

Senate Amendments to House Bill No. 658

TO THE CLERK OF THE HOUSE:

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

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

6 **SECTION 1.** Section 99-19-71, Mississippi Code of 1972, is
7 amended as follows:

8 99-19-71. (1) **Misdemeanors.** Any person who has been
9 convicted of a misdemeanor that is not a traffic violation,
10 whether after a trial or after entry of a plea, and who is a first
11 offender, may petition the * * * court in which the conviction was
12 had for an order to expunge any such conviction from all public
13 records.

14 (2) **Felonies.** (a) Except as otherwise provided in this
15 subsection, a person who has been convicted of a felony and who
16 has paid all criminal fines and costs of court imposed in the
17 sentence of conviction may petition the court in which the
18 conviction was had for an order to expunge * * * any such
19 conviction from all public records * * * seven (7) years after the
20 successful completion of all terms and conditions of the sentence
21 for the conviction upon a hearing as determined in the discretion

22 of the court; however, a person is not eligible to expunge a
23 felony classified as:

24 (i) A crime of violence as provided in
25 Section 97-3-2;

26 (ii) Arson, first degree as provided in
27 Sections 97-17-1 and 97-17-3;

28 (iii) Trafficking in controlled substances as
29 provided in Section 41-29-139;

30 (iv) A third, fourth or subsequent offense
31 DUI as provided in Section 63-11-30(2)(c) and (2)(d);

32 (v) Felon in possession of a firearm as
33 provided in Section 97-37-5;

34 (vi) Failure to register as a sex offender as
35 provided in Section 45-33-33;

36 (vii) Voyeurism as provided in Section
37 97-29-61;

38 (viii) Witness intimidation as provided in
39 Section 97-9-113;

40 (ix) Abuse, neglect or exploitation of a
41 vulnerable person as provided in Section 43-47-19; or

42 (x) Embezzlement as provided in Sections
43 97-11-25 and 97-23-19.

44 * * *

45 (b) The petitioner shall give ten (10) days' written
46 notice to the district attorney before any hearing on the
47 petition. In all cases, the court wherein the petition is filed

48 may grant the petition if the court determines, on the record or
49 in writing, that the applicant is rehabilitated from the offense
50 which is the subject of the petition. In those cases where the
51 court denies the petition, the findings of the court in this
52 respect shall be identified specifically and not generally.

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

74 camera, of the previous conviction and expunction in any legal
75 proceeding wherein the person has been called as a prospective
76 juror. The court shall thereafter and before the selection of the
77 jury advise the attorneys representing the parties of the previous
78 conviction and expunction.

79 (4) Upon petition therefor, a justice, county, circuit or
80 municipal court shall expunge the record of any case in which an
81 arrest was made, the person arrested was released and the case was
82 dismissed or the charges were dropped or there was no disposition
83 of such case, or the person was found not guilty at trial.

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

86 (6) This section applies to all convictions not excluded
87 from eligibility whether entered before, on, or after the
88 effective date of this act.

89 **SECTION 2.** This act shall take effect and be in force from
90 and after July 1, 2020.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE EXPUNGEMENT OF MULTIPLE CONVICTIONS FOR CERTAIN
3 VIOLATIONS OF THE CONTROLLED SUBSTANCES LAW; AND FOR RELATED
4 PURPOSES.

SS26\HB658A.1J

Eugene S. Clarke
Secretary of the Senate