

By: Representatives Yates, Bell (65th)

To: Judiciary B

HOUSE BILL NO. 629

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,  
 2 TO CLARIFY EXPUNGEMENT PROCEDURES IN ALL COURTS, FOR PRE-TRIAL  
 3 DIVERSION PROGRAMS, DISMISSAL OF ARRESTS, DISMISSAL OF CHARGES AND  
 4 DUI CONVICTIONS; TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF  
 5 1972, TO REMOVE EXPUNGEMENT FROM THE PROVISION OF LAW THAT  
 6 PROVIDES FOR DUI PENALTIES; TO AMEND SECTION 99-15-123,  
 7 MISSISSIPPI CODE OF 1972, TO REMOVE REFERENCES TO EXPUNGEMENT IN  
 8 PRE-TRIAL COMPLETION LANGUAGE; TO AMEND SECTIONS 99-15-26,  
 9 41-29-150, 9-11-15 AND 21-23-7, MISSISSIPPI CODE OF 1972, TO  
 10 CONFORM TO THE PRECEDING SECTIONS; TO REPEAL SECTION 99-15-57,  
 11 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR EXPUNGEMENT WHEN  
 12 CASES ARE DISMISSED OR CHARGES ARE DROPPED; TO REPEAL SECTION  
 13 99-15-59, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE  
 14 EXPUNGEMENT OF THOSE PERSONS NOT FORMALLY CHARGED WITH A CRIME; TO  
 15 REPEAL SECTION 9-23-23, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
 16 FOR EXPUNGEMENT OF INTERVENTION COURT PARTICIPANTS UPON COMPLETION  
 17 OF INTERVENTION COURT; AND FOR RELATED PURPOSES.

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

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

21 99-19-71. (1) Any person who has been convicted of a  
 22 misdemeanor that is not a traffic violation, and who is a first  
 23 offender, may petition the justice, county, circuit or municipal  
 24 court in which the conviction was had for an order to expunge any  
 25 such conviction from all public records.



26           (2)   (a)   Except as otherwise provided in this subsection, a  
27 person who has been convicted of a felony and who has paid all  
28 criminal fines and costs of court imposed in the sentence of  
29 conviction may petition the court in which the conviction was had  
30 for an order to expunge one (1) conviction from all public records  
31 five (5) years after the successful completion of all terms and  
32 conditions of the sentence for the conviction upon a hearing as  
33 determined in the discretion of the court; however, a person is  
34 not eligible to expunge a felony classified as:

35                       (i)   A crime of violence as provided in Section  
36 97-3-2;

37                       (ii)   Arson, first degree as provided in Sections  
38 97-17-1 and 97-17-3;

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

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

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

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

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

48                       (viii)   Witness intimidation as provided in Section  
49 97-9-113;



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

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

54 A person is eligible for only one (1) felony expunction under  
55 this paragraph. For the purposes of this section, the terms "one  
56 (1) conviction" and "one (1) felony expunction" mean and include  
57 all convictions that arose from a common nucleus of operative  
58 facts as determined in the discretion of the court.

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

67 (3) Upon entering an order of expunction under this section,  
68 a nonpublic record thereof shall be retained by the Mississippi  
69 Criminal Information Center solely for the purpose of determining  
70 whether, in subsequent proceedings, the person is a first  
71 offender. The order of expunction shall not preclude a district  
72 attorney's office from retaining a nonpublic record thereof for  
73 law enforcement purposes only. The existence of an order of  
74 expunction shall not preclude an employer from asking a



75 prospective employee if the employee has had an order of  
76 expunction entered on his behalf. The effect of the expunction  
77 order shall be to restore the person, in the contemplation of the  
78 law, to the status he occupied before any arrest or indictment for  
79 which convicted. No person as to whom an expunction order has  
80 been entered shall be held thereafter under any provision of law  
81 to be guilty of perjury or to have otherwise given a false  
82 statement by reason of his failure to recite or acknowledge such  
83 arrest, indictment or conviction in response to any inquiry made  
84 of him for any purpose other than the purpose of determining, in  
85 any subsequent proceedings under this section, whether the person  
86 is a first offender. A person as to whom an order has been  
87 entered, upon request, shall be required to advise the court, in  
88 camera, of the previous conviction and expunction in any legal  
89 proceeding wherein the person has been called as a prospective  
90 juror. The court shall thereafter and before the selection of the  
91 jury advise the attorneys representing the parties of the previous  
92 conviction and expunction.

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

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



100       (6) (a) Any person who is arrested, issued a citation, or  
101 held for any misdemeanor and not formally charged or prosecuted  
102 with an offense within twelve (12) months of arrest, or upon  
103 dismissal of the charge, may apply to the court with jurisdiction  
104 over the matter for the charges to be expunged.

105       (b) Upon petition therefor to any court, the record  
106 shall be expunged of any case in which an arrest was made, the  
107 person arrested was released and the case was dismissed or the  
108 charges were dropped, there was no disposition of such case, or  
109 the person was found not guilty at trial.

110       (c) When a court dismisses a cause, closes a case or a  
111 person is found not guilty, the court shall expunge the person's  
112 record of the charge.

113       (7) Any person who pled guilty within six (6) months prior  
114 to March 31, 1983, and who would have otherwise been eligible for  
115 the relief allowed in Section 99-15-26, may apply to the court in  
116 which such person was sentenced for an order to expunge from all  
117 official public records all recordation relating to his arrest,  
118 indictment, trial, finding of guilty and sentence. If the court  
119 determines, after hearing, that such person has satisfactorily  
120 served his sentence or period of probation and parole, pled guilty  
121 within six (6) months prior to March 31, 1983, and would have  
122 otherwise been eligible for the relief allowed in Section  
123 99-15-26, it may enter such order. The effect of such order shall  
124 be to restore such person, in the contemplation of the law, to the



125 status he occupied before such arrest or indictment. No person as  
126 to whom such order has been entered shall be held thereafter under  
127 any provision of any law to be guilty of perjury or otherwise  
128 giving a false statement by reason of his failures to recite or  
129 acknowledge such arrest, or indictment or trial in response to any  
130 inquiry made of him for any purpose.

