

By: Senator(s) Norwood

To: Judiciary, Division B

## SENATE BILL NO. 2331

1       AN ACT TO CONSOLIDATE THE STATUTES CONCERNING EXPUNGEMENT; TO  
2       CREATE A UNIFIED EXPUNGEMENT STATUTE; TO PROVIDE FOR THE LEGAL  
3       EFFECT OF AN ORDER TO EXPUNGE; TO PROVIDE FOR EXPUNGEMENT OF  
4       MISDEMEANOR AND FELONY CONVICTIONS; TO SPECIFY RECORDS THAT MAY  
5       NOT BE EXPUNGED; TO PROVIDE FOR EXPUNGEMENT OF A FIRST-OFFENSE DUI  
6       CONVICTION; TO PROVIDE FOR EXPUNGEMENT UPON COMPLETION OF  
7       INTERVENTION COURT; TO PROVIDE FOR EXPUNGEMENT OF CONVICTIONS FOR  
8       PURCHASE OF LIGHT WINE OR BEER BY MINORS; TO PROVIDE FOR CERTAIN  
9       NONCONVICTIONS; TO SET FILING FEES ACCORDING TO PREEXISTING LAW;  
10      TO REQUIRE INTERSTATE IDENTIFICATION INDEX REPORTS; TO REQUIRE  
11      CLERKS OF COURT TO SUBMIT POST-EXPUNGEMENT RECORDS; TO AMEND  
12      SECTION 9-11-15, MISSISSIPPI CODE OF 1972, TO CONFORM EXPUNGEMENTS  
13      IN THE JUSTICE COURTS; TO AMEND SECTION 9-23-23, MISSISSIPPI CODE  
14      OF 1972, TO CONFORM EXPUNGEMENTS IN INTERVENTION COURTS; TO AMEND  
15      SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO CONFORM EXPUNGEMENT  
16      IN MUNICIPAL COURTS; TO AMEND SECTION 41-29-150, MISSISSIPPI CODE  
17      OF 1972, TO CONFORM EXPUNGEMENT OF CERTAIN DRUG CHARGES; TO AMEND  
18      SECTION 45-27-21, MISSISSIPPI CODE OF 1972, TO CONFORM  
19      RECORD-KEEPING REQUIREMENTS FOR THE CRIMINAL INFORMATION CENTER;  
20      TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF 1972, TO CONFORM  
21      THE EXPUNGEMENT OF DUI RECORDS; TO AMEND SECTION 99-15-26,  
22      MISSISSIPPI CODE OF 1972, TO CONFORM NONADJUDICATION PROVISIONS;  
23      TO REPEAL SECTION 99-15-59, MISSISSIPPI CODE OF 1972, WHICH  
24      PROVIDES THAT ANY PERSON WHO IS ARRESTED, ISSUED A CITATION, OR  
25      HELD FOR ANY MISDEMEANOR AND NOT FORMALLY CHARGED OR PROSECUTED  
26      WITH AN OFFENSE WITHIN 12 MONTHS OF ARREST, OR UPON DISMISSAL OF  
27      THE CHARGE, MAY APPLY TO THE COURT WITH JURISDICTION OVER THE  
28      MATTER FOR THE CHARGES TO BE EXPUNGED; TO REPEAL SECTION 99-19-71,  
29      MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR EXPUNGEMENT OF  
30      CERTAIN FELONY AND MISDEMEANOR CONVICTION RECORDS; TO REPEAL  
31      SECTION 99-19-72, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR  
32      FILING FEES FOR CERTAIN PETITIONS FOR EXPUNGEMENT AND THE  
33      DISPOSITION THEREOF; AND FOR RELATED PURPOSES.



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

**SECTION 1.** (1) **Legal effect of an order to expunge;**

**eligibility.** (a) "Expungement" or "expunction" means the deletion, by court order, of the records of criminal offenses from a person's public records.

(b) (i) Upon entering an order of expungement under this section, a nonpublic record thereof shall be retained by the Mississippi Criminal Information Center solely for the purpose of determining whether, in subsequent proceedings, the person is a first offender.

(ii) The order of expungement shall not preclude a district attorney's office from retaining a nonpublic record thereof for law enforcement purposes only.

(iii) The existence of an order of expungement shall not preclude an employer from asking a prospective employee if the employee has had an order of expungement entered on his behalf.

(c) (i) The effect of an expungement order shall be to restore the person, in the contemplation of the law, to the status he occupied before any arrest or indictment for which convicted, and the person thereafter legally stands as though he had never been arrested, indicted, or convicted of the expunged offense or offenses and may lawfully so respond to any query of prior convictions.



58 (ii) No person as to whom an expungement order has  
59 been entered shall be held thereafter under any provision of law  
60 to be guilty of perjury or to have otherwise given a false  
61 statement by reason of his failure to recite or acknowledge such  
62 arrest, indictment or conviction in response to any inquiry made  
63 of him for any purpose other than the purpose of determining, in  
64 any subsequent proceedings under this section, whether the person  
65 is a first offender. A person as to whom an order has been  
66 entered, upon request, shall be required to advise the court, in  
67 camera, of the previous conviction and expungement in any legal  
68 proceeding wherein the person has been called as a prospective  
69 juror. The court shall thereafter and before the selection of the  
70 jury advise the attorneys representing the parties of the previous  
71 conviction and expungement.

72 (d) No public official is eligible for expungement of  
73 any felony or misdemeanor conviction related to his official  
74 duties.

75 (2) **Expungement of misdemeanor convictions.** (a) **First**  
76 **offender.** Any person who has been convicted of a misdemeanor that  
77 is not a traffic violation, and who is a first offender, may  
78 petition the justice, county, circuit or municipal court in which  
79 the conviction was had for an order to expunge any such conviction  
80 from all public records.

81 (b) **Multiple misdemeanors.** Upon prior notice to the  
82 appropriate prosecuting attorney and upon a showing in open court



83 of rehabilitation, good conduct for a period of two (2) years  
84 since the last conviction in any court, and that the best interest  
85 of society would be served, the justice, municipal, county, or  
86 circuit court may, in its discretion, order the record of  
87 conviction of a person of any or all misdemeanors in that court  
88 expunged.

89 (c) **Records that may not be expunged.** The confidential  
90 records of law enforcement agencies and the driving record of a  
91 person maintained under Title 63, Mississippi Code of 1972, are  
92 not subject to expungement under this subsection (2).

