

By: Senator(s) Turner-Ford

To: Judiciary, Division B

SENATE BILL NO. 2097

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 five hundred (500) 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.** Except as otherwise provided under  
108 subsection (i) of this section for actions that are lawful under  
109 the Mississippi Medical Cannabis Act and in compliance with rules  
110 and regulations adopted thereunder, it is unlawful for any person  
111 knowingly or intentionally to possess any controlled substance  
112 unless the substance was obtained directly from, or pursuant to, a  
113 valid prescription or order of a practitioner while acting in the  
114 course of his professional practice, or except as otherwise  
115 authorized by this article. The penalties for any violation of  
116 this subsection (c) with respect to a controlled substance  
117 classified in Schedules I, II, III, IV or V, as set out in Section



118 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including  
119 more than seventy (70) grams of marijuana or synthetic  
120 cannabinoids, shall be based on dosage unit as defined herein or  
121 the weight of the controlled substance as set forth herein as  
122 appropriate:

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

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

131 The weight set forth refers to the entire weight of any  
132 mixture or substance containing a detectable amount of the  
133 controlled substance.

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

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

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



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

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

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

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

160 (2) (A) \* \* \* Synthetic cannabinoids:

161 1. If \* \* \* ten (10) grams or less of  
162 synthetic cannabinoids, by a fine of not less than One Hundred  
163 Dollars (\$100.00) nor more than Two Hundred Fifty Dollars  
164 (\$250.00). The provisions of this paragraph (2)(A) may be  
165 enforceable by summons if the offender provides proof of identity  
166 satisfactory to the arresting officer and gives written promise to



167 appear in court satisfactory to the arresting officer, as directed  
168 by the summons. A second conviction under this section within two  
169 (2) years is a misdemeanor punishable by a fine of Two Hundred  
170 Fifty Dollars (\$250.00), not more than sixty (60) days in the  
171 county jail, and mandatory participation in a drug education  
172 program approved by the Division of Alcohol and Drug Abuse of the  
173 State Department of Mental Health, unless the court enters a  
174 written finding that a drug education program is inappropriate. A  
175 third or subsequent conviction under this paragraph (2) (A) within  
176 two (2) years is a misdemeanor punishable by a fine of not less  
177 than Two Hundred Fifty Dollars (\$250.00) nor more than One  
178 Thousand Dollars (\$1,000.00) and confinement for not more than six  
179 (6) months in the county jail.

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





191                   2. Additionally, a person who is the operator  
192 of a motor vehicle, who possesses on his person or knowingly keeps  
193 or allows to be kept in a motor vehicle within the area of the  
194 vehicle normally occupied by the driver or passengers, more than  
195 one (1) gram, but not more than thirty (30) grams of marijuana or  
196 not more than ten (10) grams of synthetic cannabinoids is guilty  
197 of a misdemeanor and, upon conviction, may be fined not more than  
198 One Thousand Dollars (\$1,000.00) or confined for not more than  
199 ninety (90) days in the county jail, or both. For the purposes of  
200 this subsection, such area of the vehicle shall not include the  
201 trunk of the motor vehicle or the areas not normally occupied by  
202 the driver or passengers if the vehicle is not equipped with a  
203 trunk. A utility or glove compartment shall be deemed to be  
204 within the area occupied by the driver and passengers.

205                   (B) Marijuana:

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

213                   2. If two hundred fifty (250) or more grams  
214 but less than five hundred (500) grams, by imprisonment for not



215 less than two (2) years nor more than eight (8) years or by a fine  
216 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

217           3. If five hundred (500) or more grams but  
218 less than one (1) kilogram, by imprisonment for not less than four  
219 (4) years nor more than sixteen (16) years or a fine of not more  
220 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

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

225           5. If five (5) kilograms or more, by  
226 imprisonment for not less than ten (10) years nor more than thirty  
227 (30) years or a fine of not more than One Million Dollars  
228 (\$1,000,000.00), or both.

229           (C) Synthetic cannabinoids:

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

237           2. If twenty (20) or more grams but less than  
238 forty (40) grams, by imprisonment for not less than two (2) years



239 nor more than eight (8) years or by a fine of not more than Fifty  
240 Thousand Dollars (\$50,000.00), or both;

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

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

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

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

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

261           (C) If one hundred fifty (150) or more grams or  
262 five hundred (500) or more dosage units, but less than three  
263 hundred (300) grams or one thousand (1,000) dosage units, by



264 imprisonment for not less than two (2) years nor more than eight  
265 (8) years or a fine of not more than Fifty Thousand Dollars  
266 (\$50,000.00), or both.

267 (D) If three hundred (300) or more grams or one  
268 thousand (1,000) or more dosage units, but less than five hundred  
269 (500) grams or two thousand five hundred (2,500) dosage units, by  
270 imprisonment for not less than four (4) years nor more than  
271 sixteen (16) years or a fine of not more than Two Hundred Fifty  
272 Thousand Dollars (\$250,000.00), or both.