131 (8) Upon the dismissal of a person and discharge of  
132 proceedings against a person under Section 41-29-150(d), the  
133 person may apply to the court for an order to expunge from all  
134 official records, other than the nonpublic records to be retained  
135 by the bureau under subsection (d) of Section 41-29-150, all  
136 recordation relating to his arrest, indictment, trial, finding of  
137 guilt, and dismissal and discharge pursuant to this section. If  
138 the court determines, after hearing, that such person was  
139 dismissed and the proceedings against him discharged, or that the  
140 person had satisfactorily served his sentence or period of  
141 probation and parole, it shall enter an order of expunction. The  
142 effect of the order shall be to restore the person, in the  
143 contemplation of the law, to the status he occupied before such  
144 arrest or indictment. No person as to whom such an order has been  
145 entered shall be held thereafter under any provision of any law to  
146 be guilty of perjury or otherwise giving a false statement by  
147 reason of his failures to recite or acknowledge such arrest,  
148 indictment or trial in response to any inquiry made of him for any  
149 purpose. A person as to whom an order has been entered, upon



150 request, shall be required to advise the court, in camera, of the  
151 previous conviction and expunction in any legal proceeding wherein  
152 the person has been called as a prospective juror. The court  
153 shall thereafter and before the selection of the jury advise the  
154 attorneys representing the parties of the previous conviction and  
155 expunction.

156 (9) (a) The justice court may, in its discretion, upon  
157 prior notice to the county prosecutor and upon a showing in open  
158 court of rehabilitation, good conduct for a period of two (2)  
159 years since the last conviction in any court and that the best  
160 interest of society would be served, order the record of  
161 conviction of a person of any or all misdemeanors in that court  
162 expunged, and upon so doing, such person thereafter legally stands  
163 as though he or she had never been convicted of the misdemeanor(s)  
164 and may lawfully so respond to any query of prior convictions.  
165 This order of expunction does not apply to the confidential  
166 records of law enforcement agencies and has no effect on the  
167 driving record of a person maintained under Title 63, Mississippi  
168 Code of 1972, or any other provision of said Title 63.

169 (b) Notwithstanding the provisions of paragraph (a) of  
170 this subsection, a person who was convicted in justice court of a  
171 misdemeanor before reaching his twenty-third birthday, excluding  
172 conviction for a traffic violation, and who is a first offender,  
173 may utilize the provisions of subsection (1) of this section, to  
174 expunge such misdemeanor conviction.



175       (10) When an intervention court participant completes all  
176 requirements imposed upon him or her by an intervention court,  
177 including the payment of fines and fees assessed and not waived by  
178 the court, the charge and prosecution shall be dismissed. If the  
179 defendant or participant was sentenced at the time of entry of a  
180 plea of guilty, the successful completion of the intervention  
181 court order and other requirements of probation or suspension of  
182 sentence will result in the record of the criminal conviction or  
183 adjudication being expunged. However, no expunction of any  
184 implied consent violation shall be allowed.

185       (11) (a) Any municipal court, upon prior notice to the  
186 municipal prosecuting attorney and upon a showing in open court of  
187 rehabilitation, good conduct for a period of two (2) years since  
188 the last conviction in any court and that the best interest of  
189 society would be served, the court may, in its discretion, order  
190 the record of conviction of a person of any or all misdemeanors in  
191 that court expunged, and upon so doing the person thereafter  
192 legally stands as though he had never been convicted of the  
193 misdemeanor(s) and may lawfully so respond to any query of prior  
194 convictions. This order of expunction does not apply to the  
195 confidential records of law enforcement agencies and has no effect  
196 on the driving record of a person maintained under Title 63,  
197 Mississippi Code of 1972, or any other provision of said Title 63.

198       (b) Notwithstanding the provisions of paragraph (a) of  
199 this subsection, a person who was convicted in municipal court of





200 a misdemeanor before reaching his twenty-third birthday, excluding  
201 conviction for a traffic violation, and who is a first offender,  
202 may utilize the provisions of subsection (1) of this section to  
203 expunge such misdemeanor conviction.

204 (c) A municipal court judge shall expunge the record of  
205 any case in which an arrest was made, the person arrested was  
206 released and the case was dismissed or the charges were dropped,  
207 there was no disposition of such case or the person was found not  
208 guilty at trial.

209 (12) (a) Any person convicted under subsection (2) or (3)  
210 of Section 63-11-30 of a first offense of driving under the  
211 influence and who was not the holder of a commercial driver's  
212 license or a commercial learning permit at the time of the offense  
213 may petition the circuit court of the county in which the  
214 conviction occurred for an order to expunge the record of the  
215 conviction at least five (5) years after successful completion of  
216 all terms and conditions of the sentence imposed for the  
217 conviction. Expunction under this subsection will only be  
218 available to a person:

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

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



223 (iii) Whose blood alcohol concentration tested  
224 below sixteen one-hundredths percent (.16%) if test results are  
225 available;

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

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

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

232 (b) A person is eligible for only one (1) expunction  
233 under this subsection, and the Department of Public Safety shall  
234 maintain a permanent confidential registry of all cases of  
235 expunction under this subsection for the sole purpose of  
236 determining a person's eligibility for expunction, for  
237 nonadjudication, or as a first offender under this section.

238 (c) The court in its order of expunction shall state in  
239 writing the justification for which the expunction was granted and  
240 forward the order to the Department of Public Safety within five  
241 (5) days of the entry of the order.