93 (3) **Expungement of felony convictions.** (a) Except as  
94 otherwise provided in this subsection, a person who has been  
95 convicted of a felony and who has paid all criminal fines and  
96 costs of court imposed in the sentence of conviction may petition  
97 the court in which the conviction was had for an order to expunge  
98 one (1) conviction from all public records five (5) years after  
99 the successful completion of all terms and conditions of the  
100 sentence for the conviction upon a hearing as determined in the  
101 discretion of the court; however, a person is not eligible to  
102 expunge a felony classified as:

103 (i) A crime of violence as provided in Section  
104 97-3-2;

105 (ii) Arson, first degree as provided in Sections  
106 97-17-1 and 97-17-3;



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

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

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

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

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

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

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

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

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

(b) The petitioner must give ten (10) days' written notice to the district attorney before any hearing on the petition. In all cases, the court wherein the petition is filed may grant the petition if the court determines, on the record or in writing, that the applicant is rehabilitated from the offense



132 which is the subject of the petition. In those cases where the  
133 court denies the petition, the findings of the court in this  
134 respect shall be identified specifically and not generally.

135 (4) (a) **DUI convictions.** Any person convicted of a first  
136 offense of driving under the influence under Section 63-11-30(2)  
137 or (3) and who was not the holder of a commercial driver's license  
138 or a commercial learning permit at the time of the offense may  
139 petition the circuit court of the county in which the conviction  
140 was had for an order to expunge the record of the conviction at  
141 least five (5) years after successful completion of all terms and  
142 conditions of the sentence imposed for the conviction.  
143 Expungement under this subsection will only be available to a  
144 person:

145 (i) Who has successfully completed all terms and  
146 conditions of the sentence imposed for the conviction;

147 (ii) Who did not refuse to submit to a test of his  
148 blood or breath;

149 (iii) Whose blood alcohol concentration tested  
150 below sixteen one-hundredths percent (.16%) if test results are  
151 available;

152 (iv) Who has not been convicted of and does not  
153 have pending any other offense of driving under the influence;

154 (v) Who has provided the court with justification  
155 as to why the conviction should be expunged; and



(vi) Who has not previously had a nonadjudication or expungement of a violation of Section 63-11-30.

(b) A person is eligible for only one (1) expungement under this subsection (4), and the Department of Public Safety shall maintain a permanent confidential registry of all cases of expungement under this subsection for the sole purpose of determining a person's eligibility for expungement, for nonadjudication, or as a first offender under this subsection (4).

(c) The court in its order of expungement shall state in writing the justification for which the expungement was granted and forward the order to the Department of Public Safety within five (5) days of the entry of the order.

(5) **Completion of intervention court.** If an intervention court participant was sentenced at the time of entry of plea of guilty, and the participant successfully completes the requirements of the intervention court order and other requirements of probation or suspension of sentence, the record of the criminal conviction or adjudication will be expunged. However, no expungement of any implied consent violation shall be allowed in intervention court.

(6) **Convictions for purchase of light wine or beer by person under age of twenty-one (21).** A person who has been charged with a violation of subsection (1) or (2) of Section 67-3-70, not sooner than one (1) year after the dismissal and discharge or completion of any sentence and payment of any fine, may apply to



181 the court for an order to expunge from all official records all  
182 recordation relating to his arrest, trial, finding or plea of  
183 guilty, and dismissal and discharge. If the court determines that  
184 such person was dismissed and the proceedings against him  
185 discharged or that such person had satisfactorily served his  
186 sentence and paid any fine, penalties and assessments, it shall  
187 enter such order.

188       (7) **Nonconvictions.** (a) **Expungement of misdemeanor**  
189 **charges.** Any person who is arrested, issued a citation, or held  
190 for any misdemeanor and is not formally charged or prosecuted for  
191 the offense within twelve (12) months of arrest, or upon dismissal  
192 of the charge, may apply to the court with jurisdiction over the  
193 matter for the charges to be expunged.

194       (b) **Nonadjudication of drug offenses.** Upon the  
195 dismissal of the charges against a person and discharge of  
196 proceedings against him under Section 41-29-150(d), the person may  
197 apply to the court for an order to expunge from all official  
198 records, other than the nonpublic records to be retained by the  
199 bureau under Section 41-29-150(d), all recordation relating to his  
200 arrest, indictment, trial, finding of guilt, and dismissal and  
201 discharge pursuant to Section 41-29-150. If the court determines,  
202 after hearing, that the charge against the person was dismissed  
203 and the proceedings against him discharged, or that the person had  
204 satisfactorily served his sentence or period of probation and  
205 parole, it shall enter an order of expungement.





206 (c) Upon petition therefor, any circuit, county,  
207 justice, or municipal court with jurisdiction over a criminal  
208 offense shall expunge the record of any case in which an arrest  
209 was made, the person arrested was released and the case was  
210 dismissed, the charges were dropped, there was no disposition of  
211 the case, or the person was found not guilty at trial.

212 (d) From and after July 1, 2020, upon entry of an order  
213 of dismissal or nolle prosequi, the court shall automatically  
214 issue an order of expungement on its own motion and send a copy of  
215 the order to the defendant or the defendant's attorney.

216 (8) **Filing fees.** (a) **Felony convictions in circuit court.**  
217 A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby  
218 levied on each petition to expunge the record of a conviction in  
219 circuit or county court to be collected by the circuit clerk and  
220 distributed as follows:

221 (i) One Hundred Forty Dollars (\$140.00) to be  
222 deposited into the State General Fund; and

223 (ii) Ten Dollars (\$10.00) to be retained by the  
224 circuit clerk collecting the fee.

225 (b) There shall be no filing fee levied on petitions  
226 seeking expungement of offenses in cases where the petitioner was  
227 arrested and released and the case was dismissed or the charges  
228 were dropped or there was no disposition of the case.



(c) **Misdemeanor convictions in justice and municipal courts.** The filing fee for expungement shall be as provided by law.

(9) **Interstate Identification Index reports.** Upon notice of the filing of an expungement petition, the appropriate prosecuting attorney or criminal court clerk must run a background check through the Federal Bureau of Investigation's National Crime Information Center Interstate Identification Index and present the results of the report to the criminal court.

(10) **Post-expungement records.** A certified copy of every expungement order shall be sent by the clerk of the circuit, county, justice, or municipal court that issued the order to the Mississippi Criminal Information Center where it shall be maintained in a separate confidential database accessible only upon written request by a district attorney, a county prosecuting attorney, a municipal court prosecuting attorney, the Attorney General of Mississippi and the Mississippi Law Enforcement Officer Standards and Training Board. A criminal conviction that has been expunged may be used for the purpose of determining habitual offender status and for the use of the Mississippi Law Enforcement Officer Standards and Training Board in granting or denying law enforcement certification, and to ensure that a person is eligible for first-offender status only one (1) time.

