

By: Senator(s) Simmons (12th), Hickman

To: Judiciary, Division B

SENATE BILL NO. 2267

1 AN ACT TO CREATE NEW SECTION 99-19-71.1, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE FOR THE AUTOMATIC EXPUNCTION OF CONVICTIONS FOR  
 3 THE POSSESSION OF MARIJUANA WHERE THE AMOUNT OF MARIJUANA WAS  
 4 EQUAL TO OR LESS THAN THE LEGAL LIMIT OF POSSESSION FOR MEDICAL  
 5 CANNABIS; TO PROVIDE FOR THE AUTOMATIC EXPUNCTION OF THE RECORD OF  
 6 ANY CASE WHERE THE ONLY CHARGES WERE FOR THE POSSESSION OF  
 7 MARIJUANA OR ANY REFERENCE TO A CHARGE OF POSSESSION OF MARIJUANA  
 8 IN THE RECORD OF ANY CASE IN WHICH AN ARREST WAS MADE, THE PERSON  
 9 ARRESTED WAS RELEASED AND THE CASE WAS DISMISSED OR THE CHARGES  
 10 WERE DROPPED OR THERE WAS NO DISPOSITION OF SUCH CASE, OR THE  
 11 PERSON WAS FOUND NOT GUILTY AT TRIAL; TO ESTABLISH A PROCEDURE FOR  
 12 THE EXPUNCTIONS; TO PROVIDE NOTICE TO PROSECUTORS; TO AMEND  
 13 SECTIONS 25-7-25 AND 81-18-9, MISSISSIPPI CODE OF 1972, TO MAKE  
 14 MINOR NONSUBSTANTIVE CHANGES TO CONFORM; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** The following shall be codified as Section  
 17 99-19-71.1, Mississippi Code of 1972:

18 99-19-71.1. (1) As used in this section the following terms  
 19 shall have the meaning herein ascribed unless the context clearly  
 20 requires otherwise:

21 (a) "Court" shall mean any court with jurisdiction over  
 22 arrests or convictions relating to the possession of marijuana.

23 (b) "Prosecutor" shall mean district attorney and  
 24 county prosecutor.



25 (2) The court of each judicial district shall expunge:

26 (a) The convictions of each person convicted of  
27 possession of marijuana under Section 41-29-139(c) where the  
28 amount of marijuana was equal to or less than the legal limit of  
29 possession for medical cannabis as provided in Chapter 137, Title  
30 41, Mississippi Code of 1972; and

31 (b) The record of any case where the only charges were  
32 for the possession of marijuana or any reference to a charge of  
33 possession of marijuana in the record of any case in which an  
34 arrest was made, the person arrested was released and the case was  
35 dismissed or the charges were dropped or there was no disposition  
36 of such case, or the person was found not guilty at trial.

37 (3) (a) Within sixty (60) days of the effective date of  
38 this act, the court shall give sixty (60) days' written notice to  
39 the prosecutor of its intention to enter an order of expunction  
40 for the convictions under subsection (2)(a) of this section. The  
41 prosecutor may request a hearing in those cases where the  
42 prosecutor has a good faith belief that the amount of marijuana  
43 underlying the conviction was not equal to or less than the legal  
44 limit of possession as provided in Chapter 137, Title 41,  
45 Mississippi Code of 1972. If a hearing is requested, it shall be  
46 held within ninety (90) calendar days of the request. The court's  
47 order shall be entered within twenty-one (21) business days from  
48 the date of the hearing. In those cases where the court denies  
49 the petition, the findings of the court in this respect shall be



50 identified specifically and not generally. The defendant shall  
51 have the right to appeal an order declining to enter an order of  
52 expunction.

53 (b) Within one hundred twenty (120) days of the  
54 effective date of this act, the court shall enter an order of  
55 expunction under subsection (2)(b) of this section.

56 (4) Upon the entrance of an order of expunction under this  
57 section, no record thereof shall be retained by the Mississippi  
58 Criminal Information Center. The order of expunction shall  
59 preclude a prosecutor's office from retaining a nonpublic record  
60 thereof.

61 (5) The existence of an order of expunction shall not  
62 preclude an employer from asking a prospective employee if the  
63 employee has had an order of expunction entered on his behalf.  
64 The effect of the expunction order shall be to restore the person,  
65 in the contemplation of the law, to the status he occupied before  
66 any arrest or indictment for which convicted. No person as to  
67 whom an expunction order has been entered shall be held thereafter  
68 under any provision of law to be guilty of perjury or to have  
69 otherwise given a false statement by reason of his failure to  
70 recite or acknowledge such arrest, indictment or conviction in  
71 response to any inquiry made of him for any purpose other than the  
72 purpose of determining, in any subsequent proceedings under this  
73 section, whether the person is a first offender. A person as to  
74 whom an order has been entered, upon request, shall be required to



75 advise the court, in camera, of the previous conviction and  
76 expunction in any legal proceeding wherein the person has been  
77 called as a prospective juror. The court shall thereafter and  
78 before the selection of the jury advise the attorneys representing  
79 the parties of the previous conviction and expunction.