242 **SECTION 2.** Section 63-11-30, Mississippi Code of 1972, is  
243 amended as follows:

244 63-11-30. (1) It is unlawful for a person to drive or  
245 otherwise operate a vehicle within this state if the person:

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



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

249 (c) Is under the influence of any drug or controlled  
250 substance, the possession of which is unlawful under the  
251 Mississippi Controlled Substances Law; or

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

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

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

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

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

267 (a) **First offense DUI.** (i) Upon conviction of any  
268 person for the first offense of violating subsection (1) of this  
269 section where chemical tests under Section 63-11-5 were given, or  
270 where chemical test results are not available, the person shall be  
271 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more



272 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
273 than forty-eight (48) hours in jail, or both; the court shall  
274 order the person to attend and complete an alcohol safety  
275 education program as provided in Section 63-11-32 within six (6)  
276 months of sentencing. The court may substitute attendance at a  
277 victim impact panel instead of forty-eight (48) hours in jail.

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

280 (iii) A qualifying first offense may be  
281 nonadjudicated by the court under subsection (14) of this section.  
282 The holder of a commercial driver's license or a commercial  
283 learning permit at the time of the offense is ineligible for  
284 nonadjudication.

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

288 (b) **Second offense DUI.** (i) Upon any second  
289 conviction of any person violating subsection (1) of this section,  
290 the offenses being committed within a period of five (5) years,  
291 the person shall be guilty of a misdemeanor, fined not less than  
292 Six Hundred Dollars (\$600.00) nor more than One Thousand Five  
293 Hundred Dollars (\$1,500.00), shall be imprisoned not less than  
294 five (5) days nor more than six (6) months and sentenced to  
295 community service work for not less than ten (10) days nor more  
296 than six (6) months. The minimum penalties shall not be suspended



297 or reduced by the court and no prosecutor shall offer any  
298 suspension or sentence reduction as part of a plea bargain.

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

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

304 (c) **Third offense DUI.** (i) For a third conviction of  
305 a person for violating subsection (1) of this section, the  
306 offenses being committed within a period of five (5) years, the  
307 person shall be guilty of a felony and fined not less than Two  
308 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars  
309 (\$5,000.00), and shall serve not less than one (1) year nor more  
310 than five (5) years in the custody of the Department of  
311 Corrections. For any offense that does not result in serious  
312 injury or death to any person, the sentence of incarceration may  
313 be served in the county jail rather than in the State Penitentiary  
314 at the discretion of the circuit court judge. The minimum  
315 penalties shall not be suspended or reduced by the court and no  
316 prosecutor shall offer any suspension or sentence reduction as  
317 part of a plea bargain.

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

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



322 (d) **Fourth and subsequent offense DUI.** (i) For any  
323 fourth or subsequent conviction of a violation of subsection (1)  
324 of this section, without regard to the time period within which  
325 the violations occurred, the person shall be guilty of a felony  
326 and fined not less than Three Thousand Dollars (\$3,000.00) nor  
327 more than Ten Thousand Dollars (\$10,000.00), and shall serve not  
328 less than two (2) years nor more than ten (10) years in the  
329 custody of the Department of Corrections.

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

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

336 (e) Any person convicted of a second or subsequent  
337 violation of subsection (1) of this section shall receive an  
338 in-depth diagnostic assessment, and if as a result of the  
339 assessment is determined to be in need of treatment for alcohol or  
340 drug abuse, the person must successfully complete treatment at a  
341 program site certified by the Department of Mental Health. Each  
342 person who receives a diagnostic assessment shall pay a fee  
343 representing the cost of the assessment. Each person who  
344 participates in a treatment program shall pay a fee representing  
345 the cost of treatment.



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

348 (3) **Zero Tolerance for Minors.** (a) This subsection shall  
349 be known and may be cited as Zero Tolerance for Minors. The  
350 provisions of this subsection shall apply only when a person under  
351 the age of twenty-one (21) years has a blood alcohol concentration  
352 of two one-hundredths percent (.02%) or more, but lower than eight  
353 one-hundredths percent (.08%). If the person's blood alcohol  
354 concentration is eight one-hundredths percent (.08%) or more, the  
355 provisions of subsection (2) shall apply.

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

359 (ii) Upon conviction of any person under the age  
360 of twenty-one (21) years for the first offense of violating  
361 subsection (1) of this section where chemical tests provided for  
362 under Section 63-11-5 were given, or where chemical test results  
363 are not available, the person shall be fined Two Hundred Fifty  
364 Dollars (\$250.00); the court shall order the person to attend and  
365 complete an alcohol safety education program as provided in  
366 Section 63-11-32 within six (6) months. The court may also  
367 require attendance at a victim impact panel.

368 (c) A person under the age of twenty-one (21) years who  
369 is convicted of a second violation of subsection (1) of this  
370 section, the offenses being committed within a period of five (5)



371 years, shall be fined not more than Five Hundred Dollars  
372 (\$500.00).

373 (d) A person under the age of twenty-one (21) years who  
374 is convicted of a third or subsequent violation of subsection (1)  
375 of this section, the offenses being committed within a period of  
376 five (5) years, shall be fined not more than One Thousand Dollars  
377 (\$1,000.00).

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

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

384 (4) **DUI test refusal.** In addition to the other penalties  
385 provided in this section, every person refusing a law enforcement  
386 officer's request to submit to a chemical test of the person's  
387 breath as provided in this chapter, or who was unconscious at the  
388 time of a chemical test and refused to consent to the introduction  
389 of the results of the test in any prosecution, shall suffer an  
390 additional administrative suspension of driving privileges as set  
391 forth in Section 63-11-23.

392 (5) **Aggravated DUI.** (a) Every person who operates any  
393 motor vehicle in violation of the provisions of subsection (1) of  
394 this section and who in a negligent manner causes the death of  
395 another or mutilates, disfigures, permanently disables or destroys





396 the tongue, eye, lip, nose or any other limb, organ or member of  
397 another shall, upon conviction, be guilty of a separate felony for  
398 each victim who suffers death, mutilation, disfigurement or other  
399 injury and shall be committed to the custody of the State  
400 Department of Corrections for a period of time of not less than  
401 five (5) years and not to exceed twenty-five (25) years for each  
402 death, mutilation, disfigurement or other injury, and the  
403 imprisonment for the second or each subsequent conviction, in the  
404 discretion of the court, shall commence either at the termination  
405 of the imprisonment for the preceding conviction or run  
406 concurrently with the preceding conviction. Any person charged  
407 with causing the death of another as described in this subsection  
408 shall be required to post bail before being released after arrest.

