

By: Senator(s) Fillingane

To: Judiciary, Division B

SENATE BILL NO. 2792

1 AN ACT TO AMEND SECTIONS 9-23-23, 9-27-19, 63-11-30, 99-19-71
2 AND 99-15-26, MISSISSIPPI CODE OF 1972, TO REQUIRE JUDGES EXPUNGE
3 THE RECORD OF ANY CASE IN WHICH AN ARREST WAS MADE AND THE PERSON
4 ARRESTED WAS RELEASED AND THE CASE WAS DISMISSED OR THE CHARGES
5 WERE DROPPED; TO REQUIRE JUDGES EXPUNGE THE RECORD OF ANY CASE IN
6 WHICH AN ARREST WAS MADE AND THERE WAS NO DISPOSITION OF SUCH
7 CASE; TO REQUIRE JUDGES EXPUNGE THE RECORD OF ANY CASE IN WHICH AN
8 ARREST WAS MADE AND THE PERSON WAS FOUND NOT GUILTY AT TRIAL; AND
9 FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 9-23-23, Mississippi Code of 1972, is
12 amended as follows:

13 9-23-23. (1) If the participant completes all requirements
14 imposed upon him by the intervention court, including the payment
15 of fines and fees assessed and not waived by the court, the charge
16 and prosecution shall be dismissed. If the defendant or
17 participant was sentenced at the time of entry of plea of guilty,
18 the successful completion of the intervention court order and
19 other requirements of probation or suspension of sentence will
20 result in the record of the criminal conviction or adjudication

21 being expunged. However, no expunction of any implied consent
22 violation shall be allowed.

23 (2) A judge shall expunge the record of any case in which an
24 arrest was made and the person arrested was released and the case
25 was dismissed or the charges were dropped; there was no
26 disposition of such case; or the person was found not guilty at
27 trial.

28 **SECTION 2.** Section 9-27-19, Mississippi Code of 1972, is
29 amended as follows:

30 9-27-19. (1) If the participant completes all requirements
31 imposed by the mental health treatment court, the charge and
32 prosecution shall be dismissed. If the defendant was sentenced at
33 the time of entry of a plea of guilty, the successful completion
34 of the mental health treatment court order and other requirements
35 of probation or suspension of sentence will result in the record
36 of the criminal conviction or adjudication being expunged.
37 However, no expunction of any implied consent violations shall be
38 allowed.

39 (2) A judge shall expunge the record of any case in which an
40 arrest was made and the person arrested was released and the case
41 was dismissed or the charges were dropped; there was no
42 disposition of such case; or the person was found not guilty at
43 trial.

44 **SECTION 3.** Section 63-11-30, Mississippi Code of 1972, is
45 amended as follows:

46 63-11-30. (1) It is unlawful for a person to drive or
47 otherwise operate a vehicle within this state if the person:
48 (a) Is under the influence of intoxicating liquor;
49 (b) Is under the influence of any other substance that
50 has impaired the person's ability to operate a motor vehicle;
51 (c) Is under the influence of any drug or controlled
52 substance, the possession of which is unlawful under the
53 Mississippi Controlled Substances Law; or
54 (d) Has an alcohol concentration in the person's blood,
55 based upon grams of alcohol per one hundred (100) milliliters of
56 blood, or grams of alcohol per two hundred ten (210) liters of
57 breath, as shown by a chemical analysis of the person's breath,
58 blood or urine administered as authorized by this chapter, of:
59 (i) Eight one-hundredths percent (.08%) or more
60 for a person who is above the legal age to purchase alcoholic
61 beverages under state law;
62 (ii) Two one-hundredths percent (.02%) or more for
63 a person who is below the legal age to purchase alcoholic
64 beverages under state law; or
65 (iii) Four one-hundredths percent (.04%) or more
66 for a person operating a commercial motor vehicle.
67 (2) Except as otherwise provided in subsection (3) of this
68 section (Zero Tolerance for Minors):
69 (a) **First offense DUI.** (i) Upon conviction of any
70 person for the first offense of violating subsection (1) of this



71 section where chemical tests under Section 63-11-5 were given, or
72 where chemical test results are not available, the person shall be
73 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
74 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
75 than forty-eight (48) hours in jail, or both; the court shall
76 order the person to attend and complete an alcohol safety
77 education program as provided in Section 63-11-32 within six (6)
78 months of sentencing. The court may substitute attendance at a
79 victim impact panel instead of forty-eight (48) hours in jail.