**SECTION 2.** Section 9-11-15, Mississippi Code of 1972, is amended as follows:



254 9-11-15. (1) Justice court judges shall hold regular terms  
255 of their courts, at such times as they may appoint, not exceeding  
256 two (2) and not less than one (1) in every month, at the  
257 appropriate justice court courtroom established by the board of  
258 supervisors; and they may continue to hold their courts from day  
259 to day so long as business may require; and all process shall be  
260 returnable, and all trials shall take place at such regular terms,  
261 except where it is otherwise provided; but where the defendant is  
262 a nonresident or transient person, and it shall be shown by the  
263 oath of either party that a delay of the trial until the regular  
264 term will be of material injury to him, it shall be lawful for the  
265 judge to have the parties brought before him at any reasonable  
266 time and hear the evidence and give judgment or where the  
267 defendant is a nonresident or transient person and the judge and  
268 all parties agree, it shall be lawful for the judge to have the  
269 parties brought before him on the day a citation is made and hear  
270 the evidence and give judgment. Such court shall be a court of  
271 record, with all the power incident to a court of record,  
272 including power to fine in the amount of fine and length of  
273 imprisonment as is authorized for a municipal court in Section  
274 21-23-7( \* \* \*9) for contempt of court.

275 (2) (a) In counties with a population of less than one  
276 hundred fifty thousand (150,000), each justice court shall  
277 designate at least one-half (1/2) day each month as a traffic  
278 court day, sufficient to handle the traffic violations docket of



that court, and shall notify all appropriate law enforcement agencies of the date or dates. On the day or days so designated, the justice court shall give priority to all cases involving traffic violations.

(b) In counties with a population of one hundred fifty thousand (150,000) or more, each justice court shall designate at least one (1) day each month as a traffic court day, sufficient to handle the traffic violations of that court, and shall notify all appropriate law enforcement agencies of the date or dates. On the day or days so designated, the justice court shall give priority to all cases involving traffic violations. The one (1) day may be one (1) whole day or it may be divided into half days as long as one-half (1/2) day is held in the morning and one-half (1/2) day is held in the afternoon, in the discretion of the court.

\* \* \*

**SECTION 3.** Section 9-23-23, Mississippi Code of 1972, is amended as follows:

9-23-23. If the participant completes all requirements imposed upon him by the intervention court, including the payment of fines and fees assessed and not waived by the court, the charge and prosecution shall be dismissed. If the defendant or participant was sentenced at the time of entry of plea of guilty, the successful completion of the intervention court order and other requirements of probation or suspension of sentence will result in the record of the criminal conviction or adjudication



being expunged as provided in Section 1 of this act. However, no expunction of any implied consent violation shall be allowed.

**SECTION 4.** Section 21-23-7, Mississippi Code of 1972, is amended as follows:

21-23-7. (1) The municipal judge shall hold court in a public building designated by the governing authorities of the municipality, or may hold court in an adult detention center as provided under this subsection, and may hold court every day except Sundays and legal holidays if the business of the municipality so requires; provided, however, the municipal judge may hold court outside the boundaries of the municipality but not more than within a sixty-mile radius of the municipality to handle preliminary matters and criminal matters such as initial appearances and felony preliminary hearings. The municipal judge may hold court outside the boundaries of the municipality but not more than within a one-mile radius of the municipality for any purpose; however, a municipal judge may hold court outside the boundaries of the municipality more than within a one-mile radius of the municipality when accepting a plea of a defendant at an adult detention center within the county. The municipal judge shall have the jurisdiction to hear and determine, without a jury and without a record of the testimony, all cases charging violations of the municipal ordinances and state misdemeanor laws made offenses against the municipality and to punish offenders therefor as may be prescribed by law. Except as otherwise



provided by law, criminal proceedings shall be brought by sworn complaint filed in the municipal court. Such complaint shall state the essential elements of the offense charged and the statute or ordinance relied upon. Such complaint shall not be required to conclude with a general averment that the offense is against the peace and dignity of the state or in violation of the ordinances of the municipality. He may sit as a committing court in all felonies committed within the municipality, and he shall have the power to bind over the accused to the grand jury or to appear before the proper court having jurisdiction to try the same, and to set the amount of bail or refuse bail and commit the accused to jail in cases not bailable. The municipal judge is a conservator of the peace within his municipality. He may conduct preliminary hearings in all violations of the criminal laws of this state occurring within the municipality, and any person arrested for a violation of law within the municipality may be brought before him for initial appearance. The municipal court shall have jurisdiction of any case remanded to it by a circuit court grand jury. The municipal court shall have civil jurisdiction over actions filed pursuant to and as provided in Chapter 21, Title 93, \* \* \* Mississippi Code of 1972, the Protection from Domestic Abuse Act.

(2) In the discretion of the court, where the objects of justice would be more likely met, as an alternative to imposition or payment of fine and/or incarceration, the municipal judge shall



354 have the power to sentence convicted offenders to work on a public  
355 service project where the court has established such a program of  
356 public service by written guidelines filed with the clerk for  
357 public record. Such programs shall provide for reasonable  
358 supervision of the offender and the work shall be commensurate  
359 with the fine and/or incarceration that would have ordinarily been  
360 imposed. Such program of public service may be utilized in the  
361 implementation of the provisions of Section 99-19-20, and public  
362 service work thereunder may be supervised by persons other than  
363 the sheriff.

364 (3) The municipal judge may solemnize marriages, take oaths,  
365 affidavits and acknowledgments, and issue orders, subpoenas,  
366 summonses, citations, warrants for search and arrest upon a  
367 finding of probable cause, and other such process under seal of  
368 the court to any county or municipality, in a criminal case, to be  
369 executed by the lawful authority of the county or the municipality  
370 of the respondent, and enforce obedience thereto. The absence of  
371 a seal shall not invalidate the process.

372 (4) When a person shall be charged with an offense in  
373 municipal court punishable by confinement, the municipal judge,  
374 being satisfied that such person is an indigent person and is  
375 unable to employ counsel, may, in the discretion of the court,  
376 appoint counsel from the membership of The Mississippi Bar  
377 residing in his county who shall represent him. Compensation for  
378 appointed counsel in criminal cases shall be approved and allowed



by the municipal judge and shall be paid by the municipality. The maximum compensation shall not exceed Two Hundred Dollars (\$200.00) for any one (1) case. The governing authorities of a municipality may, in their discretion, appoint a public defender(s) who must be a licensed attorney and who shall receive a salary to be fixed by the governing authorities.