409 (b) A holder of a commercial driver's license who is  
410 convicted of operating a commercial motor vehicle with an alcohol  
411 concentration of eight one- \* \* \* hundredths percent (.08%) or more  
412 shall be guilty of a felony and shall be committed to the custody  
413 of the Department of Corrections for not less than two (2) years  
414 and not more than ten (10) years.

415 (c) The court shall order an ignition-interlock  
416 restriction on the offender's privilege to drive as a condition of  
417 probation or post-release supervision not to exceed five (5) years  
418 unless a longer restriction is required under other law. The  
419 ignition-interlock restriction shall not be applied to commercial



420 license privileges until the driver serves the full  
421 disqualification period required by Section 63-1-216.

422       (6) **DUI citations.** (a) Upon conviction of a violation of  
423 subsection (1) of this section, the trial judge shall sign in the  
424 place provided on the traffic ticket, citation or affidavit  
425 stating that the person arrested either employed an attorney or  
426 waived his right to an attorney after having been properly  
427 advised. If the person arrested employed an attorney, the name,  
428 address and telephone number of the attorney shall be written on  
429 the ticket, citation or affidavit. The court clerk must  
430 immediately send a copy of the traffic ticket, citation or  
431 affidavit, and any other pertinent documents concerning the  
432 conviction or other order of the court, to the Department of  
433 Public Safety as provided in Section 63-11-37.

434       (b) A copy of the traffic ticket, citation or affidavit  
435 and any other pertinent documents, having been attested as true  
436 and correct by the Commissioner of Public Safety, or his designee,  
437 shall be sufficient proof of the conviction for purposes of  
438 determining the enhanced penalty for any subsequent convictions of  
439 violations of subsection (1) of this section. The Department of  
440 Public Safety shall maintain a central database for verification  
441 of prior offenses and convictions.

442       (7) **Out-of-state prior convictions.** Convictions in another  
443 state, territory or possession of the United States, or under the  
444 law of a federally recognized Native American tribe, of violations



445 for driving or operating a vehicle while under the influence of an  
446 intoxicating liquor or while under the influence of any other  
447 substance that has impaired the person's ability to operate a  
448 motor vehicle occurring within five (5) years before an offense  
449 shall be counted for the purposes of determining if a violation of  
450 subsection (1) of this section is a second, third, fourth or  
451 subsequent offense and the penalty that shall be imposed upon  
452 conviction for a violation of subsection (1) of this section.

453       (8) **Charging of subsequent offenses.** (a) For the purposes  
454 of determining how to impose the sentence for a second, third,  
455 fourth or subsequent conviction under this section, the affidavit  
456 or indictment shall not be required to enumerate previous  
457 convictions. It shall only be necessary that the affidavit or  
458 indictment states the number of times that the defendant has been  
459 convicted and sentenced within the past five (5) years for a  
460 second or third offense, or without a time limitation for a fourth  
461 or subsequent offense, under this section to determine if an  
462 enhanced penalty shall be imposed. The amount of fine and  
463 imprisonment imposed in previous convictions shall not be  
464 considered in calculating offenses to determine a second, third,  
465 fourth or subsequent offense of this section.

466       (b) Before a defendant enters a plea of guilty to an  
467 offense under this section, law enforcement must submit  
468 certification to the prosecutor that the defendant's driving  
469 record, the confidential registry and National Crime Information



470 Center record have been searched for all prior convictions,  
471 nonadjudications, pretrial diversions and arrests for driving or  
472 operating a vehicle while under the influence of an intoxicating  
473 liquor or while under the influence of any other substance that  
474 has impaired the person's ability to operate a motor vehicle. The  
475 results of the search must be included in the certification.

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

481 (10) **License suspensions and restrictions to run**  
482 **consecutively.** Suspension or restriction of driving privileges  
483 for any person convicted of or nonadjudicated for violations of  
484 subsection (1) of this section shall run consecutively to and not  
485 concurrently with any other administrative license suspension.

486 (11) **Ignition interlock.** If the court orders installation  
487 and use of an ignition-interlock device as provided in Section  
488 63-11-31 for every vehicle operated by a person convicted or  
489 nonadjudicated under this section, each device shall be installed,  
490 maintained and removed as provided in Section 63-11-31.

491 (12) **DUI child endangerment.** A person over the age of  
492 twenty-one (21) who violates subsection (1) of this section while  
493 transporting in a motor vehicle a child under the age of sixteen  
494 (16) years is guilty of the separate offense of endangering a



495 child by driving under the influence of alcohol or any other  
496 substance which has impaired the person's ability to operate a  
497 motor vehicle. The offense of endangering a child by driving  
498 under the influence of alcohol or any other substance which has  
499 impaired the person's ability to operate a motor vehicle shall not  
500 be merged with an offense of violating subsection (1) of this  
501 section for the purposes of prosecution and sentencing. An  
502 offender who is convicted of a violation of this subsection shall  
503 be punished as follows:

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

510 (b) A person who commits a violation of this subsection  
511 which does not result in the serious injury or death of a child  
512 and which is a second conviction shall be guilty of a misdemeanor  
513 and, upon conviction, shall be fined not less than One Thousand  
514 Dollars (\$1,000.00) nor more than Five Thousand Dollars  
515 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

516 (c) A person who commits a violation of this subsection  
517 which does not result in the serious injury or death of a child  
518 and which is a third or subsequent conviction shall be guilty of a  
519 felony and, upon conviction, shall be fined not less than Ten



520 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less  
521 than one (1) year nor more than five (5) years, or both; and

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

529 \* \* \*

530 ( \* \* \*13) **Nonadjudication.** (a) For the purposes of this  
531 chapter, "nonadjudication" means that the court withholds  
532 adjudication of guilt and sentencing, either at the conclusion of  
533 a trial on the merits or upon the entry of a plea of guilt by a  
534 defendant, and places the defendant in a nonadjudication program  
535 conditioned upon the successful completion of the requirements  
536 imposed by the court under this subsection.