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

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

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



96 five (5) days nor more than six (6) months and sentenced to
97 community service work for not less than ten (10) days nor more
98 than six (6) months. The minimum penalties shall not be suspended
99 or reduced by the court and no prosecutor shall offer any
100 suspension or sentence reduction as part of a plea bargain.

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

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

106 (c) **Third offense DUI.** (i) For a third conviction of
107 a person for violating subsection (1) of this section, the
108 offenses being committed within a period of five (5) years, the
109 person shall be guilty of a felony and fined not less than Two
110 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
111 (\$5,000.00), and shall serve not less than one (1) year nor more
112 than five (5) years in the custody of the Department of
113 Corrections. For any offense that does not result in serious
114 injury or death to any person, the sentence of incarceration may
115 be served in the county jail rather than in the State Penitentiary
116 at the discretion of the circuit court judge. The minimum
117 penalties shall not be suspended or reduced by the court and no
118 prosecutor shall offer any suspension or sentence reduction as
119 part of a plea bargain.



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

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

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

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

138 (e) Any person convicted of a second or subsequent
139 violation of subsection (1) of this section shall receive an
140 in-depth diagnostic assessment, and if as a result of the
141 assessment is determined to be in need of treatment for alcohol or
142 drug abuse, the person must successfully complete treatment at a
143 program site certified by the Department of Mental Health. Each
144 person who receives a diagnostic assessment shall pay a fee

145 representing the cost of the assessment. Each person who
146 participates in a treatment program shall pay a fee representing
147 the cost of treatment.

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

150 (3) **Zero tolerance for minors.** (a) This subsection shall
151 be known and may be cited as Zero Tolerance for Minors. The
152 provisions of this subsection shall apply only when a person under
153 the age of twenty-one (21) years has a blood alcohol concentration
154 of two one-hundredths percent (.02%) or more, but lower than eight
155 one-hundredths percent (.08%). If the person's blood alcohol
156 concentration is eight one-hundredths percent (.08%) or more, the
157 provisions of subsection (2) shall apply.

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

161 (ii) Upon conviction of any person under the age
162 of twenty-one (21) years for the first offense of violating
163 subsection (1) of this section where chemical tests provided for
164 under Section 63-11-5 were given, or where chemical test results
165 are not available, the person shall be fined Two Hundred Fifty
166 Dollars (\$250.00); the court shall order the person to attend and
167 complete an alcohol safety education program as provided in
168 Section 63-11-32 within six (6) months. The court may also
169 require attendance at a victim impact panel.



170 (c) A person under the age of twenty-one (21) years who
171 is convicted of a second violation of subsection (1) of this
172 section, the offenses being committed within a period of five (5)
173 years, shall be fined not more than Five Hundred Dollars
174 (\$500.00).

175 (d) A person under the age of twenty-one (21) years who
176 is convicted of a third or subsequent violation of subsection (1)
177 of this section, the offenses being committed within a period of
178 five (5) years, shall be fined not more than One Thousand Dollars
179 (\$1,000.00).