(5) The municipal judge of any municipality is hereby authorized to suspend the sentence and to suspend the execution of the sentence, or any part thereof, on such terms as may be imposed by the municipal judge. However, the suspension of imposition or execution of a sentence hereunder may not be revoked after a period of two (2) years. The municipal judge shall have the power to establish and operate a probation program, dispute resolution program and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice. Any such program shall be established by the court with written policies and procedures filed with the clerk of the court for public record. Subsequent to original sentencing, the municipal judge, in misdemeanor cases, is hereby authorized to suspend sentence and to suspend the execution of a sentence, or any part thereof, on such terms as may be imposed by the municipal judge, if (a) the judge or his or her predecessor was authorized to order such suspension when the sentence was originally imposed; and (b) such conviction (i) has not been appealed; or (ii) has been appealed and the appeal has been voluntarily dismissed.





404     \* \* \*

405           ( \* \* \*6)   In the discretion of the court, a plea of nolo  
406   contendere may be entered to any charge in municipal court. Upon  
407   the entry of a plea of nolo contendere the court shall convict the  
408   defendant of the offense charged and shall proceed to sentence the  
409   defendant according to law. The judgment of the court shall  
410   reflect that the conviction was on a plea of nolo contendere. An  
411   appeal may be made from a conviction on a plea of nolo contendere  
412   as in other cases.

413           ( \* \* \*7)   Upon execution of a sworn complaint charging a  
414   misdemeanor, the municipal court may, in its discretion and in  
415   lieu of an arrest warrant, issue a citation requiring the  
416   appearance of the defendant to answer the charge made against him.  
417   On default of appearance, an arrest warrant may be issued for the  
418   defendant. The clerk of the court or deputy clerk may issue such  
419   citations.

420           ( \* \* \*8)   The municipal court shall have the power to make  
421   rules for the administration of the court's business, which rules,  
422   if any, shall be in writing filed with the clerk of the court and  
423   shall include the enactment of rules related to the court's  
424   authority to issue domestic abuse protection orders pursuant to  
425   Section 93-21-1 et seq.

426           ( \* \* \*9)   The municipal court shall have the power to impose  
427   punishment of a fine of not more than One Thousand Dollars  
428   (\$1,000.00) or six (6) months imprisonment, or both, for contempt



429 of court. The municipal court may have the power to impose  
 430 reasonable costs of court, not in excess of the following:  
 431 Dismissal of any affidavit, complaint or charge  
 432 in municipal court.....\$ 50.00  
 433 Suspension of a minor's driver's license in lieu of  
 434 conviction.....\$ 50.00  
 435 Service of scire facias or return "not found".....\$ 20.00  
 436 Causing search warrant to issue or causing  
 437 prosecution without reasonable cause or refusing to  
 438 cooperate after initiating action.....\$ 100.00  
 439 Certified copy of the court record.....\$ 5.00  
 440 Service of arrest warrant for failure to answer  
 441 citation or traffic summons.....\$ 25.00  
 442 Jail cost per day - actual jail cost paid by the municipality  
 443 but not to exceed..... \$ 35.00  
 444 Service of court documents related to the filing  
 445 of a petition or issuance of a protection from domestic  
 446 abuse order under Chapter 21, Title 93, \* \* \* Mississippi Code of  
 447 1972 .....\$ 25.00  
 448 Expungement.....\$ 50.00  
 449 Any other item of court cost.....\$ 50.00  
 450 No filing fee or such cost shall be imposed for the bringing  
 451 of an action in municipal court.  
 452 ( \* \* \*10) A municipal court judge shall not dismiss a  
 453 criminal case but may transfer the case to the justice court of



the county if the municipal court judge is prohibited from  
presiding over the case by the Canons of Judicial Conduct and  
provided that venue and jurisdiction are proper in the justice  
court. Upon transfer of any such case, the municipal court judge  
shall give the municipal court clerk a written order to transmit  
the affidavit or complaint and all other records and evidence in  
the court's possession to the justice court by certified mail or  
to instruct the arresting officer to deliver such documents and  
records to the justice court. There shall be no court costs  
charged for the transfer of the case to the justice court.

\* \* \*

( \* \* \*11) For violations of municipal ordinances related to  
real property, the municipal judge shall have the power to order a  
defendant to remedy violations within a reasonable time period as  
set by the judge, and at the discretion of the judge, the judge  
may simultaneously authorize the municipality, at its request, the  
option to remedy the violation itself, through the use of its own  
employees or its contractors, without further notice should the  
defendant fail to fully do so within the time period set by the  
judge. Subsequent to the municipality remedying the violation,  
the municipality may petition the court to assess documented  
cleanup costs to the defendant, and, if, following a hearing on  
such petition, the judge determines (a) the violations were not  
remedied by the defendant within the time required by the court,  
(b) that the municipality remedied the violation itself after such



479 time period expired and (c) that the costs incurred by the  
480 municipality were reasonable, the court may assess the costs to  
481 the defendant as a judgement, which may be enrolled in the office  
482 of the circuit clerk.

483       **SECTION 5.** Section 41-29-150, Mississippi Code of 1972, is  
484 amended as follows:

485       41-29-150. (a) Any person convicted under Section 41-29-139  
486 may be required, in the discretion of the court, as a part of the  
487 sentence otherwise imposed, or in lieu of imprisonment in cases of  
488 probation or suspension of sentence, to attend a course of  
489 instruction conducted by the bureau, the State Board of Health, or  
490 any similar agency, on the effects, medically, psychologically and  
491 socially, of the misuse of controlled substances. The course may  
492 be conducted at any correctional institution, detention center or  
493 hospital, or at any center or treatment facility established for  
494 the purpose of education and rehabilitation of those persons  
495 committed because of abuse of controlled substances.

496       (b) Any person convicted under Section 41-29-139 who is  
497 found to be dependent upon or addicted to any controlled substance  
498 shall be required, as a part of the sentence otherwise imposed, or  
499 in lieu of imprisonment in cases of parole, probation or  
500 suspension of sentence, to receive medical treatment for such  
501 dependency or addiction. The regimen of medical treatment may  
502 include confinement in a medical facility of any correctional  
503 institution, detention center or hospital, or at any center or



504 facility established for treatment of those persons committed  
505 because of a dependence or addiction to controlled substances.