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

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



544 (ii) Who was not the holder of a commercial  
545 driver's license or a commercial learning permit at the time of  
546 the offense;

547 (iii) Who has not previously been convicted of and  
548 does not have pending any former or subsequent charges under this  
549 section; and

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

552 (c) Nonadjudication may be initiated upon the filing of  
553 a petition for nonadjudication or at any stage of the proceedings  
554 in the discretion of the court; the court may withhold  
555 adjudication of guilt, defer sentencing, and upon the agreement of  
556 the offender to participate in a nonadjudication program, enter an  
557 order imposing requirements on the offender for a period of court  
558 supervision before the order of nonadjudication is entered.  
559 Failure to successfully complete a nonadjudication program  
560 subjects the person to adjudication of the charges against him and  
561 to imposition of all penalties previously withheld due to entrance  
562 into a nonadjudication program. The court shall immediately  
563 inform the commissioner of the conviction as required in Section  
564 63-11-37.

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

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



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

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

573                   4. a. If the court determines that the  
574 person violated this section with respect to alcohol or  
575 intoxicating liquor, the person must install an ignition-interlock  
576 device on every motor vehicle operated by the person, obtain an  
577 interlock-restricted license, and maintain that license for one  
578 hundred twenty (120) days or suffer a one-hundred-twenty-day  
579 suspension of the person's regular driver's license, during which  
580 time the person must not operate any vehicle.

581                   b. If the court determines that the  
582 person violated this section by operating a vehicle when under the  
583 influence of a substance other than alcohol that has impaired the  
584 person's ability to operate a motor vehicle, including any drug or  
585 controlled substance which is unlawful to possess under the  
586 Mississippi Controlled Substances Law, the person must submit to a  
587 one-hundred-twenty-day period of a nonadjudication program that  
588 includes court-ordered drug testing at the person's own expense  
589 not less often than every thirty (30) days, during which time the  
590 person may drive if compliant with the terms of the program, or  
591 suffer a one-hundred-twenty-day suspension of the person's regular





592 driver's license, during which time the person will not operate  
593 any vehicle.

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

600 (d) The court may enter an order of nonadjudication  
601 only if the court finds, after a hearing or after ex parte  
602 examination of reliable documentation of compliance, that the  
603 offender has successfully completed all conditions imposed by law  
604 and previous orders of the court. The court shall retain  
605 jurisdiction over cases involving nonadjudication for a period of  
606 not more than two (2) years.

607 (e) (i) The clerk shall immediately forward a record  
608 of every person placed in a nonadjudication program and of every  
609 nonadjudication order to the Department of Public Safety for  
610 inclusion in the permanent confidential registry of all cases that  
611 are nonadjudicated under this subsection ( \* \* \*13).

612 (ii) Judges, clerks and prosecutors involved in  
613 the trial of implied consent violations and law enforcement  
614 officers involved in the issuance of citations for implied consent  
615 violations shall have secure online access to the confidential  
616 registry for the purpose of determining whether a person has



617 previously been the subject of a nonadjudicated case and 1. is  
618 therefore ineligible for another nonadjudication; 2. is ineligible  
619 as a first offender for a violation of this section; or 3. is  
620 ineligible for expunction of a conviction of a violation of this  
621 section.

622 (iii) The Driver Services Bureau of the department  
623 shall have access to the confidential registry for the purpose of  
624 determining whether a person is eligible for a form of license not  
625 restricted to operating a vehicle equipped with an  
626 ignition-interlock device.

627 (iv) The Mississippi Alcohol Safety Education  
628 Program shall have secure online access to the confidential  
629 registry for research purposes only.

630 **SECTION 3.** Section 99-15-123, Mississippi Code of 1972, is  
631 amended as follows:

632 99-15-123. (1) In the event an offender successfully  
633 completes a pretrial intervention program, the court shall make a  
634 noncriminal disposition of the charge or charges pending against  
635 the offender.

636 (2) In the event the offender violates the conditions of the  
637 program agreement: (a) the district attorney may terminate the  
638 offender's participation in the program, (b) the waiver executed  
639 pursuant to Section 99-15-115 shall be void on the date the  
640 offender is removed from the program for the violation, and (c)



641 the prosecution of pending criminal charges against the offender  
642 shall be resumed by the district attorney.

643 \* \* \*

644 **SECTION 4.** Section 99-15-26, Mississippi Code of 1972, is  
645 amended as follows:

646 99-15-26. (1) (a) In all criminal cases, felony and  
647 misdemeanor, other than crimes against the person, a crime of  
648 violence as defined in Section 97-3-2, a violation of Section  
649 97-11-31, or crimes in which a person unlawfully takes, obtains or  
650 misappropriates funds received by or entrusted to the person by  
651 virtue of his or her public office or employment, the circuit or  
652 county court shall be empowered, upon the entry of a plea of  
653 guilty by a criminal defendant made on or after July 1, 2014, to  
654 withhold acceptance of the plea and sentence thereon pending  
655 successful completion of such conditions as may be imposed by the  
656 court pursuant to subsection (2) of this section.

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

663 (c) Notwithstanding paragraph (a) of this subsection  
664 (1), in all criminal cases charging a misdemeanor of domestic  
665 violence as defined in Section 99-3-7(5), a circuit, county,



666 justice or municipal court shall be empowered, upon the entry of a  
667 plea of guilty by the criminal defendant, to withhold acceptance  
668 of the plea and sentence thereon pending successful completion of  
669 such conditions as may be imposed by the court pursuant to  
670 subsection (2) of this section.

671 (d) No person having previously qualified under the  
672 provisions of this section shall be eligible to qualify for  
673 release in accordance with this section for a repeat offense. A  
674 person shall not be eligible to qualify for release in accordance  
675 with this section if charged with the offense of trafficking of a  
676 controlled substance as provided in Section 41-29-139(f) or if  
677 charged with an offense under the Mississippi Implied Consent Law.  
678 Violations under the Mississippi Implied Consent Law can only be  
679 nonadjudicated under the provisions of Section 63-11-30.