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

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



213 (ii) Every person who is below the legal age to
214 purchase alcoholic beverages under state law and has an alcohol
215 concentration in the person's blood, based upon grams of alcohol
216 per one hundred (100) milliliters of blood, or grams of alcohol
217 per two hundred ten (210) liters of breath, as shown by a chemical
218 analysis of the person's breath, blood or urine administered as



219 authorized by this chapter, of eight one-hundredths percent
220 (0.08%) or more and who in a negligent manner causes the death of
221 another or mutilates, disfigures, permanently disables or destroys
222 the tongue, eye, lip, nose or any other limb, organ or member of
223 another shall, upon conviction, be guilty of a separate felony for
224 each victim who suffers death, mutilation, disfigurement or other
225 injury and shall be committed to the custody of the State
226 Department of Corrections for a period of time not less than five
227 (5) years and not to exceed twenty-five (25) years for each death,
228 mutilation, disfigurement or other injury, and the imprisonment
229 for the second or each subsequent conviction, in the discretion of
230 the court, shall commence either at the termination of the
231 imprisonment for the preceding conviction or run concurrently with
232 the preceding conviction. Any such person charged with causing
233 the death of another as described in this subparagraph shall be
234 required to post bail before being released after arrest.

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

241 (c) The court shall order an ignition-interlock
242 restriction on the offender's privilege to drive as a condition of
243 probation or post-release supervision not to exceed five (5) years



244 unless a longer restriction is required under other law. The
245 ignition-interlock restriction shall not be applied to commercial
246 license privileges until the driver serves the full
247 disqualification period required by Section 63-1-216.

248 (6) **DUI citations.** (a) Upon conviction of a violation of
249 subsection (1) of this section, the trial judge shall sign in the
250 place provided on the traffic ticket, citation or affidavit
251 stating that the person arrested either employed an attorney or
252 waived his right to an attorney after having been properly
253 advised. If the person arrested employed an attorney, the name,
254 address and telephone number of the attorney shall be written on
255 the ticket, citation or affidavit. The court clerk must
256 immediately send a copy of the traffic ticket, citation or
257 affidavit, and any other pertinent documents concerning the
258 conviction or other order of the court, to the Department of
259 Public Safety as provided in Section 63-11-37.

260 (b) A copy of the traffic ticket, citation or affidavit
261 and any other pertinent documents, having been attested as true
262 and correct by the Commissioner of Public Safety, or his designee,
263 shall be sufficient proof of the conviction for purposes of
264 determining the enhanced penalty for any subsequent convictions of
265 violations of subsection (1) of this section. The Department of
266 Public Safety shall maintain a central database for verification
267 of prior offenses and convictions.



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

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



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

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

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

312 (11) **Ignition interlock.** If the court orders installation
313 and use of an ignition-interlock device as provided in Section
314 63-11-31 for every vehicle operated by a person convicted or
315 nonadjudicated under this section, each device shall be installed,
316 maintained and removed as provided in Section 63-11-31.



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



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

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

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



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



392 dropped; there was no disposition of such case; or the person was
393 found not guilty at trial.

394 (14) **Nonadjudication.** (a) For the purposes of this
395 chapter, "nonadjudication" means that the court withholds
396 adjudication of guilt and sentencing, either at the conclusion of
397 a trial on the merits or upon the entry of a plea of guilt by a
398 defendant, and places the defendant in a nonadjudication program
399 conditioned upon the successful completion of the requirements
400 imposed by the court under this subsection.

401 (b) A person is eligible for nonadjudication of an
402 offense under this Section 63-11-30 only one (1) time under any
403 provision of a law that authorizes nonadjudication and only for an
404 offender:

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

408 (ii) Who was not the holder of a commercial
409 driver's license or a commercial learning permit at the time of
410 the offense;

411 (iii) Who has not previously been convicted of and
412 does not have pending any former or subsequent charges under this
413 section; and

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



416 (c) Nonadjudication may be initiated upon the filing of
417 a petition for nonadjudication or at any stage of the proceedings
418 in the discretion of the court; the court may withhold
419 adjudication of guilt, defer sentencing, and upon the agreement of
420 the offender to participate in a nonadjudication program, enter an
421 order imposing requirements on the offender for a period of court
422 supervision before the order of nonadjudication is entered.
423 Failure to successfully complete a nonadjudication program
424 subjects the person to adjudication of the charges against him and
425 to imposition of all penalties previously withheld due to entrance
426 into a nonadjudication program. The court shall immediately
427 inform the commissioner of the conviction as required in Section
428 63-11-37.