506 (c) Those persons previously convicted of a felony under  
507 Section 41-29-139 and who are now confined at the Mississippi  
508 State Hospital at Whitfield, Mississippi, or at the East  
509 Mississippi State Hospital at Meridian, Mississippi, for the term  
510 of their sentence shall remain under the jurisdiction of the  
511 Mississippi Department of Corrections and shall be required to  
512 abide by all reasonable rules and regulations promulgated by the  
513 director and staff of said institutions and of the Department of  
514 Corrections. Any persons so confined who shall refuse to abide by  
515 said rules or who attempt an escape or who shall escape shall be  
516 transferred to the State Penitentiary or to a county jail, where  
517 appropriate, to serve the remainder of the term of imprisonment;  
518 this provision shall not preclude prosecution and conviction for  
519 escape from said institutions.

520 (d) (1) If any person who has not previously been convicted  
521 of violating Section 41-29-139, or the laws of the United States  
522 or of another state relating to narcotic drugs, stimulant or  
523 depressant substances, other controlled substances or marihuana is  
524 found to be guilty of a violation of subsection (c) or (d) of  
525 Section 41-29-139, after trial or upon a plea of guilty, the court  
526 may, without entering a judgment of guilty and with the consent of  
527 such person, defer further proceedings and place him on probation  
528 upon such reasonable conditions as it may require and for such



period, not to exceed three (3) years, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the bureau solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the penalties prescribed under this article for second or subsequent conviction, or for any other purpose. Discharge and dismissal under this subsection may occur only once with respect to any person; and

(2) Upon the dismissal of a person and discharge of proceedings against him under paragraph (1) of this subsection, the person may apply to the court for an expungement order \* \* \* under Section 1 of this act.



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

(f) It shall be unlawful for any person confined under the provisions of subsection (b) or (c) of this section to escape or attempt to escape from said institution, and, upon conviction, said person shall be guilty of a felony and shall be imprisoned for a term not to exceed two (2) years.

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

**SECTION 6.** Section 45-27-21, Mississippi Code of 1972, is amended as follows:

45-27-21. A certified copy of every \* \* \* nonadjudication order shall be sent by the circuit clerk to the Mississippi Criminal Information Center where it shall be maintained in a separate confidential database accessible only upon written request by a district attorney, a county prosecuting attorney, a municipal court prosecuting attorney, the Attorney General of Mississippi and the Mississippi Law Enforcement Officer Standards and Training Board. Any criminal conviction which has been \* \* \* nonadjudicated may be used for the purpose of determining habitual offender status and for the use of the Mississippi Law Enforcement Officer Standards and Training Board in \* \* \* granting or denying



law enforcement certification, and to ensure that a person is only eligible for first-offender status one (1) time.

**SECTION 7.** Section 63-11-30, Mississippi Code of 1972, is amended as follows:

63-11-30. (1) It is unlawful for a person to drive or otherwise operate a vehicle within this state if the person:

(a) Is under the influence of intoxicating liquor;

(b) Is under the influence of any other substance that has impaired the person's ability to operate a motor vehicle;

(c) Is under the influence of any drug or controlled substance, the possession of which is unlawful under the Mississippi Controlled Substances Law; or

(d) Has an alcohol concentration in the person's blood, based upon grams of alcohol per one hundred (100) milliliters of blood, or grams of alcohol per two hundred ten (210) liters of breath, as shown by a chemical analysis of the person's breath, blood or urine administered as authorized by this chapter, of:

(i) Eight one-hundredths percent (.08%) or more for a person who is above the legal age to purchase alcoholic beverages under state law;

(ii) Two one-hundredths percent (.02%) or more for a person who is below the legal age to purchase alcoholic beverages under state law; or

(iii) Four one-hundredths percent (.04%) or more for a person operating a commercial motor vehicle.





(2) Except as otherwise provided in subsection (3) of this section (Zero Tolerance for Minors):

(a) **First offense DUI.** (i) Upon conviction of any person for the first offense of violating subsection (1) of this section where chemical tests under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned for not more than forty-eight (48) hours in jail, or both; the court shall order the person to attend and complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months of sentencing. The court may substitute attendance at a victim impact panel instead of forty-eight (48) hours in jail.

(ii) Suspension of commercial driving privileges is governed by Section 63-1-216.

(iii) A qualifying first offense may be nonadjudicated by the court under subsection (14) of this section. The holder of a commercial driver's license or a commercial learning permit at the time of the offense is ineligible for nonadjudication.

(iv) Eligibility for an interlock-restricted license is governed by Section 63-11-31 and suspension of regular driving privileges is governed by Section 63-11-23.

(b) **Second offense DUI.** (i) Upon any second conviction of any person violating subsection (1) of this section,



628 the offenses being committed within a period of five (5) years,  
629 the person shall be guilty of a misdemeanor, fined not less than  
630 Six Hundred Dollars (\$600.00) nor more than One Thousand Five  
631 Hundred Dollars (\$1,500.00), shall be imprisoned not less than  
632 five (5) days nor more than six (6) months and sentenced to  
633 community service work for not less than ten (10) days nor more  
634 than six (6) months. The minimum penalties shall not be suspended  
635 or reduced by the court and no prosecutor shall offer any  
636 suspension or sentence reduction as part of a plea bargain.

637 (ii) Suspension of commercial driving privileges  
638 is governed by Section 63-1-216.

639 (iii) Eligibility for an interlock-restricted  
640 license is governed by Section 63-11-31 and suspension of regular  
641 driving privileges is governed by Section 63-11-23.

642 (c) **Third offense DUI.** (i) For a third conviction of  
643 a person for violating subsection (1) of this section, the  
644 offenses being committed within a period of five (5) years, the  
645 person shall be guilty of a felony and fined not less than Two  
646 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars  
647 (\$5,000.00), and shall serve not less than one (1) year nor more  
648 than five (5) years in the custody of the Department of  
649 Corrections. For any offense that does not result in serious  
650 injury or death to any person, the sentence of incarceration may  
651 be served in the county jail rather than in the State Penitentiary  
652 at the discretion of the circuit court judge. The minimum



653 penalties shall not be suspended or reduced by the court and no  
654 prosecutor shall offer any suspension or sentence reduction as  
655 part of a plea bargain.

656 (ii) The suspension of commercial driving  
657 privileges is governed by Section 63-1-216.

658 (iii) The suspension of regular driving privileges  
659 is governed by Section 63-11-23.

660 (d) **Fourth and subsequent offense DUI.** (i) For any  
661 fourth or subsequent conviction of a violation of subsection (1)  
662 of this section, without regard to the time period within which  
663 the violations occurred, the person shall be guilty of a felony  
664 and fined not less than Three Thousand Dollars (\$3,000.00) nor  
665 more than Ten Thousand Dollars (\$10,000.00), and shall serve not  
666 less than two (2) years nor more than ten (10) years in the  
667 custody of the Department of Corrections.

668 (ii) The suspension of commercial driving  
669 privileges is governed by Section 63-1-216.

