  
2300 or subsequent offense, under this section to determine if an  
2301 enhanced penalty shall be imposed. The amount of fine and  
2302 imprisonment imposed in previous convictions shall not be



2303 considered in calculating offenses to determine a second, third,  
2304 fourth or subsequent offense of this section.

2305 (b) Before a defendant enters a plea of guilty to an  
2306 offense under this section, law enforcement must submit  
2307 certification to the prosecutor that the defendant's driving  
2308 record, the confidential registry and National Crime Information  
2309 Center record have been searched for all prior convictions,  
2310 nonadjudications, pretrial diversions and arrests for driving or  
2311 operating a vehicle while under the influence of an intoxicating  
2312 liquor or while under the influence of any other substance that  
2313 has impaired the person's ability to operate a motor vehicle. The  
2314 results of the search must be included in the certification.

2315 (9) **License eligibility for underage offenders.** A person  
2316 who is under the legal age to obtain a license to operate a motor  
2317 vehicle at the time of the offense and who is convicted under this  
2318 section shall not be eligible to receive a driver's license until  
2319 the person reaches the age of eighteen (18) years.

2320 (10) **License suspensions and restrictions to run**  
2321 **consecutively.** Suspension or restriction of driving privileges  
2322 for any person convicted of or nonadjudicated for violations of  
2323 subsection (1) of this section shall run consecutively to and not  
2324 concurrently with any other administrative license suspension.

2325 (11) **Ignition interlock.** If the court orders installation  
2326 and use of an ignition-interlock device as provided in Section  
2327 63-11-31 for every vehicle operated by a person convicted or



2328 nonadjudicated under this section, each device shall be installed,  
2329 maintained and removed as provided in Section 63-11-31.

2330           (12) **DUI child endangerment.** A person over the age of  
2331 twenty-one (21) who violates subsection (1) of this section while  
2332 transporting in a motor vehicle a child under the age of sixteen  
2333 (16) years is guilty of the separate offense of endangering a  
2334 child by driving under the influence of alcohol or any other  
2335 substance which has impaired the person's ability to operate a  
2336 motor vehicle. The offense of endangering a child by driving  
2337 under the influence of alcohol or any other substance which has  
2338 impaired the person's ability to operate a motor vehicle shall not  
2339 be merged with an offense of violating subsection (1) of this  
2340 section for the purposes of prosecution and sentencing. An  
2341 offender who is convicted of a violation of this subsection shall  
2342 be punished as follows:

2343           (a) A person who commits a violation of this subsection  
2344 which does not result in the serious injury or death of a child  
2345 and which is a first conviction shall be guilty of a misdemeanor  
2346 and, upon conviction, shall be fined not more than One Thousand  
2347 Dollars (\$1,000.00) or shall be imprisoned for not more than  
2348 twelve (12) months, or both;

2349           (b) A person who commits a violation of this subsection  
2350 which does not result in the serious injury or death of a child  
2351 and which is a second conviction shall be guilty of a misdemeanor  
2352 and, upon conviction, shall be fined not less than One Thousand



2353 Dollars (\$1,000.00) nor more than Five Thousand Dollars  
2354 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

2355 (c) A person who commits a violation of this subsection  
2356 which does not result in the serious injury or death of a child  
2357 and which is a third or subsequent conviction shall be guilty of a  
2358 felony and, upon conviction, shall be fined not less than Ten  
2359 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less  
2360 than one (1) year nor more than five (5) years, or both; and

2361 (d) A person who commits a violation of this subsection  
2362 which results in the serious injury or death of a child, without  
2363 regard to whether the offense was a first, second, third or  
2364 subsequent offense, shall be guilty of a felony and, upon  
2365 conviction, shall be punished by a fine of not less than Ten  
2366 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less  
2367 than five (5) years nor more than twenty-five (25) years.

2368 (13) **Expunction.** (a) Any person convicted under subsection  
2369 (2) or (3) of this section of a first offense of driving under the  
2370 influence and who was not the holder of a commercial driver's  
2371 license or a commercial learning permit at the time of the offense  
2372 may petition the circuit court of the county in which the  
2373 conviction was had for an order to expunge the record of the  
2374 conviction at least five (5) years after successful completion of  
2375 all terms and conditions of the sentence imposed for the  
2376 conviction. Expunction under this subsection will only be  
2377 available to a person:



2378 (i) Who has successfully completed all terms and  
2379 conditions of the sentence imposed for the conviction;

2380 (ii) Who did not refuse to submit to a test of his  
2381 blood or breath;

2382 (iii) Whose blood alcohol concentration tested  
2383 below sixteen one-hundredths percent (.16%) if test results are  
2384 available;

2385 (iv) Who has not been convicted of and does not  
2386 have pending any other offense of driving under the influence;

2387 (v) Who has provided the court with justification  
2388 as to why the conviction should be expunged; and

2389 (vi) Who has not previously had a nonadjudication  
2390 or expunction of a violation of this section.

2391 (b) A person is eligible for only one (1) expunction  
2392 under this subsection, and the Department of Public Safety shall  
2393 maintain a permanent confidential registry of all cases of  
2394 expunction under this subsection for the sole purpose of  
2395 determining a person's eligibility for expunction, for  
2396 nonadjudication, or as a first offender under this section.

