

By: Senator(s) Turner-Ford

To: Judiciary, Division B

SENATE BILL NO. 2241

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE CRIMINAL PENALTY FOR THE POSSESSION OF LESS THAN 2.5
3 OUNCES OF MARIJUANA; TO AMEND SECTIONS 33-13-520, 41-29-149.1 AND
4 41-29-150, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 41-29-139, Mississippi Code of 1972, is
8 amended as follows:

9 41-29-139. (a) **Transfer and possession with intent to**
10 **transfer.** Except as authorized by this article, it is unlawful
11 for any person knowingly or intentionally:

12 (1) To sell, barter, transfer, manufacture, distribute,
13 dispense or possess with intent to sell, barter, transfer,
14 manufacture, distribute or dispense, a controlled substance; or

15 (2) To create, sell, barter, transfer, distribute,
16 dispense or possess with intent to create, sell, barter, transfer,
17 distribute or dispense, a counterfeit substance.

18 (b) **Punishment for transfer and possession with intent to**
19 **transfer.** Except as otherwise provided in Section 41-29-142, any



20 person who violates subsection (a) of this section shall be, if
21 convicted, sentenced as follows:

22 (1) For controlled substances classified in Schedule I
23 or II, as set out in Sections 41-29-113 and 41-29-115, other than
24 marijuana or synthetic cannabinoids:

25 (A) If less than two (2) grams or ten (10) dosage
26 units, by imprisonment for not more than eight (8) years or a fine
27 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

28 (B) If two (2) or more grams or ten (10) or more
29 dosage units, but less than ten (10) grams or twenty (20) dosage
30 units, by imprisonment for not less than three (3) years nor more
31 than twenty (20) years or a fine of not more than Two Hundred
32 Fifty Thousand Dollars (\$250,000.00), or both.

33 (C) If ten (10) or more grams or twenty (20) or
34 more dosage units, but less than thirty (30) grams or forty (40)
35 dosage units, by imprisonment for not less than five (5) years nor
36 more than thirty (30) years or a fine of not more than Five
37 Hundred Thousand Dollars (\$500,000.00), or both.

38 (2) (A) For marijuana:

39 1. If * * * seventy (70) grams or less, there
40 shall be no criminal penalty;

41 2. If more than * * * seventy (70) grams but
42 less than two hundred fifty (250) grams, by imprisonment for not
43 more than five (5) years or a fine of not more than Five Thousand
44 Dollars (\$5,000.00), or both;



45 3. If two hundred fifty (250) or more grams
46 but less than five hundred (500) grams, by imprisonment for not
47 less than three (3) years nor more than ten (10) years or a fine
48 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

49 4. If * * * seventy (70) or more grams but
50 less than one (1) kilogram, by imprisonment for not less than five
51 (5) years nor more than twenty (20) years or a fine of not more
52 than Twenty Thousand Dollars (\$20,000.00), or both.

53 (B) For synthetic cannabinoids:

54 1. If ten (10) grams or less, by imprisonment
55 for not more than three (3) years or a fine of not more than Three
56 Thousand Dollars (\$3,000.00), or both;

57 2. If more than ten (10) grams but less than
58 twenty (20) grams, by imprisonment for not more than five (5)
59 years or a fine of not more than Five Thousand Dollars
60 (\$5,000.00), or both;

61 3. If twenty (20) or more grams but less than
62 forty (40) grams, by imprisonment for not less than three (3)
63 years nor more than ten (10) years or a fine of not more than
64 Fifteen Thousand Dollars (\$15,000.00), or both;

65 4. If forty (40) or more grams but less than
66 two hundred (200) grams, by imprisonment for not less than five
67 (5) years nor more than twenty (20) years or a fine of not more
68 than Twenty Thousand Dollars (\$20,000.00), or both.