80 **SECTION 2.** Section 25-7-25, Mississippi Code of 1972, is  
81 amended as follows:

82 25-7-25. (1) Costs and fees in the justice court shall be  
83 charged as follows and shall be paid in advance to the clerk of  
84 the justice court in accordance with the provisions of Section  
85 9-11-10:

86 (a) A uniform total fee in all civil cases, whether  
87 contested or uncontested, which shall include all services in  
88 connection therewith, except as hereinafter stated, each....\$25.00

89 (b) For more than one (1) defendant, for service of  
90 process on each defendant..... 5.00

91 (c) After final judgment has been enrolled, further  
92 proceedings involving levy of execution on judgments, and  
93 attachment and garnishment proceedings..... 15.00

94 (d) For all services in connection with the issuance of  
95 a peace bond..... 25.00

96 (e) For celebrating a marriage, and certificate  
97 thereof..... 10.00

98 (f) Commission to take depositions..... 5.00

99 (g) Appeal with proceedings and bond..... 5.00



100 (h) A clerk's fee to be collected in all criminal cases  
101 in which the defendant is convicted, as follows:

102 (i) For all violations in Title 63 other than  
103 driving under the influence of intoxicating liquor or reckless  
104 driving..... 5.00

105 (ii) All other criminal cases..... 25.00

106 (2) The justice court shall have the power to impose a fee  
107 not to exceed Fifty Dollars (\$50.00) for an \* \* \* expunction or  
108 dismissal of any criminal affidavit, complaint or charge.

109 (3) In addition to the salary provided for in subsection (1)  
110 of Section 25-3-36, each justice court judge may receive a fee of  
111 not more than Twenty-five Dollars (\$25.00) for each marriage  
112 ceremony he performs in the courtroom or offices of the justice  
113 court at any time the courtroom or offices are open to the public.  
114 This fee shall be paid by the parties to the marriage. Each  
115 justice court judge may receive money or gratuities for marriage  
116 ceremonies performed outside of and away from the courtroom and  
117 the offices of the justice court, that the parties to the marriage  
118 request to have performed at any time the courtroom or offices of  
119 the justice court are closed. These monies or gratuities, in an  
120 amount agreed upon by the parties to the marriage, are not  
121 considered fees for the justice court and are not subject to the  
122 requirements set forth in the provisions of Section 9-11-10.

123 **SECTION 3.** Section 81-18-9, Mississippi Code of 1972, is  
124 amended as follows:



125           81-18-9. (1) Applicants for a license shall apply in a form  
126 as prescribed by the commissioner. Each such form shall contain  
127 content as set forth by rule, regulation, instruction or procedure  
128 of the commissioner and may be changed or updated as necessary by  
129 the commissioner in order to carry out the purposes of this  
130 chapter.

131           (2) The mortgage broker and mortgage lender application  
132 through the Nationwide Mortgage Licensing System and Registry  
133 shall include, but is not limited to, the following:

134           (a) The legal name, residence and business address of  
135 the applicant and, if applicable, the legal name, residence and  
136 business address of every principal and executive officer,  
137 together with the résumé of the applicant and of every principal  
138 and executive officer of the applicant. In addition, an  
139 independent credit report obtained from a consumer-reporting  
140 agency described in Section 603(p) of the Fair Credit Reporting  
141 Act and information related to any administrative, civil or  
142 criminal findings by any governmental jurisdiction of every  
143 principal and executive officer.

144           (b) The legal name of the mortgage broker or mortgage  
145 lender in addition to the name under which the applicant will  
146 conduct business in the state, neither of which may be already  
147 assigned to a licensed mortgage broker or mortgage lender.

148           (c) The complete address of the applicant's principal  
149 place of business, branch office(s) and any other locations at



150 which the applicant will engage in any business activity covered  
151 by this chapter. All locations shall be within the United States  
152 of America or a territory of the United States of America,  
153 including Puerto Rico and the U.S. Virgin Islands.

154 (d) A copy of the certificate of incorporation, if a  
155 Mississippi corporation.

156 (e) Documentation satisfactory to the department as to  
157 a certificate of existence of authority to transact business  
158 lawfully in Mississippi from the Mississippi Secretary of State's  
159 office, if a limited liability company, partnership, trust or any  
160 other group of persons, however organized. This paragraph does  
161 not pertain to applicants organized as an individual or as a sole  
162 proprietorship.

163 (f) If a foreign entity, a copy of a certificate of  
164 authority to conduct business in Mississippi and the address of  
165 the principal place of business of the foreign entity.

