

By: Senator(s) England

To: Judiciary, Division B;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2536
(As Sent to Governor)

1 AN ACT TO CREATE A PUBLIC REGISTRY OF OFFENDERS WHOSE CRIMES
2 INVOLVED THE EMBEZZLEMENT OR MISAPPROPRIATION OF PUBLIC FUNDS; TO
3 DEFINE TERMS; TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO CREATE
4 A REGISTRY OF OFFENDERS; TO REQUIRE RESPONSIBLE AGENCIES TO
5 FORWARD CERTAIN INFORMATION TO THE DEPARTMENT; TO REQUIRE
6 OFFENDERS TO REPORT TO THE DEPARTMENT WITHIN A PRESCRIBED
7 TIMEFRAME; TO AUTHORIZE THE DEPARTMENT TO PROMULGATE RULES FOR THE
8 IMPLEMENTATION OF THE ACT; TO AMEND SECTION 25-1-113, MISSISSIPPI
9 CODE OF 1972, TO PROHIBIT LOCAL GOVERNMENTS FROM HIRING PERSONS ON
10 THE REGISTRY FOR CERTAIN POSITIONS; AN ACT TO AMEND SECTION
11 99-19-71, MISSISSIPPI CODE OF 1972, TO CLARIFY THE EFFECT OF
12 EXPUNGEMENT PROCEDURES IN RELATION TO QUALIFIED ELECTORS; AND FOR
13 RELATED PURPOSES.

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

15 **SECTION 1.** For purposes of Sections 1 through 6 of this act,
16 unless the context requires otherwise, the following terms shall
17 have the meanings ascribed herein:

18 (a) "Conviction" means a judgment entered by a
19 Mississippi court upon a plea of guilty, a plea of nolo
20 contendere, or a finding of guilt by a jury or the court,
21 notwithstanding any pending appeal or habeas corpus proceeding
22 arising from the judgment. "Conviction" includes a disposition of
23 pretrial diversion or nonadjudication under Section 99-15-26.



24 (b) "Department" means the Department of Public Safety.

25 (c) "Offender" means a person convicted of a
26 registrable offense.

27 (d) "Registrable offense" means a crime chargeable
28 under Sections 97-7-10, 97-11-25 through 97-11-31, 97-15-3,
29 97-15-5, 97-11-11, 97-11-13, 97-11-53, 97-13-1, 97-13-3, or any
30 crime that involves the embezzlement or misappropriation of public
31 funds as determined by the circuit court in its sentencing order
32 upon conviction.

33 (e) "Registrant" means a person who is registered in
34 compliance with this act.

35 **SECTION 2.** (1) The department shall post a publicly
36 accessible registry online of all offenders by July 1, 2023.

37 (2) (a) The list must include the offender's full legal
38 name, any aliases by which the offender is or has been known,
39 including any online or internet identifiers and the offender's
40 date of birth.

41 (b) The list shall not include the offender's social
42 security number, driver's license number, any other state or
43 federal identification number, physical address or telephone
44 numbers.

45 (3) (a) If the offender is not convicted of another
46 registrable offense while listed and if all fines, penalties and
47 restitution have been paid, the department shall remove the
48 offender's information from the list after either five (5) years



49 from the date of the offender's conviction or five (5) years from
50 the date of an offender's release from physical incarceration,
51 whichever is later.

52 (b) Notwithstanding paragraph (a) of this subsection, a
53 person who has served any sentence imposed and paid all fines,
54 penalties and any restitution ordered may petition the department
55 to be removed from the list after the satisfaction of the
56 conditions of this paragraph (b). Upon receipt and confirmation
57 of a true and correct petition, the department shall remove the
58 offender from the registry.

59 **SECTION 3.** (1) The department shall maintain the registry
60 on the internet, which shall contain a disclaimer informing the
61 public that:

62 (a) The information contained on the website is
63 obtained from public records, and the department does not
64 guarantee the website's accuracy or completeness;

65 (b) The list only includes persons convicted in
66 Mississippi state courts of a limited list of crimes. Persons who
67 are convicted in any federal court, or who are convicted of a
68 crime other than a registrable offense will not appear on the
69 registry.

70 (2) The department and any individual or entity acting at
71 the request or upon the direction of the department are immune
72 from civil liability for damages arising from reporting



73 information under this act and will be presumed to have acted in
74 good faith in performing its duties under this act.

75 **SECTION 4.** Upon the entry of the order sentencing the
76 offender to probation or parole or upon the date of release of the
77 offender from the physical custody of the responsible agency, the
78 responsible agency shall forward the department a copy of the
79 conviction, sentencing order, name, sex and date of birth of the
80 offender convicted of a registrable offense under this act.