69 (3) For controlled substances classified in Schedules
70 III and IV, as set out in Sections 41-29-117 and 41-29-119:

71 (A) If less than two (2) grams or ten (10) dosage
72 units, by imprisonment for not more than five (5) years or a fine
73 of not more than Five Thousand Dollars (\$5,000.00), or both;

74 (B) If two (2) or more grams or ten (10) or more
75 dosage units, but less than ten (10) grams or twenty (20) dosage
76 units, by imprisonment for not more than eight (8) years or a fine
77 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

78 (C) If ten (10) or more grams or twenty (20) or
79 more dosage units, but less than thirty (30) grams or forty (40)
80 dosage units, by imprisonment for not more than fifteen (15) years
81 or a fine of not more than One Hundred Thousand Dollars
82 (\$100,000.00), or both;

83 (D) If thirty (30) or more grams or forty (40) or
84 more dosage units, but less than five hundred (500) grams or two
85 thousand five hundred (2,500) dosage units, by imprisonment for
86 not more than twenty (20) years or a fine of not more than Two
87 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

88 (4) For controlled substances classified in Schedule V,
89 as set out in Section 41-29-121:

90 (A) If less than two (2) grams or ten (10) dosage
91 units, by imprisonment for not more than one (1) year or a fine of
92 not more than Five Thousand Dollars (\$5,000.00), or both;



93 (B) If two (2) or more grams or ten (10) or more
94 dosage units, but less than ten (10) grams or twenty (20) dosage
95 units, by imprisonment for not more than five (5) years or a fine
96 of not more than Ten Thousand Dollars (\$10,000.00), or both;

97 (C) If ten (10) or more grams or twenty (20) or
98 more dosage units, but less than thirty (30) grams or forty (40)
99 dosage units, by imprisonment for not more than ten (10) years or
100 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
101 both;

102 (D) For thirty (30) or more grams or forty (40) or
103 more dosage units, but less than five hundred (500) grams or two
104 thousand five hundred (2,500) dosage units, by imprisonment for
105 not more than fifteen (15) years or a fine of not more than Fifty
106 Thousand Dollars (\$50,000.00), or both.

107 (c) **Simple possession.** It is unlawful for any person
108 knowingly or intentionally to possess any controlled substance
109 unless the substance was obtained directly from, or pursuant to, a
110 valid prescription or order of a practitioner while acting in the
111 course of his professional practice, or except as otherwise
112 authorized by this article. The penalties for any violation of
113 this subsection (c) with respect to a controlled substance
114 classified in Schedules I, II, III, IV or V, as set out in Section
115 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
116 more than seventy (70) grams of marijuana or synthetic
117 cannabinoids, shall be based on dosage unit as defined herein or



118 the weight of the controlled substance as set forth herein as
119 appropriate:

120 "Dosage unit (d.u.)" means a tablet or capsule, or in the
121 case of a liquid solution, one (1) milliliter. In the case of
122 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
123 stamp, square, dot, microdot, tablet or capsule of a controlled
124 substance.

125 For any controlled substance that does not fall within the
126 definition of the term "dosage unit," the penalties shall be based
127 upon the weight of the controlled substance.

128 The weight set forth refers to the entire weight of any
129 mixture or substance containing a detectable amount of the
130 controlled substance.

131 If a mixture or substance contains more than one (1)
132 controlled substance, the weight of the mixture or substance is
133 assigned to the controlled substance that results in the greater
134 punishment.

135 A person shall be charged and sentenced as follows for a
136 violation of this subsection with respect to:

137 (1) A controlled substance classified in Schedule I or
138 II, except marijuana and synthetic cannabinoids:

139 (A) If less than one-tenth (0.1) gram or two (2)
140 dosage units, the violation is a misdemeanor and punishable by
141 imprisonment for not more than one (1) year or a fine of not more
142 than One Thousand Dollars (\$1,000.00), or both.



143 (B) If one-tenth (0.1) gram or more or two (2) or
144 more dosage units, but less than two (2) grams or ten (10) dosage
145 units, by imprisonment for not more than three (3) years or a fine
146 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

147 (C) If two (2) or more grams or ten (10) or more
148 dosage units, but less than ten (10) grams or twenty (20) dosage
149 units, by imprisonment for not more than eight (8) years or a fine
150 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
151 or both.