429 (i) The court shall order the person to:

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

437 4. a. If the court determines that the
438 person violated this section with respect to alcohol or
439 intoxicating liquor, the person must install an ignition-interlock
440 device on every motor vehicle operated by the person, obtain an

441 interlock-restricted license, and maintain that license for one
442 hundred twenty (120) days or suffer a one-hundred-twenty-day
443 suspension of the person's regular driver's license, during which
444 time the person must not operate any vehicle.

445 b. If the court determines that the
446 person violated this section by operating a vehicle when under the
447 influence of a substance other than alcohol that has impaired the
448 person's ability to operate a motor vehicle, including any drug or
449 controlled substance which is unlawful to possess under the
450 Mississippi Controlled Substances Law, the person must submit to a
451 one-hundred-twenty-day period of a nonadjudication program that
452 includes court-ordered drug testing at the person's own expense
453 not less often than every thirty (30) days, during which time the
454 person may drive if compliant with the terms of the program, or
455 suffer a one-hundred-twenty-day suspension of the person's regular
456 driver's license, during which time the person will not operate
457 any vehicle.

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

464 (d) The court may enter an order of nonadjudication
465 only if the court finds, after a hearing or after ex parte



466 examination of reliable documentation of compliance, that the
467 offender has successfully completed all conditions imposed by law
468 and previous orders of the court. The court shall retain
469 jurisdiction over cases involving nonadjudication for a period of
470 not more than two (2) years.

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

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

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



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

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

499 **SECTION 4.** Section 99-19-71, Mississippi Code of 1972, is
500 amended as follows:

501 99-19-71. (1) Any person who has been convicted of a
502 misdemeanor that is not a traffic violation, and who is a first
503 offender, may petition the justice, county, circuit or municipal
504 court in which the conviction was had for an order to expunge any
505 such conviction from all public records.

506 (2) (a) Except as otherwise provided in this subsection, a
507 person who has been convicted of a felony and who has paid all
508 criminal fines and costs of court imposed in the sentence of
509 conviction may petition the court in which the conviction was had
510 for an order to expunge one (1) conviction from all public records
511 five (5) years after the successful completion of all terms and
512 conditions of the sentence for the conviction upon a hearing as
513 determined in the discretion of the court; however, a person is
514 not eligible to expunge a felony classified as:



515 (i) A crime of violence as provided in Section
516 97-3-2;

517 (ii) Arson, first degree as provided in Sections
518 97-17-1 and 97-17-3;

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

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

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

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

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

528 (viii) Witness intimidation as provided in Section
529 97-9-113;

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

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

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



539 (b) The petitioner shall give ten (10) days' written
540 notice to the district attorney before any hearing on the
541 petition. In all cases, the court wherein the petition is filed
542 may grant the petition if the court determines, on the record or
543 in writing, that the applicant is rehabilitated from the offense
544 which is the subject of the petition. In those cases where the
545 court denies the petition, the findings of the court in this
546 respect shall be identified specifically and not generally.

