

By: Representatives Owen, Williams-Barnes,
Jackson, Karriem

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 122

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE FIRST OFFENDER RESTRICTIONS FOR MISDEMEANOR
3 EXPUNGEMENT; TO AUTHORIZE EXPUNGEMENT FOR UP TO THREE FELONY
4 CONVICTIONS IF 15 YEARS OR MORE HAVE PASSED SINCE A PERSON'S LAST
5 FELONY CONVICTION; TO PROVIDE RESTRICTIONS FOR SUCH EXPUNGEMENT;
6 AND FOR RELATED PURPOSES.

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

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

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

15 (2) (a) * * * A person who has been convicted of a felony
16 that is not otherwise excluded by this paragraph, and who has paid
17 all criminal fines and costs of court imposed in the sentence of
18 conviction may petition the court in which the conviction was had
19 for an order to expunge one (1) conviction from all public records
20 five (5) years after the successful completion of all terms and



21 conditions of the sentence for the conviction upon a hearing as
22 determined in the discretion of the court; however, a person is
23 not eligible to expunge a felony classified as:

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

26 (ii) Arson, first degree as provided in Sections
27 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 DUI as
31 provided in Section 63-11-30(2)(c) and (2)(d);

32 (v) Felon in possession of a firearm as provided
33 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 97-29-61;

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

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

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

43 A person is eligible for only one (1) felony expunction under
44 this paragraph, unless the provisions of paragraph (b) of this
45 subsection applies. For the purposes of this section, the terms



"one (1) conviction" and "one (1) felony expunction" mean and include all convictions that arose from a common nucleus of operative facts as determined in the discretion of the court.

(b) A person may have up to three (3) felony convictions expunged if the person: (i) has successfully completed all terms and conditions of the sentences for the convictions for which he or she seeks to expunge, (ii) has paid all criminal fines and costs of the court imposed in the sentences for each conviction that he or she seeks to expunge, (iii) has not been convicted of any other felony not less than fifteen (15) years since the person's last felony conviction, and (iv) does not seek to expunge a felony conviction that is excluded from expungement by paragraph (a) of this subsection (2). The terms "one (1) conviction" and "one (1) felony expunction" means the same as they are defined in subsection (2)(a) of this section.

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

(3) Upon entering an order of expunction under this section, a nonpublic record thereof shall be retained by the Mississippi



71 Criminal Information Center solely for the purpose of determining
72 whether, in subsequent proceedings, the person is a first
73 offender. The order of expunction shall not preclude a district
74 attorney's office from retaining a nonpublic record thereof for
75 law enforcement purposes only. The existence of an order of
76 expunction shall not preclude an employer from asking a
77 prospective employee if the employee has had an order of
78 expunction entered on his behalf. The effect of the expunction
79 order shall be to restore the person, in the contemplation of the
80 law, to the status he occupied before any arrest or indictment for
81 which convicted. No person as to whom an expunction order has
82 been entered shall be held thereafter under any provision of law
83 to be guilty of perjury or to have otherwise given a false
84 statement by reason of his failure to recite or acknowledge such
85 arrest, indictment or conviction in response to any inquiry made
86 of him for any purpose other than the purpose of determining, in
87 any subsequent proceedings under this section, whether the person
88 is a first offender. A person as to whom an order has been
89 entered, upon request, shall be required to advise the court, in
90 camera, of the previous conviction and expunction in any legal
91 proceeding wherein the person has been called as a prospective
92 juror. The court shall thereafter and before the selection of the
93 jury advise the attorneys representing the parties of the previous
94 conviction and expunction.



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

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

102 **SECTION 2.** This act shall take effect and be in force from
103 and after July 1, 2021.