152 (D) If ten (10) or more grams or twenty (20) or
153 more dosage units, but less than thirty (30) grams or forty (40)
154 dosage units, by imprisonment for not less than three (3) years
155 nor more than twenty (20) years or a fine of not more than Five
156 Hundred Thousand Dollars (\$500,000.00), or both.

157 (2) (A) * * * Synthetic cannabinoids:

158 1. If * * * ten (10) grams or less of
159 synthetic cannabinoids, by a fine of not less than One Hundred
160 Dollars (\$100.00) nor more than Two Hundred Fifty Dollars
161 (\$250.00). The provisions of this paragraph (2)(A) may be
162 enforceable by summons if the offender provides proof of identity
163 satisfactory to the arresting officer and gives written promise to
164 appear in court satisfactory to the arresting officer, as directed
165 by the summons. A second conviction under this section within two
166 (2) years is a misdemeanor punishable by a fine of Two Hundred
167 Fifty Dollars (\$250.00), not more than sixty (60) days in the



168 county jail, and mandatory participation in a drug education
169 program approved by the Division of Alcohol and Drug Abuse of the
170 State Department of Mental Health, unless the court enters a
171 written finding that a drug education program is inappropriate. A
172 third or subsequent conviction under this paragraph (2) (A) within
173 two (2) years is a misdemeanor punishable by a fine of not less
174 than Two Hundred Fifty Dollars (\$250.00) nor more than One
175 Thousand Dollars (\$1,000.00) and confinement for not more than six
176 (6) months in the county jail.

177 Upon a first or second conviction under this paragraph
178 (2) (A), the courts shall forward a report of the conviction to the
179 Mississippi Bureau of Narcotics which shall make and maintain a
180 private, nonpublic record for a period not to exceed two (2) years
181 from the date of conviction. The private, nonpublic record shall
182 be solely for the use of the courts in determining the penalties
183 which attach upon conviction under this paragraph (2) (A) and shall
184 not constitute a criminal record for the purpose of private or
185 administrative inquiry and the record of each conviction shall be
186 expunged at the end of the period of two (2) years following the
187 date of such conviction;

188 2. Additionally, a person who is the operator
189 of a motor vehicle, who possesses on his person or knowingly keeps
190 or allows to be kept in a motor vehicle within the area of the
191 vehicle normally occupied by the driver or passengers, more than
192 one (1) gram, but not more than thirty (30) grams of marijuana or



193 not more than ten (10) grams of synthetic cannabinoids is guilty
194 of a misdemeanor and, upon conviction, may be fined not more than
195 One Thousand Dollars (\$1,000.00) or confined for not more than
196 ninety (90) days in the county jail, or both. For the purposes of
197 this subsection, such area of the vehicle shall not include the
198 trunk of the motor vehicle or the areas not normally occupied by
199 the driver or passengers if the vehicle is not equipped with a
200 trunk. A utility or glove compartment shall be deemed to be
201 within the area occupied by the driver and passengers * * *.

202 (B) Marijuana:

203 1. If more than * * * seventy (70) grams but
204 less than two hundred fifty (250) grams, by a fine of not more
205 than One Thousand Dollars (\$1,000.00), or confinement in the
206 county jail for not more than one (1) year, or both; or by a fine
207 of not more than Three Thousand Dollars (\$3,000.00), or
208 imprisonment in the custody of the Department of Corrections for
209 not more than three (3) years, or both;

210 2. If two hundred fifty (250) or more grams
211 but less than five hundred (500) grams, by imprisonment for not
212 less than two (2) years nor more than eight (8) years or by a fine
213 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

214 3. If * * * seventy (70) or more grams but
215 less than one (1) kilogram, by imprisonment for not less than four
216 (4) years nor more than sixteen (16) years or a fine of not more
217 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;



218 4. If one (1) kilogram or more but less than
219 five (5) kilograms, by imprisonment for not less than six (6)
220 years nor more than twenty-four (24) years or a fine of not more
221 than Five Hundred Thousand Dollars (\$500,000.00), or both;

222 5. If five (5) kilograms or more, by
223 imprisonment for not less than ten (10) years nor more than thirty
224 (30) years or a fine of not more than One Million Dollars
225 (\$1,000,000.00), or both.