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

683 (i) Reasonable restitution to the victim of the  
684 crime.

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

687 (iii) Payment of a fine not to exceed the  
688 statutory limit.

689 (iv) Successful completion of drug, alcohol,  
690 psychological or psychiatric treatment, successful completion of a



691 program designed to bring about the cessation of domestic abuse,  
692 or any combination thereof, if the court deems treatment  
693 necessary.

694 (v) The circuit or county court, in its  
695 discretion, may require the defendant to remain in the program  
696 subject to good behavior for a period of time not to exceed five  
697 (5) years. The justice or municipal court, in its discretion, may  
698 require the defendant to remain in the program subject to good  
699 behavior for a period of time not to exceed two (2) years.

700 (b) Conditions which the circuit or county court may  
701 impose under subsection (1) of this section also include  
702 successful completion of an effective evidence-based program or a  
703 properly controlled pilot study designed to contribute to the  
704 evidence-based research literature on programs targeted at  
705 reducing recidivism. Such program or pilot study may be community  
706 based or institutionally based and should address risk factors  
707 identified in a formal assessment of the offender's risks and  
708 needs.

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

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

715 \* \* \*



716           **SECTION 5.** Section 41-29-150, Mississippi Code of 1972, is  
717 amended as follows:

718           41-29-150. (a) Any person convicted under Section 41-29-139  
719 may be required, in the discretion of the court, as a part of the  
720 sentence otherwise imposed, or in lieu of imprisonment in cases of  
721 probation or suspension of sentence, to attend a course of  
722 instruction conducted by the bureau, the State Board of Health, or  
723 any similar agency, on the effects, medically, psychologically and  
724 socially, of the misuse of controlled substances. The course may  
725 be conducted at any correctional institution, detention center or  
726 hospital, or at any center or treatment facility established for  
727 the purpose of education and rehabilitation of those persons  
728 committed because of abuse of controlled substances.

729           (b) Any person convicted under Section 41-29-139 who is  
730 found to be dependent upon or addicted to any controlled substance  
731 shall be required, as a part of the sentence otherwise imposed, or  
732 in lieu of imprisonment in cases of parole, probation or  
733 suspension of sentence, to receive medical treatment for such  
734 dependency or addiction. The regimen of medical treatment may  
735 include confinement in a medical facility of any correctional  
736 institution, detention center or hospital, or at any center or  
737 facility established for treatment of those persons committed  
738 because of a dependence or addiction to controlled substances.

739           (c) Those persons previously convicted of a felony under  
740 Section 41-29-139 and who are now confined at the Mississippi



741 State Hospital at Whitfield, Mississippi, or at the East  
742 Mississippi State Hospital at Meridian, Mississippi, for the term  
743 of their sentence shall remain under the jurisdiction of the  
744 Mississippi Department of Corrections and shall be required to  
745 abide by all reasonable rules and regulations promulgated by the  
746 director and staff of said institutions and of the Department of  
747 Corrections. Any persons so confined who shall refuse to abide by  
748 said rules or who attempt an escape or who shall escape shall be  
749 transferred to the State Penitentiary or to a county jail, where  
750 appropriate, to serve the remainder of the term of imprisonment;  
751 this provision shall not preclude prosecution and conviction for  
752 escape from said institutions.

753 (d) \* \* \* If any person who has not previously been  
754 convicted of violating Section 41-29-139, or the laws of the  
755 United States or of another state relating to narcotic drugs,  
756 stimulant or depressant substances, other controlled substances or  
757 marihuana is found to be guilty of a violation of subsection (c)  
758 or (d) of Section 41-29-139, after trial or upon a plea of guilty,  
759 the court may, without entering a judgment of guilty and with the  
760 consent of such person, defer further proceedings and place him on  
761 probation upon such reasonable conditions as it may require and  
762 for such period, not to exceed three (3) years, as the court may  
763 prescribe. Upon violation of a condition of the probation, the  
764 court may enter an adjudication of guilt and proceed as otherwise  
765 provided. The court may, in its discretion, dismiss the



766 proceedings against such person and discharge him from probation  
767 before the expiration of the maximum period prescribed for such  
768 person's probation. If during the period of his probation such  
769 person does not violate any of the conditions of the probation,  
770 then upon expiration of such period the court shall discharge such  
771 person and dismiss the proceedings against him. Discharge and  
772 dismissal under this subsection shall be without court  
773 adjudication of guilt, but a nonpublic record thereof shall be  
774 retained by the bureau solely for the purpose of use by the courts  
775 in determining whether or not, in subsequent proceedings, such  
776 person qualifies under this subsection. Such discharge or  
777 dismissal shall not be deemed a conviction for purposes of  
778 disqualifications or disabilities imposed by law upon conviction  
779 of a crime, including the penalties prescribed under this article  
780 for second or subsequent conviction, or for any other purpose.  
781 Discharge and dismissal under this subsection may occur only once  
782 with respect to any person; and

783 \* \* \*

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

788 (f) It shall be unlawful for any person confined under the  
789 provisions of subsection (b) or (c) of this section to escape or  
790 attempt to escape from said institution, and, upon conviction,





791 said person shall be guilty of a felony and shall be imprisoned  
792 for a term not to exceed two (2) years.

793 (g) It is the intent and purpose of the Legislature to  
794 promote the rehabilitation of persons convicted of offenses under  
795 the Uniform Controlled Substances Law.

