

By: Representative Horan

To: Judiciary B

HOUSE BILL NO. 724

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT CONVICTIONS THAT HAVE BEEN PARDONED ARE ELIGIBLE
3 FOR 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;

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

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

40 A person is eligible for only one (1) felony expunction under
41 this paragraph. For the purposes of this section, the terms "one
42 (1) conviction" and "one (1) felony expunction" mean and include
43 all convictions, including any conviction that has been pardoned,



44 that arose from a common nucleus of operative facts as determined
45 in the discretion of the court.

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

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



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

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

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

87 **SECTION 2.** This act shall take effect and be in force from
88 and after July 1, 2024.

