

Senate Amendments to House Bill No. 940

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

1 **AMEND** on line 32 by inserting after the word "larceny" the
2 **words** "of consigned motor fuels"

3 **AMEND** by inserting after line 33 the following and
4 **renumbering subsequent sections:**

5 **SECTION *.** Section 99-19-71, Mississippi Code of 1972, is
6 amended as follows:

7 99-19-71. (1) Any person who has been convicted of a
8 misdemeanor that is not a traffic violation, and who is a first
9 offender, may petition the justice, county, circuit or municipal
10 court in which the conviction was had for an order to expunge any
11 such conviction from all public records.

12 (2) (a) Any person who has been convicted of one (1) of the
13 following felonies may petition the court in which the conviction
14 was had for an order to expunge one (1) conviction from all public
15 records five (5) years after the successful completion of all
16 terms and conditions of the sentence for the conviction: a bad
17 check offense under Section 97-19-55; possession of a controlled
18 substance or paraphernalia under Section 41-29-139(c) or (d);

19 false pretense under Section 97-19-39; larceny under Section
20 97-17-41; larceny of consigned motor fuels under Section 4 of this
21 act; malicious mischief under Section 97-17-67; or shoplifting
22 under Section 97-23-93. A person is eligible for only one (1)
23 felony expunction under this paragraph.

24 (b) Any person who was under the age of twenty-one (21)
25 years when he committed a felony may petition the court in which
26 the conviction was had for an order to expunge one (1) conviction
27 from all public records five (5) years after the successful
28 completion of all terms and conditions of the sentence for the
29 conviction; however, eligibility for expunction shall not apply to
30 a felony classified as a crime of violence under Section 97-3-2
31 and any felony that, in the determination of the circuit court, is
32 related to the distribution of a controlled substance and in the
33 court's discretion it should not be expunged. A person is
34 eligible for only one (1) felony expunction under this paragraph.

35 (c) The petitioner shall give ten (10) days' written
36 notice to the district attorney before any hearing on the
37 petition. In all cases, the court wherein the petition is filed
38 may grant the petition if the court determines, on the record or
39 in writing, that the applicant is rehabilitated from the offense
40 which is the subject of the petition. In those cases where the
41 court denies the petition, the findings of the court in this
42 respect shall be identified specifically and not generally.

43 (3) Upon entering an order of expunction under this section,
44 a nonpublic record thereof shall be retained by the Mississippi
45 Criminal Information Center solely for the purpose of determining
46 whether, in subsequent proceedings, the person is a first
47 offender. The order of expunction shall not preclude a district
48 attorney's office from retaining a nonpublic record thereof for
49 law enforcement purposes only. The existence of an order of
50 expunction shall not preclude an employer from asking a
51 prospective employee if the employee has had an order of
52 expunction entered on his behalf. The effect of the expunction
53 order shall be to restore the person, in the contemplation of the
54 law, to the status he occupied before any arrest or indictment for
55 which convicted. No person as to whom an expunction order has
56 been entered shall be held thereafter under any provision of law
57 to be guilty of perjury or to have otherwise given a false
58 statement by reason of his failure to recite or acknowledge such
59 arrest, indictment or conviction in response to any inquiry made
60 of him for any purpose other than the purpose of determining, in
61 any subsequent proceedings under this section, whether the person
62 is a first offender. A person as to whom an order has been
63 entered, upon request, shall be required to advise the court, in
64 camera, of the previous conviction and expunction in any legal
65 proceeding wherein the person has been called as a prospective
66 juror. The court shall thereafter and before the selection of the
67 jury advise the attorneys representing the parties of the previous
68 conviction and expunction.

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

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

76 **FURTHER AMEND the title on line 7 by inserting after the**
77 **semicolon thereon the following:**

78 TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972, TO PROVIDE
79 FOR EXPUNGEMENT OF A CONVICTION OF LARCENY UNDER THIS ACT ON THE
80 SAME BASIS AS IS PROVIDED FOR LARCENIES GENERALLY;

SS36\HB940A.2J

Liz Welch
Secretary of the Senate