2397 (c) The court in its order of expunction shall state in  
2398 writing the justification for which the expunction was granted and  
2399 forward the order to the Department of Public Safety within five  
2400 (5) days of the entry of the order.

2401 (14) **Nonadjudication.** (a) For the purposes of this  
2402 chapter, "nonadjudication" means that the court withholds





2403 adjudication of guilt and sentencing, either at the conclusion of  
2404 a trial on the merits or upon the entry of a plea of guilt by a  
2405 defendant, and places the defendant in a nonadjudication program  
2406 conditioned upon the successful completion of the requirements  
2407 imposed by the court under this subsection.

2408 (b) A person is eligible for nonadjudication of an  
2409 offense under this Section 63-11-30 only one (1) time under any  
2410 provision of a law that authorizes nonadjudication and only for an  
2411 offender:

2412 (i) Who has successfully completed all terms and  
2413 conditions imposed by the court after placement of the defendant  
2414 in a nonadjudication program;

2415 (ii) Who was not \* \* \* operating a  
2416 commercial \* \* \* motor vehicle at the time of the offense;

2417 (iii) Who has not previously been convicted of and  
2418 does not have pending any former or subsequent charges under this  
2419 section; and

2420 (iv) Who has provided the court with justification  
2421 as to why nonadjudication is appropriate.

2422 (c) Nonadjudication may be initiated upon the filing of  
2423 a petition for nonadjudication or at any stage of the proceedings  
2424 in the discretion of the court; the court may withhold  
2425 adjudication of guilt, defer sentencing, and upon the agreement of  
2426 the offender to participate in a nonadjudication program, enter an  
2427 order imposing requirements on the offender for a period of court



2428 supervision before the order of nonadjudication is entered.  
2429 Failure to successfully complete a nonadjudication program  
2430 subjects the person to adjudication of the charges against him and  
2431 to imposition of all penalties previously withheld due to entrance  
2432 into a nonadjudication program. The court shall immediately  
2433 inform the commissioner of the conviction as required in Section  
2434 63-11-37.

2435 (i) The court shall order the person to:

2436 1. Pay the nonadjudication fee imposed under  
2437 Section 63-11-31 if applicable;

2438 2. Pay all fines, penalties and assessments  
2439 that would have been imposed for conviction;

2440 3. Attend and complete an alcohol safety  
2441 education program as provided in Section 63-11-32 within six (6)  
2442 months of the date of the order;

2443 4. a. If the court determines that the  
2444 person violated this section with respect to alcohol or  
2445 intoxicating liquor, the person must install an ignition-interlock  
2446 device on every motor vehicle operated by the person, obtain an  
2447 interlock-restricted license, and maintain that license for one  
2448 hundred twenty (120) days or suffer a one-hundred-twenty-day  
2449 suspension of the person's regular driver's license, during which  
2450 time the person must not operate any vehicle.

2451 b. If the court determines that the  
2452 person violated this section by operating a vehicle when under the



2453 influence of a substance other than alcohol that has impaired the  
2454 person's ability to operate a motor vehicle, including any drug or  
2455 controlled substance which is unlawful to possess under the  
2456 Mississippi Controlled Substances Law, the person must submit to a  
2457 one-hundred-twenty-day period of a nonadjudication program that  
2458 includes court-ordered drug testing at the person's own expense  
2459 not less often than every thirty (30) days, during which time the  
2460 person may drive if compliant with the terms of the program, or  
2461 suffer a one-hundred-twenty-day suspension of the person's regular  
2462 driver's license, during which time the person will not operate  
2463 any vehicle.

2464                   (ii) Other conditions that may be imposed by the  
2465 court include, but are not limited to, alcohol or drug screening,  
2466 or both, proof that the person has not committed any other traffic  
2467 violations while under court supervision, proof of immobilization  
2468 or impoundment of vehicles owned by the offender if required, and  
2469 attendance at a victim-impact panel.

2470                   (d) The court may enter an order of nonadjudication  
2471 only if the court finds, after a hearing or after ex parte  
2472 examination of reliable documentation of compliance, that the  
2473 offender has successfully completed all conditions imposed by law  
2474 and previous orders of the court. The court shall retain  
2475 jurisdiction over cases involving nonadjudication for a period of  
2476 not more than two (2) years.



2477 (e) (i) The clerk shall immediately forward a record  
2478 of every person placed in a nonadjudication program and of every  
2479 nonadjudication order to the Department of Public Safety for  
2480 inclusion in the permanent confidential registry of all cases that  
2481 are nonadjudicated under this subsection (14).

2482 (ii) Judges, clerks and prosecutors involved in  
2483 the trial of implied consent violations and law enforcement  
2484 officers involved in the issuance of citations for implied consent  
2485 violations shall have secure online access to the confidential  
2486 registry for the purpose of determining whether a person has  
2487 previously been the subject of a nonadjudicated case and 1. is  
2488 therefore ineligible for another nonadjudication; 2. is ineligible  
2489 as a first offender for a violation of this section; or 3. is  
2490 ineligible for expunction of a conviction of a violation of this  
2491 section.