226 (C) Synthetic cannabinoids:

227 1. If more than ten (10) grams but less than
228 twenty (20) grams, by a fine of not more than One Thousand Dollars
229 (\$1,000.00), or confinement in the county jail for not more than
230 one (1) year, or both; or by a fine of not more than Three
231 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
232 the Department of Corrections for not more than three (3) years,
233 or both;

234 2. If twenty (20) or more grams but less than
235 forty (40) grams, by imprisonment for not less than two (2) years
236 nor more than eight (8) years or by a fine of not more than Fifty
237 Thousand Dollars (\$50,000.00), or both;

238 3. If forty (40) or more grams but less than
239 two hundred (200) grams, by imprisonment for not less than four
240 (4) years nor more than sixteen (16) years or a fine of not more
241 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;



242 4. If two hundred (200) or more grams, by
243 imprisonment for not less than six (6) years nor more than
244 twenty-four (24) years or a fine of not more than Five Hundred
245 Thousand Dollars (\$500,000.00), or both.

246 (3) A controlled substance classified in Schedule III,
247 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
248 conviction, may be punished as follows:

249 (A) If less than fifty (50) grams or less than one
250 hundred (100) dosage units, the offense is a misdemeanor and
251 punishable by not more than one (1) year or a fine of not more
252 than One Thousand Dollars (\$1,000.00), or both.

253 (B) If fifty (50) or more grams or one hundred
254 (100) or more dosage units, but less than one hundred fifty (150)
255 grams or five hundred (500) dosage units, by imprisonment for not
256 less than one (1) year nor more than four (4) years or a fine of
257 not more than Ten Thousand Dollars (\$10,000.00), or both.

258 (C) If one hundred fifty (150) or more grams or
259 five hundred (500) or more dosage units, but less than three
260 hundred (300) grams or one thousand (1,000) dosage units, by
261 imprisonment for not less than two (2) years nor more than eight
262 (8) years or a fine of not more than Fifty Thousand Dollars
263 (\$50,000.00), or both.

264 (D) If three hundred (300) or more grams or one
265 thousand (1,000) or more dosage units, but less than five hundred
266 (500) grams or two thousand five hundred (2,500) dosage units, by



267 imprisonment for not less than four (4) years nor more than
268 sixteen (16) years or a fine of not more than Two Hundred Fifty
269 Thousand Dollars (\$250,000.00), or both.

270 (d) **Paraphernalia.** (1) It is unlawful for a person who is
271 not authorized by the State Board of Medical Licensure, State
272 Board of Pharmacy, or other lawful authority to use, or to possess
273 with intent to use, paraphernalia to plant, propagate, cultivate,
274 grow, harvest, manufacture, compound, convert, produce, process,
275 prepare, test, analyze, pack, repack, store, contain, conceal,
276 inject, ingest, inhale or otherwise introduce into the human body
277 a controlled substance in violation of the Uniform Controlled
278 Substances Law. Any person who violates this subsection (d)(1) is
279 guilty of a misdemeanor and, upon conviction, may be confined in
280 the county jail for not more than six (6) months, or fined not
281 more than Five Hundred Dollars (\$500.00), or both; however, no
282 person shall be charged with a violation of this subsection when
283 such person is also charged with the possession of * * * seventy
284 (70) grams or more of marijuana under subsection (c)(2)(A) of this
285 section.

286 (2) It is unlawful for any person to deliver, sell,
287 possess with intent to deliver or sell, or manufacture with intent
288 to deliver or sell, paraphernalia, knowing, or under circumstances
289 where one reasonably should know, that it will be used to plant,
290 propagate, cultivate, grow, harvest, manufacture, compound,
291 convert, produce, process, prepare, test, analyze, pack, repack,



292 store, contain, conceal, inject, ingest, inhale, or otherwise
293 introduce into the human body a controlled substance in violation
294 of the Uniform Controlled Substances Law. Except as provided in
295 subsection (d) (3), a person who violates this subsection (d) (2) is
296 guilty of a misdemeanor and, upon conviction, may be confined in
297 the county jail for not more than six (6) months, or fined not
298 more than Five Hundred Dollars (\$500.00), or both.