273 (d) **Paraphernalia.** (1) Except as otherwise provided under  
274 subsection (i) of this section for actions that are lawful under  
275 the Mississippi Medical Cannabis Act and in compliance with rules  
276 and regulations adopted thereunder, it is unlawful for a person  
277 who is not authorized by the State Board of Medical Licensure,  
278 State Board of Pharmacy, or other lawful authority to use, or to  
279 possess with intent to use, paraphernalia to plant, propagate,  
280 cultivate, grow, harvest, manufacture, compound, convert, produce,  
281 process, prepare, test, analyze, pack, repack, store, contain,  
282 conceal, inject, ingest, inhale or otherwise introduce into the  
283 human body a controlled substance in violation of the Uniform  
284 Controlled Substances Law. Any person who violates this  
285 subsection (d)(1) is guilty of a misdemeanor and, upon conviction,  
286 may be confined in the county jail for not more than six (6)  
287 months, or fined not more than Five Hundred Dollars (\$500.00), or  
288 both; however, no person shall be charged with a violation of this



289 subsection when such person is also charged with the possession  
290 of \* \* \* seventy (70) grams or more of marijuana under subsection  
291 (c) (2) (A) of this section.

292 (2) It is unlawful for any person to deliver, sell,  
293 possess with intent to deliver or sell, or manufacture with intent  
294 to deliver or sell, paraphernalia, knowing, or under circumstances  
295 where one reasonably should know, that it will be used to plant,  
296 propagate, cultivate, grow, harvest, manufacture, compound,  
297 convert, produce, process, prepare, test, analyze, pack, repack,  
298 store, contain, conceal, inject, ingest, inhale, or otherwise  
299 introduce into the human body a controlled substance in violation  
300 of the Uniform Controlled Substances Law. Except as provided in  
301 subsection (d) (3), a person who violates this subsection (d) (2) is  
302 guilty of a misdemeanor and, upon conviction, may be confined in  
303 the county jail for not more than six (6) months, or fined not  
304 more than Five Hundred Dollars (\$500.00), or both.

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

312 (4) It is unlawful for any person to place in any  
313 newspaper, magazine, handbill, or other publication any



314 advertisement, knowing, or under circumstances where one  
315 reasonably should know, that the purpose of the advertisement, in  
316 whole or in part, is to promote the sale of objects designed or  
317 intended for use as paraphernalia. Any person who violates this  
318 subsection is guilty of a misdemeanor and, upon conviction, may be  
319 confined in the county jail for not more than six (6) months, or  
320 fined not more than Five Hundred Dollars (\$500.00), or both.

321 (e) It shall be unlawful for any physician practicing  
322 medicine in this state to prescribe, dispense or administer any  
323 amphetamine or amphetamine-like anorectics and/or central nervous  
324 system stimulants classified in Schedule II, pursuant to Section  
325 41-29-115, for the exclusive treatment of obesity, weight control  
326 or weight loss. Any person who violates this subsection, upon  
327 conviction, is guilty of a misdemeanor and may be confined for a  
328 period not to exceed six (6) months, or fined not more than One  
329 Thousand Dollars (\$1,000.00), or both.

330 (f) **Trafficking.** (1) Any person trafficking in controlled  
331 substances shall be guilty of a felony and, upon conviction, shall  
332 be imprisoned for a term of not less than ten (10) years nor more  
333 than forty (40) years and shall be fined not less than Five  
334 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
335 (\$1,000,000.00). The ten-year mandatory sentence shall not be  
336 reduced or suspended. The person shall not be eligible for  
337 probation or parole, the provisions of Sections 41-29-149,  
338 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.



339 (2) "Trafficking in controlled substances" as used  
340 herein means:

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

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

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

353 (D) A violation of subsection (c) of this section  
354 involving five hundred (500) or more grams or two thousand five  
355 hundred (2,500) or more dosage units of a Schedule III, IV or V  
356 controlled substance; or

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

360 (g) **Aggravated trafficking.** Any person trafficking in  
361 Schedule I or II controlled substances, except marijuana and  
362 synthetic cannabinoids, of two hundred (200) grams or more shall  
363 be guilty of aggravated trafficking and, upon conviction, shall be



364 sentenced to a term of not less than twenty-five (25) years nor  
365 more than life in prison and shall be fined not less than Five  
366 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
367 (\$1,000,000.00). The twenty-five-year sentence shall be a  
368 mandatory sentence and shall not be reduced or suspended. The  
369 person shall not be eligible for probation or parole, the  
370 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to  
371 the contrary notwithstanding.