166 (g) Documentation of a minimum of two (2) years'  
167 experience directly related to mortgage activities by a person  
168 named as the qualifying individual of the company. The qualifying  
169 individual shall be primarily responsible for the operations of  
170 the licensed mortgage broker or mortgage lender. Only one (1)  
171 qualifying individual shall be named for Mississippi and this  
172 person shall be the qualifying individual for only one (1)  
173 licensee. Evidence of experience shall include, where applicable:



174 (i) Copies of business licenses issued by  
175 governmental agencies.

176 (ii) Employment history of the person filing the  
177 application for at least two (2) years before the date of the  
178 filing of an application, including, but not limited to, job  
179 descriptions, length of employment, names, addresses and phone  
180 numbers for past employers.

181 (iii) Any other data and pertinent information as  
182 the department may require with respect to the applicant, its  
183 directors, principals, trustees, officers, members, contractors or  
184 agents. A résumé alone shall not be sufficient proof of  
185 employment history.

186 (3) The mortgage broker and mortgage lender applications  
187 shall be filed on the Nationwide Mortgage Licensing System and  
188 Registry together with the following:

189 (a) The license fee specified in Section 81-18-15;

190 (b) An original or certified copy of a surety bond in  
191 favor of the State of Mississippi for the use, benefit and  
192 indemnity of any person who suffers any damage or loss as a result  
193 of the company's breach of contract or of any obligation arising  
194 therefrom or any violation of law;

195 (c) A set of fingerprints from any local law  
196 enforcement agency from the following applicants:





197 (i) All persons operating as a sole proprietorship  
198 that plan to conduct a mortgage-brokering or lending business in  
199 the State of Mississippi;

200 (ii) Partners in a partnership or principal owners  
201 of a limited liability company that own at least ten percent (10%)  
202 of the voting shares of the company;

203 (iii) Any shareholders owning ten percent (10%) or  
204 more of the outstanding shares of the corporation;

205 (iv) All executive officers of the applicant;

206 (v) All loan originators; and

207 (vi) The named qualifying individual of the  
208 company as required in Section 81-18-9(2)(g). The applicant shall  
209 name only one (1) individual as the qualifying individual for the  
210 State of Mississippi; and

211 (d) At least one (1) employee shall be licensed as a  
212 loan originator at a licensed location.

213 (4) In connection with an application for licensing as a  
214 mortgage broker or lender under this chapter, the required  
215 stockholders, owners, directors and executive officers of the  
216 applicant shall, at a minimum, furnish to the Nationwide Mortgage  
217 Licensing System and Registry information concerning the  
218 individual's identity, including:

219 (a) Fingerprints from any local law enforcement agency  
220 for submission to the Federal Bureau of Investigation and any  
221 governmental entity authorized to receive that information for a



222 state, national and/or international criminal history background  
223 check; and

224 (b) Personal history and experience in a form  
225 prescribed by the Nationwide Mortgage Licensing System and  
226 Registry, including the submission of authorization for the  
227 Nationwide Mortgage Licensing System and Registry and the  
228 commissioner to obtain:

229 (i) An independent credit report obtained from a  
230 consumer-reporting agency described in Section 603(p) of the Fair  
231 Credit Reporting Act; and

232 (ii) Information related to any administrative,  
233 civil or criminal findings by any governmental jurisdiction.

234 (5) Upon receipt of an application for licensure, the  
235 department or designated third party shall conduct an  
236 investigation as it deems necessary to determine that the  
237 applicant and its officers, directors and principals are of good  
238 character and ethical reputation; that the applicant demonstrates  
239 reasonable financial responsibility; and that the applicant has  
240 reasonable policies and procedures to receive and process customer  
241 grievances and inquiries promptly and fairly.

242 (6) The commissioner shall not license an applicant unless  
243 he is satisfied that the applicant will operate its mortgage  
244 activities in compliance with the laws, rules and regulations of  
245 this state and the United States.



246 (7) If an applicant satisfies the requirements of this  
247 chapter for a mortgage broker or mortgage lender license, the  
248 commissioner shall issue the license unless the commissioner finds  
249 any of the following:

250 (a) The applicant has had a mortgage lender, mortgage  
251 broker or mortgage servicer license revoked in any governmental  
252 jurisdiction, except that a subsequent formal vacation of the  
253 revocation shall not be deemed a revocation; or

254 (b) The applicant or its controlling persons has been  
255 convicted of, or pled guilty or nolo contendere to, (i) a felony  
256 in a domestic, foreign or military court during the seven-year  
257 period preceding the date of application for licensing; or (ii) at  
258 any time preceding the date of application if such felony involved  
259 an act of fraud, dishonesty, a breach of trust, or money  
260 laundering. However, any pardon or \* \* \* expunction of a  
261 conviction shall not be a conviction for purposes of this  
262 subsection.