299 (3) Any person eighteen (18) years of age or over who
300 violates subsection (d) (2) of this section by delivering or
301 selling paraphernalia to a person under eighteen (18) years of age
302 who is at least three (3) years his junior is guilty of a
303 misdemeanor and, upon conviction, may be confined in the county
304 jail for not more than one (1) year, or fined not more than One
305 Thousand Dollars (\$1,000.00), or both.

306 (4) It is unlawful for any person to place in any
307 newspaper, magazine, handbill, or other publication any
308 advertisement, knowing, or under circumstances where one
309 reasonably should know, that the purpose of the advertisement, in
310 whole or in part, is to promote the sale of objects designed or
311 intended for use as paraphernalia. Any person who violates this
312 subsection is guilty of a misdemeanor and, upon conviction, may be
313 confined in the county jail for not more than six (6) months, or
314 fined not more than Five Hundred Dollars (\$500.00), or both.

315 (e) It shall be unlawful for any physician practicing
316 medicine in this state to prescribe, dispense or administer any



317 amphetamine or amphetamine-like anorectics and/or central nervous
318 system stimulants classified in Schedule II, pursuant to Section
319 41-29-115, for the exclusive treatment of obesity, weight control
320 or weight loss. Any person who violates this subsection, upon
321 conviction, is guilty of a misdemeanor and may be confined for a
322 period not to exceed six (6) months, or fined not more than One
323 Thousand Dollars (\$1,000.00), or both.

324 (f) **Trafficking.** (1) Any person trafficking in controlled
325 substances shall be guilty of a felony and, upon conviction, shall
326 be imprisoned for a term of not less than ten (10) years nor more
327 than forty (40) years and shall be fined not less than Five
328 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
329 (\$1,000,000.00). The ten-year mandatory sentence shall not be
330 reduced or suspended. The person shall not be eligible for
331 probation or parole, the provisions of Sections 41-29-149,
332 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

333 (2) "Trafficking in controlled substances" as used
334 herein means:

335 (A) A violation of subsection (a) of this section
336 involving thirty (30) or more grams or forty (40) or more dosage
337 units of a Schedule I or II controlled substance except marijuana
338 and synthetic cannabinoids;

339 (B) A violation of subsection (a) of this section
340 involving five hundred (500) or more grams or two thousand five



341 hundred (2,500) or more dosage units of a Schedule III, IV or V
342 controlled substance;

343 (C) A violation of subsection (c) of this section
344 involving thirty (30) or more grams or forty (40) or more dosage
345 units of a Schedule I or II controlled substance except marijuana
346 and synthetic cannabinoids;

347 (D) A violation of subsection (c) of this section
348 involving five hundred (500) or more grams or two thousand five
349 hundred (2,500) or more dosage units of a Schedule III, IV or V
350 controlled substance; or

351 (E) A violation of subsection (a) of this section
352 involving one (1) kilogram or more of marijuana or two hundred
353 (200) grams or more of synthetic cannabinoids.

354 (g) **Aggravated trafficking.** Any person trafficking in
355 Schedule I or II controlled substances, except marijuana and
356 synthetic cannabinoids, of two hundred (200) grams or more shall
357 be guilty of aggravated trafficking and, upon conviction, shall be
358 sentenced to a term of not less than twenty-five (25) years nor
359 more than life in prison and shall be fined not less than Five
360 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
361 (\$1,000,000.00). The twenty-five-year sentence shall be a
362 mandatory sentence and shall not be reduced or suspended. The
363 person shall not be eligible for probation or parole, the
364 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
365 the contrary notwithstanding.