2492 (iii) The Driver Services Bureau of the department  
2493 shall have access to the confidential registry for the purpose of  
2494 determining whether a person is eligible for a form of license not  
2495 restricted to operating a vehicle equipped with an  
2496 ignition-interlock device.

2497 (iv) The Mississippi Alcohol Safety Education  
2498 Program shall have secure online access to the confidential  
2499 registry for research purposes only.

2500 **SECTION 27.** Section 99-15-26, Mississippi Code of 1972, is  
2501 amended as follows:



2502           99-15-26. (1) (a) In all criminal cases, felony and  
2503 misdemeanor, other than crimes against the person, a crime of  
2504 violence as defined in Section 97-3-2 or a violation of Section  
2505 97-11-31, the circuit or county court shall be empowered, upon the  
2506 entry of a plea of guilty by a criminal defendant made on or after  
2507 July 1, 2014, to withhold acceptance of the plea and sentence  
2508 thereon pending successful completion of such conditions as may be  
2509 imposed by the court pursuant to subsection (2) of this section.

2510           (b) In all misdemeanor criminal cases, other than  
2511 crimes against the person, the justice or municipal court shall be  
2512 empowered, upon the entry of a plea of guilty by a criminal  
2513 defendant, to withhold acceptance of the plea and sentence thereon  
2514 pending successful completion of such conditions as may be imposed  
2515 by the court pursuant to subsection (2) of this section.

2516           (c) Notwithstanding paragraph (a) of this subsection  
2517 (1), in all criminal cases charging a misdemeanor of domestic  
2518 violence as defined in Section 99-3-7(5), a circuit, county,  
2519 justice or municipal court shall be empowered, upon the entry of a  
2520 plea of guilty by the criminal defendant, to withhold acceptance  
2521 of the plea and sentence thereon pending successful completion of  
2522 such conditions as may be imposed by the court pursuant to  
2523 subsection (2) of this section.

2524           (d) No person having previously qualified under the  
2525 provisions of this section shall be eligible to qualify for  
2526 release in accordance with this section for a repeat offense. A



2527 person shall not be eligible to qualify for release in accordance  
2528 with this section if charged with the offense of trafficking of a  
2529 controlled substance as provided in Section 41-29-139(f) or if  
2530 charged with an offense under the Mississippi Implied Consent Law.  
2531 Violations under the Mississippi Implied Consent Law can only be  
2532 nonadjudicated under the provisions of Section 63-11-30.

2533 (2) (a) Conditions which the circuit, county, justice or  
2534 municipal court may impose under subsection (1) of this section  
2535 shall consist of:

2536 (i) Reasonable restitution to the victim of the  
2537 crime.

2538 (ii) Performance of not more than nine hundred  
2539 sixty (960) hours of public service work approved by the court.

2540 (iii) Payment of a fine not to exceed the  
2541 statutory limit.

2542 (iv) Successful completion of drug, alcohol,  
2543 psychological or psychiatric treatment, successful completion of a  
2544 program designed to bring about the cessation of domestic abuse,  
2545 or any combination thereof, if the court deems treatment  
2546 necessary.

2547 (v) The circuit or county court, in its  
2548 discretion, may require the defendant to remain in the program  
2549 subject to good behavior for a period of time not to exceed five  
2550 (5) years. The justice or municipal court, in its discretion, may



2551 require the defendant to remain in the program subject to good  
2552 behavior for a period of time not to exceed two (2) years.

2553 (b) Conditions which the circuit or county court may  
2554 impose under subsection (1) of this section also include  
2555 successful completion of an effective evidence-based program or a  
2556 properly controlled pilot study designed to contribute to the  
2557 evidence-based research literature on programs targeted at  
2558 reducing recidivism. Such program or pilot study may be community  
2559 based or institutionally based and should address risk factors  
2560 identified in a formal assessment of the offender's risks and  
2561 needs.

2562 (3) When the court has imposed upon the defendant the  
2563 conditions set out in this section, the court shall release the  
2564 bail bond, if any.

2565 (4) Upon successful completion of the court-imposed  
2566 conditions permitted by subsection (2) of this section, the court  
2567 shall direct that the cause be dismissed and the case be closed.

2568 \* \* \*

2569 **SECTION 28.** Section 99-15-59, Mississippi Code of 1972,  
2570 which provides that any person who is arrested, issued a citation,  
2571 or held for any misdemeanor and not formally charged or prosecuted  
2572 with an offense within twelve (12) months of arrest, or upon  
2573 dismissal of the charge, may apply to the court with jurisdiction  
2574 over the matter for the charges to be expunged, is repealed.



2575           **SECTION 29.** Section 99-19-71, Mississippi Code of 1972,  
2576 which provides for expunction of certain felony and misdemeanor  
2577 conviction records, is repealed.

2578           **SECTION 30.** Section 99-19-72, Mississippi Code of 1972,  
2579 which provides for filing fees for certain petitions for  
2580 expunction and the disposition thereof, is repealed.

2581           **SECTION 31.** This act shall take effect and be in force from  
2582 and after July 1, 2019.