263 (8) Applicants for a mortgage loan originator license shall  
264 apply in a form as prescribed by the commissioner and shall be  
265 filed on the Nationwide Mortgage Licensing System and Registry.  
266 Each such form shall contain content as set forth by rules,  
267 regulations, instructions or procedures of the commissioner and  
268 may be changed or updated as necessary by the commissioner in  
269 order to carry out the purposes of this chapter. The initial  
270 license of a mortgage loan originator shall be accompanied by a



271 fee of Two Hundred Dollars (\$200.00), to be paid to the Nationwide  
272 Mortgage Licensing System and Registry, and any additional fees as  
273 required by the Nationwide Mortgage Licensing System and Registry.  
274 The commissioner shall not issue a mortgage loan originator  
275 license unless the commissioner makes at a minimum the following  
276 findings:

277 (a) The applicant has never had a mortgage loan  
278 originator license revoked in any governmental jurisdiction,  
279 except that a later formal vacation of that revocation shall not  
280 be deemed a revocation.

281 (b) The applicant has not been convicted of, or pled  
282 guilty or nolo contendere to, (i) a felony in a domestic, foreign  
283 or military court during the seven-year period preceding the date  
284 of application for licensing; or (ii) at any time preceding the  
285 date of application if such felony involved an act of fraud,  
286 dishonesty, a breach of trust or money laundering. However, any  
287 pardon or \* \* \* expunction of a conviction shall not be a  
288 conviction for purposes of this subsection.

289 (c) The applicant has demonstrated financial  
290 responsibility, character and general fitness such as to command  
291 the confidence of the community and to warrant a determination  
292 that the mortgage loan originator will operate honestly, fairly  
293 and efficiently within the purposes of this chapter.

294 (d) The applicant has completed the prelicensing  
295 education requirement described in Section 81-18-14(1).



296 (e) The applicant has passed a written test that meets  
297 the test requirement described in Section 81-18-14(7).

298 (f) The applicant has met the surety bond requirement  
299 as provided in Section 81-18-11.

300 (g) This individual must work for a Mississippi  
301 licensed company and work from the location licensed with the  
302 department. The licensed location that he or she is assigned to  
303 must be within one hundred twenty-five (125) miles of his or her  
304 residency. If the licensed loan originator resides and works in  
305 Mississippi, then he or she may work from any licensed location of  
306 the licensed company within the State of Mississippi. However, an  
307 owner of a minimum of ten percent (10%) of a licensed company or  
308 the named qualifying individual on file with the department, who  
309 is a licensed loan originator with the department, may work from  
310 any licensed location of the licensed company within the State of  
311 Mississippi in the capacity of a loan originator as described in  
312 this chapter.

313 (9) In order to fulfill the purposes of this chapter, the  
314 commissioner is authorized to establish relationships or contracts  
315 with the Nationwide Mortgage Licensing System and Registry or  
316 other entities designated by the Nationwide Mortgage Licensing  
317 System and Registry to collect and maintain records and process  
318 transaction fees or other fees related to licensees or other  
319 persons subject to this chapter.



320 (10) In connection with an application for licensing as a  
321 mortgage loan originator, the applicant shall, at a minimum,  
322 furnish to the Nationwide Mortgage Licensing System and Registry  
323 information concerning the applicant's identity, including:

324 (a) Fingerprints for submission to the Federal Bureau  
325 of Investigation, and any governmental agency or entity authorized  
326 to receive that information for a state, national and/or  
327 international criminal history background check; and

328 (b) Personal history and experience in a form  
329 prescribed by the Nationwide Mortgage Licensing System and  
330 Registry, including the submission of authorization for the  
331 Nationwide Mortgage Licensing System and Registry and the  
332 commissioner to obtain:

333 (i) An independent credit report obtained from a  
334 consumer-reporting agency described in Section 603(p) of the Fair  
335 Credit Reporting Act; and

336 (ii) Information related to any administrative,  
337 civil or criminal findings by any governmental jurisdiction.

338 (11) For the purposes of this section and in order to reduce  
339 the points of contact which the Federal Bureau of Investigation  
340 may have to maintain for purposes of subsection (10)(a) and  
341 (b)(ii) of this section, the commissioner may use the Nationwide  
342 Mortgage Licensing System and Registry as a channeling agent for  
343 requesting information from and distributing information to the  
344 Department of Justice or any governmental agency.



345 (12) For the purposes of this section and in order to reduce  
346 the points of contact which the commissioner may have to maintain  
347 for purposes of subsection (10)(b)(i) and (ii) of this section,  
348 the commissioner may use the Nationwide Mortgage Licensing System  
349 and Registry as a channeling agent for requesting and distributing  
350 information to and from any source so directed by the  
351 commissioner.

352 **SECTION 4.** This act shall take effect and be in force from  
353 and after its passage.

