

By: Representative Mickens

To: Judiciary B

HOUSE BILL NO. 95

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,  
2 TO REMOVE CERTAIN TYPES OF EMBEZZLEMENT FROM THE LIST OF CRIMES  
3 THAT ARE EXCLUDED FROM EXPUNGEMENT; AND FOR RELATED PURPOSES.

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

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

7 99-19-71. (1) Any person who has been convicted of a  
8 misdemeanor that is not a traffic violation, and who is a first  
9 offender, may petition the justice, county, circuit or municipal  
10 court in which the conviction was had for an order to expunge any  
11 such conviction from all public records.

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



19 determined in the discretion of the court; however, a person is  
20 not eligible to expunge a felony classified as:

21 (i) A crime of violence as provided in Section  
22 97-3-2;

23 (ii) Arson, first degree as provided in Sections  
24 97-17-1 and 97-17-3;

25 (iii) Trafficking in controlled substances as  
26 provided in Section 41-29-139;

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

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

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

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

34 (viii) Witness intimidation as provided in Section  
35 97-9-113; or

36 (ix) Abuse, neglect or exploitation of a  
37 vulnerable person as provided in Section 43-47-19 \* \* \*.

38 \* \* \*

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



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

52 (3) Upon entering an order of expunction under this section,  
53 a nonpublic record thereof shall be retained by the Mississippi  
54 Criminal Information Center solely for the purpose of determining  
55 whether, in subsequent proceedings, the person is a first  
56 offender. The order of expunction shall not preclude a district  
57 attorney's office from retaining a nonpublic record thereof for  
58 law enforcement purposes only. The existence of an order of  
59 expunction shall not preclude an employer from asking a  
60 prospective employee if the employee has had an order of  
61 expunction entered on his behalf. The effect of the expunction  
62 order shall be to restore the person, in the contemplation of the  
63 law, to the status he occupied before any arrest or indictment for  
64 which convicted. No person as to whom an expunction order has  
65 been entered shall be held thereafter under any provision of law  
66 to be guilty of perjury or to have otherwise given a false  
67 statement by reason of his failure to recite or acknowledge such  
68 arrest, indictment or conviction in response to any inquiry made



69 of him for any purpose other than the purpose of determining, in  
70 any subsequent proceedings under this section, whether the person  
71 is a first offender. A person as to whom an order has been  
72 entered, upon request, shall be required to advise the court, in  
73 camera, of the previous conviction and expunction in any legal  
74 proceeding wherein the person has been called as a prospective  
75 juror. The court shall thereafter and before the selection of the  
76 jury advise the attorneys representing the parties of the previous  
77 conviction and expunction.

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

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

85 **SECTION 2.** This act shall take effect and be in force from  
86 and after July 1, 2023.