366 (h) **Sentence mitigation.** (1) Notwithstanding any provision
367 of this section, a person who has been convicted of an offense
368 under this section that requires the judge to impose a prison
369 sentence which cannot be suspended or reduced and is ineligible
370 for probation or parole may, at the discretion of the court,
371 receive a sentence of imprisonment that is no less than
372 twenty-five percent (25%) of the sentence prescribed by the
373 applicable statute. In considering whether to apply the departure
374 from the sentence prescribed, the court shall conclude that:

375 (A) The offender was not a leader of the criminal
376 enterprise;

377 (B) The offender did not use violence or a weapon
378 during the crime;

379 (C) The offense did not result in a death or
380 serious bodily injury of a person not a party to the criminal
381 enterprise; and

382 (D) The interests of justice are not served by the
383 imposition of the prescribed mandatory sentence.

384 The court may also consider whether information and
385 assistance were furnished to a law enforcement agency, or its
386 designee, which, in the opinion of the trial judge, objectively
387 should or would have aided in the arrest or prosecution of others
388 who violate this subsection. The accused shall have adequate
389 opportunity to develop and make a record of all information and
390 assistance so furnished.



391 (2) If the court reduces the prescribed sentence
392 pursuant to this subsection, it must specify on the record the
393 circumstances warranting the departure.

394 **SECTION 2.** Section 33-13-520, Mississippi Code of 1972, is
395 amended as follows:

396 33-13-520. (1) Any person subject to this code who uses,
397 while on duty, any controlled substance listed in the Uniform
398 Controlled Substances Law, not legally prescribed, or is found, by
399 a chemical analysis of such person's blood or urine, to have in
400 his blood, while on duty, any controlled substance described in
401 subsection (3), not legally prescribed, shall be punished as a
402 court-martial may direct.

403 (2) Any person subject to this code who wrongfully uses,
404 possesses, manufactures, distributes, imports into the customs
405 territory of the United States, exports from the United States, or
406 introduces into an installation, vessel, vehicle or aircraft used
407 by or under the control of the state military forces a substance
408 described in subsection (3) shall be punished as a court-martial
409 may direct.

410 (3) The substances referred to in subsections (1) and (2)
411 are the following:

412 (a) Opium, heroin, cocaine, amphetamine, lysergic acid
413 diethylamide, methamphetamine, phencyclidine, barbituric acid, and
414 more than seventy (70) grams of marijuana and any compound or
415 derivative of any such substance.



416 (b) Any substance not specified in paragraph (a) that
417 is listed on a schedule of controlled substance prescribed by the
418 President for the purposes of the federal Uniform Code of Military
419 Justice.

420 (c) Any other substance not specified in paragraph (a)
421 or contained on a list prescribed by the President under paragraph
422 (b) that is listed in Schedules I through V of Section 202 of the
423 federal Controlled Substances Act (21 USCS 812).

424 **SECTION 3.** Section 41-29-149.1, Mississippi Code of 1972, is
425 amended as follows:

426 41-29-149.1. (1) This section shall be known as the
427 "Mississippi Medical Emergency Good Samaritan Act."

428 (2) As used in this section, the following words shall have
429 the meanings ascribed:

430 (a) "Drug overdose" means an acute condition,
431 including, but not limited to, extreme physical illness, decreased
432 level of consciousness, respiratory depression, coma, mania, or
433 death, resulting from the consumption or use of a controlled
434 substance or dangerous drug in violation of this chapter or that a
435 layperson would reasonably believe to be resulting from the
436 consumption or use of a controlled substance or dangerous drug for
437 which medical assistance is required.

438 (b) "Drug violation" means:

439 (i) A violation of Section 41-29-139 for
440 possession of a controlled substance if the aggregate weight,



441 including any mixture, is less than four (4) grams of a solid
442 substance, less than twenty (20) dosage units, less than one (1)
443 milliliter of liquid substance, or, if the substance is placed
444 onto a secondary medium, has a combined weight of less than four
445 (4) grams;

446 (ii) A violation of Section 41-29-139 for
447 possession of * * * seventy (70) grams or more of marijuana or ten
448 (10) grams or less of synthetic cannabinoids; or

449 (iii) A violation of Section 41-29-139(d) (2)
450 relating to possession and use of paraphernalia.