670 (iii) A person convicted of a fourth or subsequent  
671 offense is ineligible to exercise the privilege to operate a motor  
672 vehicle that is not equipped with an ignition-interlock device for  
673 ten (10) years.

674 (e) Any person convicted of a second or subsequent  
675 violation of subsection (1) of this section shall receive an  
676 in-depth diagnostic assessment, and if as a result of the  
677 assessment is determined to be in need of treatment for alcohol or



678 drug abuse, the person must successfully complete treatment at a  
679 program site certified by the Department of Mental Health. Each  
680 person who receives a diagnostic assessment shall pay a fee  
681 representing the cost of the assessment. Each person who  
682 participates in a treatment program shall pay a fee representing  
683 the cost of treatment.

684 (f) The use of ignition-interlock devices is governed  
685 by Section 63-11-31.

686 (3) **Zero tolerance for minors.** (a) This subsection shall  
687 be known and may be cited as Zero Tolerance for Minors. The  
688 provisions of this subsection shall apply only when a person under  
689 the age of twenty-one (21) years has a blood alcohol concentration  
690 of two one-hundredths percent (.02%) or more, but lower than eight  
691 one-hundredths percent (.08%). If the person's blood alcohol  
692 concentration is eight one-hundredths percent (.08%) or more, the  
693 provisions of subsection (2) shall apply.

694 (b) (i) A person under the age of twenty-one (21) is  
695 eligible for nonadjudication of a qualifying first offense by the  
696 court pursuant to subsection (14) of this section.

697 (ii) Upon conviction of any person under the age  
698 of twenty-one (21) years for the first offense of violating  
699 subsection (1) of this section where chemical tests provided for  
700 under Section 63-11-5 were given, or where chemical test results  
701 are not available, the person shall be fined Two Hundred Fifty  
702 Dollars (\$250.00); the court shall order the person to attend and



complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months. The court may also require attendance at a victim impact panel.

(c) A person under the age of twenty-one (21) years who is convicted of a second violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than Five Hundred Dollars (\$500.00).

(d) A person under the age of twenty-one (21) years who is convicted of a third or subsequent violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than One Thousand Dollars (\$1,000.00).

(e) License suspension is governed by Section 63-11-23 and ignition interlock is governed by Section 63-11-31.

(f) Any person under the age of twenty-one (21) years convicted of a third or subsequent violation of subsection (1) of this section must complete treatment of an alcohol or drug abuse program at a site certified by the Department of Mental Health.

(4) **DUI test refusal.** In addition to the other penalties provided in this section, every person refusing a law enforcement officer's request to submit to a chemical test of the person's breath as provided in this chapter, or who was unconscious at the time of a chemical test and refused to consent to the introduction of the results of the test in any prosecution, shall suffer an



728 additional administrative suspension of driving privileges as set  
729 forth in Section 63-11-23.

730       (5) **Aggravated DUI.** (a) (i) Except as otherwise provided  
731 in subparagraph (ii) of this paragraph (a), every person who  
732 operates any motor vehicle in violation of the provisions of  
733 subsection (1) of this section and who in a negligent manner  
734 causes the death of another or mutilates, disfigures, permanently  
735 disables or destroys the tongue, eye, lip, nose or any other limb,  
736 organ or member of another shall, upon conviction, be guilty of a  
737 separate felony for each victim who suffers death, mutilation,  
738 disfigurement or other injury and shall be committed to the  
739 custody of the State Department of Corrections for a period of  
740 time of not less than five (5) years and not to exceed twenty-five  
741 (25) years for each death, mutilation, disfigurement or other  
742 injury, and the imprisonment for the second or each subsequent  
743 conviction, in the discretion of the court, shall commence either  
744 at the termination of the imprisonment for the preceding  
745 conviction or run concurrently with the preceding conviction. Any  
746 person charged with causing the death of another as described in  
747 this subsection shall be required to post bail before being  
748 released after arrest.

749               (ii) Every person who is below the legal age to  
750 purchase alcoholic beverages under state law and has an alcohol  
751 concentration in the person's blood, based upon grams of alcohol  
752 per one hundred (100) milliliters of blood, or grams of alcohol



per two hundred ten (210) liters of breath, as shown by a chemical analysis of the person's breath, blood or urine administered as authorized by this chapter, of eight one-hundredths percent (0.08%) or more and who in a negligent manner causes the death of another or mutilates, disfigures, permanently disables or destroys the tongue, eye, lip, nose or any other limb, organ or member of another shall, upon conviction, be guilty of a separate felony for each victim who suffers death, mutilation, disfigurement or other injury and shall be committed to the custody of the State Department of Corrections for a period of time not less than five (5) years and not to exceed twenty-five (25) years for each death, mutilation, disfigurement or other injury, and the imprisonment for the second or each subsequent conviction, in the discretion of the court, shall commence either at the termination of the imprisonment for the preceding conviction or run concurrently with the preceding conviction. Any such person charged with causing the death of another as described in this subparagraph shall be required to post bail before being released after arrest.

(b) A holder of a commercial driver's license who is convicted of operating a commercial motor vehicle with an alcohol concentration of eight one-hundredths percent (.08%) or more shall be guilty of a felony and shall be committed to the custody of the Department of Corrections for not less than two (2) years and not more than ten (10) years.



777 (c) The court shall order an ignition-interlock  
778 restriction on the offender's privilege to drive as a condition of  
779 probation or post-release supervision not to exceed five (5) years  
780 unless a longer restriction is required under other law. The  
781 ignition-interlock restriction shall not be applied to commercial  
782 license privileges until the driver serves the full  
783 disqualification period required by Section 63-1-216.

784 (6) **DUI citations.** (a) Upon conviction of a violation of  
785 subsection (1) of this section, the trial judge shall sign in the  
786 place provided on the traffic ticket, citation or affidavit  
787 stating that the person arrested either employed an attorney or  
788 waived his right to an attorney after having been properly  
789 advised. If the person arrested employed an attorney, the name,  
790 address and telephone number of the attorney shall be written on  
791 the ticket, citation or affidavit. The court clerk must  
792 immediately send a copy of the traffic ticket, citation or  
793 affidavit, and any other pertinent documents concerning the  
794 conviction or other order of the court, to the Department of  
795 Public Safety as provided in Section 63-11-37.

796 (b) A copy of the traffic ticket, citation or affidavit  
797 and any other pertinent documents, having been attested as true  
798 and correct by the Commissioner of Public Safety, or his designee,  
799 shall be sufficient proof of the conviction for purposes of  
800 determining the enhanced penalty for any subsequent convictions of  
801 violations of subsection (1) of this section. The Department of





Public Safety shall maintain a central database for verification of prior offenses and convictions.