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

381 (A) The offender was not a leader of the criminal  
382 enterprise;

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

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





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

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

397 (2) If the court reduces the prescribed sentence  
398 pursuant to this subsection, it must specify on the record the  
399 circumstances warranting the departure.

400 (i) This section does not apply to any of the actions that  
401 are lawful under the Mississippi Medical Cannabis Act and in  
402 compliance with rules and regulations adopted thereunder.

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

405 33-13-520. (1) Any person subject to this code who uses,  
406 while on duty, any controlled substance listed in the Uniform  
407 Controlled Substances Law, not legally prescribed, or is found, by  
408 a chemical analysis of such person's blood or urine, to have in  
409 his blood, while on duty, any controlled substance described in  
410 subsection (3), not legally prescribed, shall be punished as a  
411 court-martial may direct.



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

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

421 (a) Opium, heroin, cocaine, amphetamine, lysergic acid  
422 diethylamide, methamphetamine, phencyclidine, barbituric acid, and  
423 more than seventy (70) grams of marijuana and any compound or  
424 derivative of any such substance. For the purposes of this  
425 paragraph (a), "marijuana" shall not include medical cannabis that  
426 is lawful under the Mississippi Medical Cannabis Act and in  
427 compliance with rules and regulations adopted thereunder.

428 (b) Any substance not specified in paragraph (a) that  
429 is listed on a schedule of controlled substance prescribed by the  
430 President for the purposes of the federal Uniform Code of Military  
431 Justice.

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



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

438           41-29-149.1. (1) This section shall be known as the  
439 "Mississippi Medical Emergency Good Samaritan Act."

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

442                   (a) "Drug overdose" means an acute condition,  
443 including, but not limited to, extreme physical illness, decreased  
444 level of consciousness, respiratory depression, coma, mania, or  
445 death, resulting from the consumption or use of a controlled  
446 substance or dangerous drug in violation of this chapter or that a  
447 layperson would reasonably believe to be resulting from the  
448 consumption or use of a controlled substance or dangerous drug for  
449 which medical assistance is required.

450                   (b) "Drug violation" means:

451                           (i) A violation of Section 41-29-139 for  
452 possession of a controlled substance if the aggregate weight,  
453 including any mixture, is less than four (4) grams of a solid  
454 substance, less than twenty (20) dosage units, less than one (1)  
455 milliliter of liquid substance, or, if the substance is placed  
456 onto a secondary medium, has a combined weight of less than four  
457 (4) grams;

458                           (ii) A violation of Section 41-29-139 for  
459 possession of \* \* \* seventy (70) grams or more of marijuana or ten  
460 (10) grams or less of synthetic cannabinoids; or



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

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

469 (d) "Seeks medical assistance" means accesses or  
470 assists in accessing the E-911 system or otherwise contacts or  
471 assists in contacting law enforcement or a poison control center  
472 or provides care to a person experiencing or believed to be  
473 experiencing a drug overdose while awaiting the arrival of medical  
474 assistance to aid the person.

475 (3) (a) Any person who in good faith seeks medical  
476 assistance for someone who is experiencing a drug overdose shall  
477 not be arrested, charged, or prosecuted for a drug violation if  
478 there is evidence that the person is under the influence of a  
479 controlled substance or in possession of a controlled substance as  
480 referenced in subsection (2) (b) of this section.

481 (b) Any person who is experiencing a drug overdose and,  
482 in good faith, seeks medical assistance or is the subject of a  
483 request for medical assistance shall not be arrested, charged, or  
484 prosecuted for a drug violation if there is evidence that the  
485 person is under the influence of a controlled substance or in



486 possession of a controlled substance as referenced in subsection  
487 (2)(b) of this section.

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

490 (i) Penalties for a violation of a permanent or  
491 temporary protective order or restraining order;

492 (ii) Sanctions for a violation of a condition of  
493 pretrial release, condition of probation, or condition of parole  
494 based on a drug violation; or

495 (iii) Forfeiture of property pursuant to Section  
496 41-29-153 or 41-29-176 for a drug violation, except that prima  
497 facie contraband shall be subject to forfeiture.

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

499 (a) To limit the admissibility of any evidence in  
500 connection with the investigation or prosecution of a crime with  
501 regard to a defendant who does not qualify for the protections of  
502 subsection (3) of this section or with regard to other crimes  
503 committed by a person who otherwise qualifies for protection  
504 pursuant to subsection (3) of this section;

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

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



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

513           41-29-150. (a) Any person convicted under Section 41-29-139  
514 may be required, in the discretion of the court, as a part of the  
515 sentence otherwise imposed, or in lieu of imprisonment in cases of  
516 probation or suspension of sentence, to attend a course of  
517 instruction conducted by the bureau, the State Board of Health, or  
518 any similar agency, on the effects, medically, psychologically and  
519 socially, of the misuse of controlled substances. The course may  
520 be conducted at any correctional institution, detention center or  
521 hospital, or at any center or treatment facility established for  
522 the purpose of education and rehabilitation of those persons  
523 committed because of abuse of controlled substances.