451 (c) "Medical assistance" means aid provided to a person
452 experiencing or believed to be experiencing a drug overdose by a
453 health care professional who is licensed, registered, or certified
454 under the laws of this state and who, acting within the lawful
455 scope of practice, may provide diagnosis, treatment, or emergency
456 services relative to the overdose.

457 (d) "Seeks medical assistance" means accesses or
458 assists in accessing the E-911 system or otherwise contacts or
459 assists in contacting law enforcement or a poison control center
460 or provides care to a person experiencing or believed to be
461 experiencing a drug overdose while awaiting the arrival of medical
462 assistance to aid the person.

463 (3) (a) Any person who in good faith seeks medical
464 assistance for someone who is experiencing a drug overdose shall
465 not be arrested, charged, or prosecuted for a drug violation if



466 there is evidence that the person is under the influence of a
467 controlled substance or in possession of a controlled substance as
468 referenced in subsection (2)(b) of this section.

469 (b) Any person who is experiencing a drug overdose and,
470 in good faith, seeks medical assistance or is the subject of a
471 request for medical assistance shall not be arrested, charged, or
472 prosecuted for a drug violation if there is evidence that the
473 person is under the influence of a controlled substance or in
474 possession of a controlled substance as referenced in subsection
475 (2)(b) of this section.

476 (c) A person shall also not be subject to, if related
477 to the seeking of medical assistance:

478 (i) Penalties for a violation of a permanent or
479 temporary protective order or restraining order;

480 (ii) Sanctions for a violation of a condition of
481 pretrial release, condition of probation, or condition of parole
482 based on a drug violation; or

483 (iii) Forfeiture of property pursuant to Section
484 41-29-153 or 41-29-176 for a drug violation, except that prima
485 facie contraband shall be subject to forfeiture.

486 (4) Nothing in this section shall be construed:

487 (a) To limit the admissibility of any evidence in
488 connection with the investigation or prosecution of a crime with
489 regard to a defendant who does not qualify for the protections of
490 subsection (3) of this section or with regard to other crimes



491 committed by a person who otherwise qualifies for protection
492 pursuant to subsection (3) of this section;

493 (b) To limit any seizure of evidence or contraband
494 otherwise permitted by law; and

495 (c) To limit or abridge the authority of a law
496 enforcement officer to detain or take into custody a person in the
497 course of an investigation or to effectuate an arrest for any
498 offense except as provided in subsection (3) of this section.

499 **SECTION 4.** Section 41-29-150, Mississippi Code of 1972, is
500 amended as follows:

501 41-29-150. (a) Any person convicted under Section 41-29-139
502 may be required, in the discretion of the court, as a part of the
503 sentence otherwise imposed, or in lieu of imprisonment in cases of
504 probation or suspension of sentence, to attend a course of
505 instruction conducted by the bureau, the State Board of Health, or
506 any similar agency, on the effects, medically, psychologically and
507 socially, of the misuse of controlled substances. The course may
508 be conducted at any correctional institution, detention center or
509 hospital, or at any center or treatment facility established for
510 the purpose of education and rehabilitation of those persons
511 committed because of abuse of controlled substances.

512 (b) Any person convicted under Section 41-29-139 who is
513 found to be dependent upon or addicted to any controlled substance
514 shall be required, as a part of the sentence otherwise imposed, or
515 in lieu of imprisonment in cases of parole, probation or



516 suspension of sentence, to receive medical treatment for such
517 dependency or addiction. The regimen of medical treatment may
518 include confinement in a medical facility of any correctional
519 institution, detention center or hospital, or at any center or
520 facility established for treatment of those persons committed
521 because of a dependence or addiction to controlled substances.