(7) **Out-of-state prior convictions.** Convictions in another state, territory or possession of the United States, or under the law of a federally recognized Native American tribe, of violations for driving or operating a vehicle while under the influence of an intoxicating liquor or while under the influence of any other substance that has impaired the person's ability to operate a motor vehicle occurring within five (5) years before an offense shall be counted for the purposes of determining if a violation of subsection (1) of this section is a second, third, fourth or subsequent offense and the penalty that shall be imposed upon conviction for a violation of subsection (1) of this section.

(8) **Charging of subsequent offenses.** (a) For the purposes of determining how to impose the sentence for a second, third, fourth or subsequent conviction under this section, the affidavit or indictment shall not be required to enumerate previous convictions. It shall only be necessary that the affidavit or indictment states the number of times that the defendant has been convicted and sentenced within the past five (5) years for a second or third offense, or without a time limitation for a fourth or subsequent offense, under this section to determine if an enhanced penalty shall be imposed. The amount of fine and imprisonment imposed in previous convictions shall not be



considered in calculating offenses to determine a second, third, fourth or subsequent offense of this section.

(b) Before a defendant enters a plea of guilty to an offense under this section, law enforcement must submit certification to the prosecutor that the defendant's driving record, the confidential registry and National Crime Information Center record have been searched for all prior convictions, nonadjudications, pretrial diversions and arrests for driving or operating a vehicle while under the influence of an intoxicating liquor or while under the influence of any other substance that has impaired the person's ability to operate a motor vehicle. The results of the search must be included in the certification.

(9) **License eligibility for underage offenders.** A person who is under the legal age to obtain a license to operate a motor vehicle at the time of the offense and who is convicted under this section shall not be eligible to receive a driver's license until the person reaches the age of eighteen (18) years.

(10) **License suspensions and restrictions to run consecutively.** Suspension or restriction of driving privileges for any person convicted of or nonadjudicated for violations of subsection (1) of this section shall run consecutively to and not concurrently with any other administrative license suspension.

(11) **Ignition interlock.** If the court orders installation and use of an ignition-interlock device as provided in Section 63-11-31 for every vehicle operated by a person convicted or



nonadjudicated under this section, each device shall be installed,  
maintained and removed as provided in Section 63-11-31.

(12) **DUI child endangerment.** A person over the age of  
twenty-one (21) who violates subsection (1) of this section while  
transporting in a motor vehicle a child under the age of sixteen  
(16) years is guilty of the separate offense of endangering a  
child by driving under the influence of alcohol or any other  
substance which has impaired the person's ability to operate a  
motor vehicle. The offense of endangering a child by driving  
under the influence of alcohol or any other substance which has  
impaired the person's ability to operate a motor vehicle shall not  
be merged with an offense of violating subsection (1) of this  
section for the purposes of prosecution and sentencing. An  
offender who is convicted of a violation of this subsection shall  
be punished as follows:

(a) A person who commits a violation of this subsection  
which does not result in the serious injury or death of a child  
and which is a first conviction shall be guilty of a misdemeanor  
and, upon conviction, shall be fined not more than One Thousand  
Dollars (\$1,000.00) or shall be imprisoned for not more than  
twelve (12) months, or both;

(b) A person who commits a violation of this subsection  
which does not result in the serious injury or death of a child  
and which is a second conviction shall be guilty of a misdemeanor  
and, upon conviction, shall be fined not less than One Thousand



876 Dollars (\$1,000.00) nor more than Five Thousand Dollars  
877 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

878 (c) A person who commits a violation of this subsection  
879 which does not result in the serious injury or death of a child  
880 and which is a third or subsequent conviction shall be guilty of a  
881 felony and, upon conviction, shall be fined not less than Ten  
882 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less  
883 than one (1) year nor more than five (5) years, or both; and

884 (d) A person who commits a violation of this subsection  
885 which results in the serious injury or death of a child, without  
886 regard to whether the offense was a first, second, third or  
887 subsequent offense, shall be guilty of a felony and, upon  
888 conviction, shall be punished by a fine of not less than Ten  
889 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less  
890 than five (5) years nor more than twenty-five (25) years.

891 (13) \* \* \* [Deleted]

892 (14) **Nonadjudication.** (a) For the purposes of this  
893 chapter, "nonadjudication" means that the court withholds  
894 adjudication of guilt and sentencing, either at the conclusion of  
895 a trial on the merits or upon the entry of a plea of guilt by a  
896 defendant, and places the defendant in a nonadjudication program  
897 conditioned upon the successful completion of the requirements  
898 imposed by the court under this subsection.

899 (b) A person is eligible for nonadjudication of an  
900 offense under this Section 63-11-30 only one (1) time under any



901 provision of a law that authorizes nonadjudication and only for an  
902 offender:

903                   (i) Who has successfully completed all terms and  
904 conditions imposed by the court after placement of the defendant  
905 in a nonadjudication program;

906                   (ii) Who was not the holder of a commercial  
907 driver's license or a commercial learning permit at the time of  
908 the offense;

909                   (iii) Who has not previously been convicted of and  
910 does not have pending any former or subsequent charges under this  
911 section; and

912                   (iv) Who has provided the court with justification  
913 as to why nonadjudication is appropriate.

914                   (c) Nonadjudication may be initiated upon the filing of  
915 a petition for nonadjudication or at any stage of the proceedings  
916 in the discretion of the court; the court may withhold  
917 adjudication of guilt, defer sentencing, and upon the agreement of  
918 the offender to participate in a nonadjudication program, enter an  
919 order imposing requirements on the offender for a period of court  
920 supervision before the order of nonadjudication is entered.  
921 Failure to successfully complete a nonadjudication program  
922 subjects the person to adjudication of the charges against him and  
923 to imposition of all penalties previously withheld due to entrance  
924 into a nonadjudication program. The court shall immediately



inform the commissioner of the conviction as required in Section 63-11-37.

(i) The court shall order the person to:

1. Pay the nonadjudication fee imposed under Section 63-11-31 if applicable;

2. Pay all fines, penalties and assessments that would have been imposed for conviction;

3. Attend and complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months of the date of the order;

4. a. If the court determines that the person violated this section with respect to alcohol or intoxicating liquor, the person must install an ignition-interlock device on every motor vehicle operated by the person, obtain an interlock-restricted license, and maintain that license for one hundred twenty (120) days or suffer a one-hundred-twenty-day suspension of the person's regular driver's license, during which time the person must not operate any vehicle.

b. If the court determines that the person violated this section by operating a vehicle when under the influence of a substance other than alcohol that has impaired the person's ability to operate a motor vehicle, including any drug or controlled substance which is unlawful to possess under the Mississippi Controlled Substances Law, the person must submit to a one-hundred-twenty-day period of a nonadjudication program that



includes court-ordered drug testing at the person's own expense not less often than every thirty (30) days, during which time the person may drive if compliant with the terms of the program, or suffer a one-hundred-twenty-day suspension of the person's regular driver's license, during which time the person will not operate any vehicle.