796 **SECTION 6.** Section 9-11-15, Mississippi Code of 1972, is  
797 amended as follows:

798 9-11-15. (1) Justice court judges shall hold regular terms  
799 of their courts, at such times as they may appoint, not exceeding  
800 two (2) and not less than one (1) in every month, at the  
801 appropriate justice court courtroom established by the board of  
802 supervisors; and they may continue to hold their courts from day  
803 to day so long as business may require; and all process shall be  
804 returnable, and all trials shall take place at such regular terms,  
805 except where it is otherwise provided; but where the defendant is  
806 a nonresident or transient person, and it shall be shown by the  
807 oath of either party that a delay of the trial until the regular  
808 term will be of material injury to him, it shall be lawful for the  
809 judge to have the parties brought before him at any reasonable  
810 time and hear the evidence and give judgment or where the  
811 defendant is a nonresident or transient person and the judge and  
812 all parties agree, it shall be lawful for the judge to have the  
813 parties brought before him on the day a citation is made and hear  
814 the evidence and give judgment. Such court shall be a court of  
815 record, with all the power incident to a court of record,



816 including power to fine in the amount of fine and length of  
817 imprisonment as is authorized for a municipal court in Section  
818 21-23-7(11) for contempt of court.

819         (2) (a) In counties with a population of less than one  
820 hundred fifty thousand (150,000), each justice court shall  
821 designate at least one-half (1/2) day each month as a traffic  
822 court day, sufficient to handle the traffic violations docket of  
823 that court, and shall notify all appropriate law enforcement  
824 agencies of the date or dates. On the day or days so designated,  
825 the justice court shall give priority to all cases involving  
826 traffic violations.

827         (b) In counties with a population of one hundred fifty  
828 thousand (150,000) or more, each justice court shall designate at  
829 least one (1) day each month as a traffic court day, sufficient to  
830 handle the traffic violations of that court, and shall notify all  
831 appropriate law enforcement agencies of the date or dates. On the  
832 day or days so designated, the justice court shall give priority  
833 to all cases involving traffic violations. The one (1) day may be  
834 one (1) whole day or it may be divided into half days as long as  
835 one-half (1/2) day is held in the morning and one-half (1/2) day  
836 is held in the afternoon, in the discretion of the court.

837         \* \* \*

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



840           21-23-7. (1) The municipal judge shall hold court in a  
841 public building designated by the governing authorities of the  
842 municipality, or may hold court in an adult detention center as  
843 provided under this subsection, and may hold court every day  
844 except Sundays and legal holidays if the business of the  
845 municipality so requires; provided, however, the municipal judge  
846 may hold court outside the boundaries of the municipality but not  
847 more than within a sixty-mile radius of the municipality to handle  
848 preliminary matters and criminal matters such as initial  
849 appearances and felony preliminary hearings. The municipal judge  
850 may hold court outside the boundaries of the municipality but not  
851 more than within a one-mile radius of the municipality for any  
852 purpose; however, a municipal judge may hold court outside the  
853 boundaries of the municipality more than within a one-mile radius  
854 of the municipality when accepting a plea of a defendant at an  
855 adult detention center within the county. The municipal judge  
856 shall have the jurisdiction to hear and determine, without a jury  
857 and without a record of the testimony, all cases charging  
858 violations of the municipal ordinances and state misdemeanor laws  
859 made offenses against the municipality and to punish offenders  
860 therefor as may be prescribed by law. Except as otherwise  
861 provided by law, criminal proceedings shall be brought by sworn  
862 complaint filed in the municipal court. Such complaint shall  
863 state the essential elements of the offense charged and the  
864 statute or ordinance relied upon. Such complaint shall not be



865 required to conclude with a general averment that the offense is  
866 against the peace and dignity of the state or in violation of the  
867 ordinances of the municipality. He may sit as a committing court  
868 in all felonies committed within the municipality, and he shall  
869 have the power to bind over the accused to the grand jury or to  
870 appear before the proper court having jurisdiction to try the  
871 same, and to set the amount of bail or refuse bail and commit the  
872 accused to jail in cases not bailable. The municipal judge is a  
873 conservator of the peace within his municipality. He may conduct  
874 preliminary hearings in all violations of the criminal laws of  
875 this state occurring within the municipality, and any person  
876 arrested for a violation of law within the municipality may be  
877 brought before him for initial appearance. The municipal court  
878 shall have jurisdiction of any case remanded to it by a circuit  
879 court grand jury. The municipal court shall have civil  
880 jurisdiction over actions filed pursuant to and as provided in  
881 Chapter 21, Title 93, \* \* \* Mississippi Code of 1972, the  
882 Protection from Domestic Abuse Act.

883 (2) In the discretion of the court, where the objects of  
884 justice would be more likely met, as an alternative to imposition  
885 or payment of fine and/or incarceration, the municipal judge shall  
886 have the power to sentence convicted offenders to work on a public  
887 service project where the court has established such a program of  
888 public service by written guidelines filed with the clerk for  
889 public record. Such programs shall provide for reasonable



890 supervision of the offender and the work shall be commensurate  
891 with the fine and/or incarceration that would have ordinarily been  
892 imposed. Such program of public service may be utilized in the  
893 implementation of the provisions of Section 99-19-20, and public  
894 service work thereunder may be supervised by persons other than  
895 the sheriff.

896 (3) The municipal judge may solemnize marriages, take oaths,  
897 affidavits and acknowledgments, and issue orders, subpoenas,  
898 summonses, citations, warrants for search and arrest upon a  
899 finding of probable cause, and other such process under seal of  
900 the court to any county or municipality, in a criminal case, to be  
901 executed by the lawful authority of the county or the municipality  
902 of the respondent, and enforce obedience thereto. The absence of  
903 a seal shall not invalidate the process.

904 (4) When a person shall be charged with an offense in  
905 municipal court punishable by confinement, the municipal judge,  
906 being satisfied that such person is an indigent person and is  
907 unable to employ counsel, may, in the discretion of the court,  
908 appoint counsel from the membership of The Mississippi Bar  
909 residing in his county who shall represent him. Compensation for  
910 appointed counsel in criminal cases shall be approved and allowed  
911 by the municipal judge and shall be paid by the municipality. The  
912 maximum compensation shall not exceed Two Hundred Dollars  
913 (\$200.00) for any one (1) case. The governing authorities of a  
914 municipality may, in their discretion, appoint a public



915 defender(s) who must be a licensed attorney and who shall receive  
916 a salary to be fixed by the governing authorities.