522 (c) Those persons previously convicted of a felony under
523 Section 41-29-139 and who are now confined at the Mississippi
524 State Hospital at Whitfield, Mississippi, or at the East
525 Mississippi State Hospital at Meridian, Mississippi, for the term
526 of their sentence shall remain under the jurisdiction of the
527 Mississippi Department of Corrections and shall be required to
528 abide by all reasonable rules and regulations promulgated by the
529 director and staff of said institutions and of the Department of
530 Corrections. Any persons so confined who shall refuse to abide by
531 said rules or who attempt an escape or who shall escape shall be
532 transferred to the State Penitentiary or to a county jail, where
533 appropriate, to serve the remainder of the term of imprisonment;
534 this provision shall not preclude prosecution and conviction for
535 escape from said institutions.

536 (d) (1) If any person who has not previously been convicted
537 of violating Section 41-29-139, or the laws of the United States
538 or of another state relating to narcotic drugs, stimulant or
539 depressant substances, other controlled substances or * * * more
540 than seventy (70) grams of marijuana is found to be guilty of a



541 violation of subsection (c) or (d) of Section 41-29-139, after
542 trial or upon a plea of guilty, the court may, without entering a
543 judgment of guilty and with the consent of such person, defer
544 further proceedings and place him on probation upon such
545 reasonable conditions as it may require and for such period, not
546 to exceed three (3) years, as the court may prescribe. Upon
547 violation of a condition of the probation, the court may enter an
548 adjudication of guilt and proceed as otherwise provided. The court
549 may, in its discretion, dismiss the proceedings against such
550 person and discharge him from probation before the expiration of
551 the maximum period prescribed for such person's probation. If
552 during the period of his probation such person does not violate
553 any of the conditions of the probation, then upon expiration of
554 such period the court shall discharge such person and dismiss the
555 proceedings against him. Discharge and dismissal under this
556 subsection shall be without court adjudication of guilt, but a
557 nonpublic record thereof shall be retained by the bureau solely
558 for the purpose of use by the courts in determining whether or
559 not, in subsequent proceedings, such person qualifies under this
560 subsection. Such discharge or dismissal shall not be deemed a
561 conviction for purposes of disqualifications or disabilities
562 imposed by law upon conviction of a crime, including the penalties
563 prescribed under this article for second or subsequent conviction,
564 or for any other purpose. Discharge and dismissal under this
565 subsection may occur only once with respect to any person; and



566 (2) Upon the dismissal of a person and discharge of
567 proceedings against him under paragraph (1) of this subsection,
568 the person may apply to the court for an order to expunge from all
569 official records, other than the nonpublic records to be retained
570 by the bureau under paragraph (1) of this subsection, all
571 recordation relating to his arrest, indictment, trial, finding of
572 guilt, and dismissal and discharge pursuant to this section. If
573 the court determines, after hearing, that such person was
574 dismissed and the proceedings against him discharged, or that the
575 person had satisfactorily served his sentence or period of
576 probation and parole, it shall enter an order of expunction. The
577 effect of the order shall be to restore the person, in the
578 contemplation of the law, to the status he occupied before such
579 arrest or indictment. No person as to whom such an order has been
580 entered shall be held thereafter under any provision of any law to
581 be guilty of perjury or otherwise giving a false statement by
582 reason of his failures to recite or acknowledge such arrest,
583 indictment or trial in response to any inquiry made of him for any
584 purpose. A person as to whom an order has been entered, upon
585 request, shall be required to advise the court, in camera, of the
586 previous conviction and expunction in any legal proceeding wherein
587 the person has been called as a prospective juror. The court
588 shall thereafter and before the selection of the jury advise the
589 attorneys representing the parties of the previous conviction and
590 expunction.



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

595 (f) It shall be unlawful for any person confined under the
596 provisions of subsection (b) or (c) of this section to escape or
597 attempt to escape from said institution, and, upon conviction,
598 said person shall be guilty of a felony and shall be imprisoned
599 for a term not to exceed two (2) years.

600 (g) It is the intent and purpose of the Legislature to
601 promote the rehabilitation of persons convicted of offenses under
602 the Uniform Controlled Substances Law.

603 **SECTION 5.** This act shall take effect and be in force from
604 and after July 1, 2022.