(ii) Other conditions that may be imposed by the court include, but are not limited to, alcohol or drug screening, or both, proof that the person has not committed any other traffic violations while under court supervision, proof of immobilization or impoundment of vehicles owned by the offender if required, and attendance at a victim-impact panel.

(d) The court may enter an order of nonadjudication only if the court finds, after a hearing or after ex parte examination of reliable documentation of compliance, that the offender has successfully completed all conditions imposed by law and previous orders of the court. The court shall retain jurisdiction over cases involving nonadjudication for a period of not more than two (2) years.

(e) (i) The clerk shall immediately forward a record of every person placed in a nonadjudication program and of every nonadjudication order to the Department of Public Safety for inclusion in the permanent confidential registry of all cases that are nonadjudicated under this subsection (14).



(ii) Judges, clerks and prosecutors involved in the trial of implied consent violations and law enforcement officers involved in the issuance of citations for implied consent violations shall have secure online access to the confidential registry for the purpose of determining whether a person has previously been the subject of a nonadjudicated case and 1. is therefore ineligible for another nonadjudication; 2. is ineligible as a first offender for a violation of this section; or 3. is ineligible for expunction of a conviction of a violation of this section.

(iii) The Driver Services Bureau of the department shall have access to the confidential registry for the purpose of determining whether a person is eligible for a form of license not restricted to operating a vehicle equipped with an ignition-interlock device.

(iv) The Mississippi Alcohol Safety Education Program shall have secure online access to the confidential registry for research purposes only.

(15) The provisions of this section are fully applicable to any person who is under the influence of medical cannabis that is lawful under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder which has impaired the person's ability to operate a motor vehicle.

**SECTION 8.** Section 99-15-26, Mississippi Code of 1972, is amended as follows:





999           99-15-26. (1) (a) In all criminal cases, felony and  
1000 misdemeanor, other than crimes against the person, a crime of  
1001 violence as defined in Section 97-3-2, a violation of Section  
1002 97-11-31, or crimes in which a person unlawfully takes, obtains or  
1003 misappropriates funds received by or entrusted to the person by  
1004 virtue of his or her public office or employment, the circuit or  
1005 county court shall be empowered, upon the entry of a plea of  
1006 guilty by a criminal defendant made on or after July 1, 2014, to  
1007 withhold acceptance of the plea and sentence thereon pending  
1008 successful completion of such conditions as may be imposed by the  
1009 court pursuant to subsection (2) of this section.

1010           (b) In all misdemeanor criminal cases, other than  
1011 crimes against the person, the justice or municipal court shall be  
1012 empowered, upon the entry of a plea of guilty by a criminal  
1013 defendant, to withhold acceptance of the plea and sentence thereon  
1014 pending successful completion of such conditions as may be imposed  
1015 by the court pursuant to subsection (2) of this section.

1016           (c) Notwithstanding paragraph (a) of this subsection  
1017 (1), in all criminal cases charging a misdemeanor of domestic  
1018 violence as defined in Section 99-3-7(5), a circuit, county,  
1019 justice or municipal court shall be empowered, upon the entry of a  
1020 plea of guilty by the criminal defendant, to withhold acceptance  
1021 of the plea and sentence thereon pending successful completion of  
1022 such conditions as may be imposed by the court pursuant to  
1023 subsection (2) of this section.



1024           (d) No person having previously qualified under the  
1025 provisions of this section shall be eligible to qualify for  
1026 release in accordance with this section for a repeat offense. A  
1027 person shall not be eligible to qualify for release in accordance  
1028 with this section if charged with the offense of trafficking of a  
1029 controlled substance as provided in Section 41-29-139(f) or if  
1030 charged with an offense under the Mississippi Implied Consent Law.  
1031 Violations under the Mississippi Implied Consent Law can only be  
1032 nonadjudicated under the provisions of Section 63-11-30.

1033           (2) (a) Conditions which the circuit, county, justice or  
1034 municipal court may impose under subsection (1) of this section  
1035 shall consist of:

1036                       (i) Reasonable restitution to the victim of the  
1037 crime.

1038                       (ii) Performance of not more than nine hundred  
1039 sixty (960) hours of public service work approved by the court.

1040                       (iii) Payment of a fine not to exceed the  
1041 statutory limit.

1042                       (iv) Successful completion of drug, alcohol,  
1043 psychological or psychiatric treatment, successful completion of a  
1044 program designed to bring about the cessation of domestic abuse,  
1045 or any combination thereof, if the court deems treatment  
1046 necessary.

1047                       (v) The circuit or county court, in its  
1048 discretion, may require the defendant to remain in the program



subject to good behavior for a period of time not to exceed five (5) years. The justice or municipal court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed two (2) years.

(b) Conditions which the circuit or county court may impose under subsection (1) of this section also include successful completion of an effective evidence-based program or a properly controlled pilot study designed to contribute to the evidence-based research literature on programs targeted at reducing recidivism. Such program or pilot study may be community based or institutionally based and should address risk factors identified in a formal assessment of the offender's risks and needs.

(3) When the court has imposed upon the defendant the conditions set out in this section, the court shall release the bail bond, if any.

(4) Upon successful completion of the court-imposed conditions permitted by subsection (2) of this section, the court shall direct that the cause be dismissed and the case be closed.

\* \* \*

**SECTION 9.** Section 99-15-59, Mississippi Code of 1972, which provides that any person who is arrested, issued a citation, or held for any misdemeanor and not formally charged or prosecuted with an offense within twelve (12) months of arrest, or upon



1073 dismissal of the charge, may apply to the court with jurisdiction  
1074 over the matter for the charges to be expunged, is repealed.

1075       **SECTION 10.** Section 99-19-71, Mississippi Code of 1972,  
1076 which provides for expungement of certain felony and misdemeanor  
1077 conviction records, is repealed.

1078       **SECTION 11.** Section 99-19-72, Mississippi Code of 1972,  
1079 which provides for filing fees for certain petitions for  
1080 expungement and the disposition thereof, is repealed.

1081       **SECTION 12.** This act shall take effect and be in force from  
1082 and after July 1, 2025.

