

By: Representative Burnett

To: Judiciary B

HOUSE BILL NO. 352

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE EXPUNGEMENT FOR A CONVICTION OF EMBEZZLEMENT BY A
3 STATE OFFICER OR COUNTY OFFICER, OR AN OFFICER OF ANY CITY, TOWN
4 OR VILLAGE 14 YEARS AFTER COMPLETION OF ALL TERMS FOR THE
5 CONVICTION OF SUCH CRIME; AND FOR RELATED PURPOSES.

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

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

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

14 (2) (a) Except as otherwise provided in this * * * section,
15 a person who has been convicted of a felony and who has paid all
16 criminal fines and costs of court imposed in the sentence of
17 conviction may petition the court in which the conviction was had
18 for an order to expunge one (1) conviction from all public records
19 five (5) years after the successful completion of all terms and



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

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

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

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

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

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

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

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

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

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

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

42 A person is eligible for only one (1) felony expunction under
43 this paragraph. For the purposes of this section, the terms "one
44 (1) conviction" and "one (1) felony expunction" mean and include



45 all convictions that arose from a common nucleus of operative
46 facts as determined in the discretion of the court.

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

55 (c) A person who has been convicted of felony
56 embezzlement under Section 97-23-19 or 97-23-25 and who has paid
57 all criminal fines and costs of court imposed in the sentence of
58 conviction may petition the court in which the conviction was had
59 for an order to expunge one (1) conviction from all public records
60 fourteen (14) years after the successful completion of all terms
61 and conditions of the sentence for the conviction upon a hearing
62 as determined in the discretion of the court. For purposes of
63 this section, the term "one (1) conviction" and "one (1) felony
64 expunction" means the same as provided in subsection (2)(a) of
65 this section.

66 (3) Upon entering an order of expunction under this section,
67 a nonpublic record thereof shall be retained by the Mississippi
68 Criminal Information Center solely for the purpose of determining
69 whether, in subsequent proceedings, the person is a first



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

92 (4) Upon petition therefor, a justice, county, circuit or
93 municipal court shall expunge the record of any case in which an
94 arrest was made, the person arrested was released and the case was



95 dismissed or the charges were dropped or there was no disposition
96 of such case, or the person was found not guilty at trial.

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

99 **SECTION 2.** This act shall take effect and be in force from
100 and after July 1, 2022.