81 **SECTION 5.** An offender required to register on the basis of
82 a conviction entered shall register with the responsible agency
83 within thirty (30) business days of the date of judgment unless
84 the offender is immediately confined or committed, in which case
85 the offender shall register before release in accordance with the
86 procedures established by the department. The responsible agency
87 shall immediately forward the registration information to the
88 department.

89 **SECTION 6.** The department shall promulgate rules in
90 accordance with the Mississippi Administrative Procedures Law,
91 Title 25, Chapter 43, Mississippi Code of 1972, to effectuate the
92 purposes of this act.

93 **SECTION 7.** Section 25-1-113, Mississippi Code of 1972, is
94 amended as follows:

95 25-1-113. (1) From and after July 1, 2013, the state and
96 any county, municipality or any other political subdivision shall
97 not employ a person who has been convicted or pled guilty in any



98 court of this state, another state, or in federal court of any
99 felony in which public funds were unlawfully taken, obtained or
100 misappropriated in the abuse or misuse of the person's office or
101 employment or money coming into the person's hands by virtue of
102 the person's office or employment.

103 (2) From and after July 1, 2014, the state and any county,
104 municipality or any other political subdivision shall not employ
105 or continue to employ a person who has been convicted or pled
106 guilty in any court of this state, another state, or in federal
107 court of any felony in which public funds were unlawfully taken,
108 obtained or misappropriated in the abuse or misuse of the person's
109 office or employment or money coming into the person's hands by
110 virtue of the person's office or employment.

111 (3) From and after July 1, 2023, the state and any county,
112 municipality or any other political subdivision shall not hire any
113 person who appears on the registry created in Sections 1 through 6
114 of this act for any position in accounting, or in a treasury or
115 registrar office, or in any office where monies are collected or
116 received directly from rate or fee payers.

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

119 99-19-71. (1) Any person who has been convicted of a
120 misdemeanor that is not a traffic violation, and who is a first
121 offender, may petition the justice, county, circuit or municipal



122 court in which the conviction was had for an order to expunge any
123 such conviction from all public records.

124 (2) (a) Except as otherwise provided in this subsection, a
125 person who has been convicted of a felony and who has paid all
126 criminal fines and costs of court imposed in the sentence of
127 conviction may petition the court in which the conviction was had
128 for an order to expunge one (1) conviction from all public records
129 five (5) years after the successful completion of all terms and
130 conditions of the sentence for the conviction upon a hearing as
131 determined in the discretion of the court; however, a person is
132 not eligible to expunge a felony classified as:

133 (i) A crime of violence as provided in Section
134 97-3-2;

135 (ii) Arson, first degree as provided in Sections
136 97-17-1 and 97-17-3;

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

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

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

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

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



146 (viii) Witness intimidation as provided in Section
147 97-9-113;

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

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

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

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

165 (3) Upon entering an order of expunction under this section,
166 a nonpublic record thereof shall be retained by the Mississippi
167 Criminal Information Center solely for the purpose of determining
168 whether, in subsequent proceedings, the person is a first
169 offender. The order of expunction shall not preclude a district
170 attorney's office from retaining a nonpublic record thereof for



171 law enforcement purposes only. The existence of an order of
172 expunction shall not preclude an employer from asking a
173 prospective employee if the employee has had an order of
174 expunction entered on his behalf. The effect of the expunction
175 order shall be to restore the person, in the contemplation of the
176 law ,including those law regulating qualified electors, to the
177 status he occupied before any arrest or indictment for which
178 convicted. No person as to whom an expunction order has been
179 entered shall be held thereafter under any provision of law to be
180 guilty of perjury or to have otherwise given a false statement by
181 reason of his failure to recite or acknowledge such arrest,
182 indictment or conviction in response to any inquiry made of him
183 for any purpose other than the purpose of determining, in any
184 subsequent proceedings under this section, whether the person is a
185 first offender. A person as to whom an order has been entered,
186 upon request, shall be required to advise the court, in camera, of
187 the previous conviction and expunction in any legal proceeding
188 wherein the person has been called as a prospective juror. The
189 court shall thereafter and before the selection of the jury advise
190 the attorneys representing the parties of the previous conviction
191 and expunction.

192 (4) If a person has a disenfranchising conviction expunged
193 under this section and has no other conviction that would
194 otherwise disenfranchise the person, the county registrar shall



195 enter the person's name into the Statewide Elections Management
196 System if the person:

197 (a) Submits a voter registration application; and

198 (b) Provides proof of the expungement.

199 (* * *5) Upon petition therefor, a justice, county, circuit
200 or municipal court shall expunge the record of any case in which
201 an arrest was made, the person arrested was released and the case
202 was dismissed or the charges were dropped or there was no
203 disposition of such case, or the person was found not guilty at
204 trial.

205 (* * *6) No public official is eligible for expunction
206 under this section for any conviction related to his official
207 duties.

208 **SECTION 9.** This act shall take effect and be in force from
209 and after July 1, 2022.