524           (b) Any person convicted under Section 41-29-139 who is  
525 found to be dependent upon or addicted to any controlled substance  
526 shall be required, as a part of the sentence otherwise imposed, or  
527 in lieu of imprisonment in cases of parole, probation or  
528 suspension of sentence, to receive medical treatment for such  
529 dependency or addiction. The regimen of medical treatment may  
530 include confinement in a medical facility of any correctional  
531 institution, detention center or hospital, or at any center or  
532 facility established for treatment of those persons committed  
533 because of a dependence or addiction to controlled substances.

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



536 State Hospital at Whitfield, Mississippi, or at the East  
537 Mississippi State Hospital at Meridian, Mississippi, for the term  
538 of their sentence shall remain under the jurisdiction of the  
539 Mississippi Department of Corrections and shall be required to  
540 abide by all reasonable rules and regulations promulgated by the  
541 director and staff of said institutions and of the Department of  
542 Corrections. Any persons so confined who shall refuse to abide by  
543 said rules or who attempt an escape or who shall escape shall be  
544 transferred to the State Penitentiary or to a county jail, where  
545 appropriate, to serve the remainder of the term of imprisonment;  
546 this provision shall not preclude prosecution and conviction for  
547 escape from said institutions.

548 (d) (1) If any person who has not previously been convicted  
549 of violating Section 41-29-139, or the laws of the United States  
550 or of another state relating to narcotic drugs, stimulant or  
551 depressant substances, other controlled substances or \* \* \* more  
552 than seventy (70) grams of marijuana is found to be guilty of a  
553 violation of subsection (c) or (d) of Section 41-29-139, after  
554 trial or upon a plea of guilty, the court may, without entering a  
555 judgment of guilty and with the consent of such person, defer  
556 further proceedings and place him on probation upon such  
557 reasonable conditions as it may require and for such period, not  
558 to exceed three (3) years, as the court may prescribe. Upon  
559 violation of a condition of the probation, the court may enter an  
560 adjudication of guilt and proceed as otherwise provided. The court



561 may, in its discretion, dismiss the proceedings against such  
562 person and discharge him from probation before the expiration of  
563 the maximum period prescribed for such person's probation. If  
564 during the period of his probation such person does not violate  
565 any of the conditions of the probation, then upon expiration of  
566 such period the court shall discharge such person and dismiss the  
567 proceedings against him. Discharge and dismissal under this  
568 subsection shall be without court adjudication of guilt, but a  
569 nonpublic record thereof shall be retained by the bureau solely  
570 for the purpose of use by the courts in determining whether or  
571 not, in subsequent proceedings, such person qualifies under this  
572 subsection. Such discharge or dismissal shall not be deemed a  
573 conviction for purposes of disqualifications or disabilities  
574 imposed by law upon conviction of a crime, including the penalties  
575 prescribed under this article for second or subsequent conviction,  
576 or for any other purpose. Discharge and dismissal under this  
577 subsection may occur only once with respect to any person; and  
578           (2) Upon the dismissal of a person and discharge of  
579 proceedings against him under paragraph (1) of this subsection,  
580 the person may apply to the court for an order to expunge from all  
581 official records, other than the nonpublic records to be retained  
582 by the bureau under paragraph (1) of this subsection, all  
583 recordation relating to his arrest, indictment, trial, finding of  
584 guilt, and dismissal and discharge pursuant to this section. If  
585 the court determines, after hearing, that such person was





586 dismissed and the proceedings against him discharged, or that the  
587 person had satisfactorily served his sentence or period of  
588 probation and parole, it shall enter an order of expunction. The  
589 effect of the order shall be to restore the person, in the  
590 contemplation of the law, to the status he occupied before such  
591 arrest or indictment. No person as to whom such an order has been  
592 entered shall be held thereafter under any provision of any law to  
593 be guilty of perjury or otherwise giving a false statement by  
594 reason of his failures to recite or acknowledge such arrest,  
595 indictment or trial in response to any inquiry made of him for any  
596 purpose. A person as to whom an order has been entered, upon  
597 request, shall be required to advise the court, in camera, of the  
598 previous conviction and expunction in any legal proceeding wherein  
599 the person has been called as a prospective juror. The court  
600 shall thereafter and before the selection of the jury advise the  
601 attorneys representing the parties of the previous conviction and  
602 expunction.

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

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



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

612 (g) It is the intent and purpose of the Legislature to  
613 promote the rehabilitation of persons convicted of offenses under  
614 the Uniform Controlled Substances Law.

615 **SECTION 5.** This act shall take effect and be in force from  
616 and after July 1, 2023.