917 (5) The municipal judge of any municipality is hereby  
918 authorized to suspend the sentence and to suspend the execution of  
919 the sentence, or any part thereof, on such terms as may be imposed  
920 by the municipal judge. However, the suspension of imposition or  
921 execution of a sentence hereunder may not be revoked after a  
922 period of two (2) years. The municipal judge shall have the power  
923 to establish and operate a probation program, dispute resolution  
924 program and other practices or procedures appropriate to the  
925 judiciary and designed to aid in the administration of justice.  
926 Any such program shall be established by the court with written  
927 policies and procedures filed with the clerk of the court for  
928 public record. Subsequent to original sentencing, the municipal  
929 judge, in misdemeanor cases, is hereby authorized to suspend  
930 sentence and to suspend the execution of a sentence, or any part  
931 thereof, on such terms as may be imposed by the municipal judge,  
932 if (a) the judge or his or her predecessor was authorized to order  
933 such suspension when the sentence was originally imposed; and (b)  
934 such conviction (i) has not been appealed; or (ii) has been  
935 appealed and the appeal has been voluntarily dismissed.

936 \* \* \*

937 ( \* \* \*6) In the discretion of the court, a plea of nolo  
938 contendere may be entered to any charge in municipal court. Upon  
939 the entry of a plea of nolo contendere the court shall convict the



940 defendant of the offense charged and shall proceed to sentence the  
941 defendant according to law. The judgment of the court shall  
942 reflect that the conviction was on a plea of nolo contendere. An  
943 appeal may be made from a conviction on a plea of nolo contendere  
944 as in other cases.

945 ( \* \* \*7) Upon execution of a sworn complaint charging a  
946 misdemeanor, the municipal court may, in its discretion and in  
947 lieu of an arrest warrant, issue a citation requiring the  
948 appearance of the defendant to answer the charge made against him.  
949 On default of appearance, an arrest warrant may be issued for the  
950 defendant. The clerk of the court or deputy clerk may issue such  
951 citations.

952 ( \* \* \*8) The municipal court shall have the power to make  
953 rules for the administration of the court's business, which rules,  
954 if any, shall be in writing filed with the clerk of the court and  
955 shall include the enactment of rules related to the court's  
956 authority to issue domestic abuse protection orders pursuant to  
957 Section 93-21-1 et seq.

958 ( \* \* \*9) The municipal court shall have the power to impose  
959 punishment of a fine of not more than One Thousand Dollars  
960 (\$1,000.00) or six (6) months imprisonment, or both, for contempt  
961 of court. The municipal court may have the power to impose  
962 reasonable costs of court, not in excess of the following:

963 Dismissal of any affidavit, complaint or charge  
964 in municipal court.....\$ 50.00



965           Suspension of a minor's driver's license in lieu of  
 966 conviction.....\$ 50.00  
 967           Service of scire facias or return "not found".....\$ 20.00  
 968           Causing search warrant to issue or causing  
 969 prosecution without reasonable cause or refusing to  
 970 cooperate after initiating action.....\$ 100.00  
 971           Certified copy of the court record.....\$ 5.00  
 972           Service of arrest warrant for failure to answer  
 973 citation or traffic summons.....\$ 25.00  
 974           Jail cost per day - actual jail cost paid by the municipality  
 975 but not to exceed.....\$ 35.00  
 976           Service of court documents related to the filing  
 977 of a petition or issuance of a protection from domestic  
 978 abuse order under Chapter 21, Title 93, \* \* \* Mississippi Code of  
 979 1972 .....\$ 25.00  
 980           Any other item of court cost.....\$ 50.00  
 981           No filing fee or such cost shall be imposed for the bringing  
 982 of an action in municipal court.

983           ( \* \* \*10) A municipal court judge shall not dismiss a  
 984 criminal case but may transfer the case to the justice court of  
 985 the county if the municipal court judge is prohibited from  
 986 presiding over the case by the Canons of Judicial Conduct and  
 987 provided that venue and jurisdiction are proper in the justice  
 988 court. Upon transfer of any such case, the municipal court judge  
 989 shall give the municipal court clerk a written order to transmit





990 the affidavit or complaint and all other records and evidence in  
991 the court's possession to the justice court by certified mail or  
992 to instruct the arresting officer to deliver such documents and  
993 records to the justice court. There shall be no court costs  
994 charged for the transfer of the case to the justice court.

995 \* \* \*

996 ( \* \* \*11) For violations of municipal ordinances related to  
997 real property, the municipal judge shall have the power to order a  
998 defendant to remedy violations within a reasonable time period as  
999 set by the judge, and at the discretion of the judge, the judge  
1000 may simultaneously authorize the municipality, at its request, the  
1001 option to remedy the violation itself, through the use of its own  
1002 employees or its contractors, without further notice should the  
1003 defendant fail to fully do so within the time period set by the  
1004 judge. Subsequent to the municipality remedying the violation,  
1005 the municipality may petition the court to assess documented  
1006 cleanup costs to the defendant, and, if, following a hearing on  
1007 such petition, the judge determines (a) the violations were not  
1008 remedied by the defendant within the time required by the court,  
1009 (b) that the municipality remedied the violation itself after such  
1010 time period expired and (c) that the costs incurred by the  
1011 municipality were reasonable, the court may assess the costs to  
1012 the defendant as a judgement, which may be enrolled in the office  
1013 of the circuit clerk.



1014           **SECTION 8.** Section 99-15-59, Mississippi Code of 1972, which  
1015 provides for the expungement of those not formally charged, is  
1016 repealed.

1017           **SECTION 9.** Section 99-15-57, Mississippi Code of 1972, which  
1018 provides for expungement when cases are dismissed or charges are  
1019 dropped, is repealed.

1020           **SECTION 10.** Section 9-23-23, Mississippi Code of 1972, which  
1021 provides for expungement of intervention court participants upon  
1022 completion of intervention court, is repealed.

1023           **SECTION 11.** This act shall take effect and be in force from  
1024 and after July 1, 2022.