547 (3) Upon entering an order of expunction under this section,
548 a nonpublic record thereof shall be retained by the Mississippi
549 Criminal Information Center solely for the purpose of determining
550 whether, in subsequent proceedings, the person is a first
551 offender. The order of expunction shall not preclude a district
552 attorney's office from retaining a nonpublic record thereof for
553 law enforcement purposes only. The existence of an order of
554 expunction shall not preclude an employer from asking a
555 prospective employee if the employee has had an order of
556 expunction entered on his behalf. The effect of the expunction
557 order shall be to restore the person, in the contemplation of the
558 law, to the status he occupied before any arrest or indictment for
559 which convicted. No person as to whom an expunction order has
560 been entered shall be held thereafter under any provision of law
561 to be guilty of perjury or to have otherwise given a false
562 statement by reason of his failure to recite or acknowledge such
563 arrest, indictment or conviction in response to any inquiry made



564 of him for any purpose other than the purpose of determining, in
565 any subsequent proceedings under this section, whether the person
566 is a first offender. A person as to whom an order has been
567 entered, upon request, shall be required to advise the court, in
568 camera, of the previous conviction and expunction in any legal
569 proceeding wherein the person has been called as a prospective
570 juror. The court shall thereafter and before the selection of the
571 jury advise the attorneys representing the parties of the previous
572 conviction and expunction.

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

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

580 (6) A judge shall expunge the record of any case in which an
581 arrest was made and the person arrested was released and the case
582 was dismissed or the charges were dropped; there was no
583 disposition of such case; or the person was found not guilty at
584 trial.

585 **SECTION 5.** Section 99-15-26, Mississippi Code of 1972, is
586 amended as follows:

587 99-15-26. (1) (a) In all criminal cases, felony and
588 misdemeanor, other than crimes against the person, a crime of



589 violence as defined in Section 97-3-2, a violation of Section
590 97-11-31, or crimes in which a person unlawfully takes, obtains or
591 misappropriates funds received by or entrusted to the person by
592 virtue of his or her public office or employment, the circuit or
593 county court shall be empowered, upon the entry of a plea of
594 guilty by a criminal defendant made on or after July 1, 2014, to
595 withhold acceptance of the plea and sentence thereon pending
596 successful completion of such conditions as may be imposed by the
597 court pursuant to subsection (2) of this section.

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

604 (c) Notwithstanding paragraph (a) of this subsection
605 (1), in all criminal cases charging a misdemeanor of domestic
606 violence as defined in Section 99-3-7(5), a circuit, county,
607 justice or municipal court shall be empowered, upon the entry of a
608 plea of guilty by the criminal defendant, to withhold acceptance
609 of the plea and sentence thereon pending successful completion of
610 such conditions as may be imposed by the court pursuant to
611 subsection (2) of this section.

612 (d) No person having previously qualified under the
613 provisions of this section shall be eligible to qualify for

614 release in accordance with this section for a repeat offense. A
615 person shall not be eligible to qualify for release in accordance
616 with this section if charged with the offense of trafficking of a
617 controlled substance as provided in Section 41-29-139(f) or if
618 charged with an offense under the Mississippi Implied Consent Law.
619 Violations under the Mississippi Implied Consent Law can only be
620 nonadjudicated under the provisions of Section 63-11-30.

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

624 (i) Reasonable restitution to the victim of the
625 crime.

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

628 (iii) Payment of a fine not to exceed the
629 statutory limit.

630 (iv) Successful completion of drug, alcohol,
631 psychological or psychiatric treatment, successful completion of a
632 program designed to bring about the cessation of domestic abuse,
633 or any combination thereof, if the court deems treatment
634 necessary.

635 (v) The circuit or county court, in its
636 discretion, may require the defendant to remain in the program
637 subject to good behavior for a period of time not to exceed five
638 (5) years. The justice or municipal court, in its discretion, may



639 require the defendant to remain in the program subject to good
640 behavior for a period of time not to exceed two (2) years.

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

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

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

656 (5) Upon petition therefor, the court shall expunge the
657 record of any case in which an arrest was made, the person
658 arrested was released and the case was dismissed or the charges
659 were dropped, there was no disposition of such case, or the person
660 was found not guilty at trial.

661 (6) A judge shall expunge the record of any case in which an
662 arrest was made and the person arrested was released and the case
663 was dismissed or the charges were dropped; there was no

664 disposition of such case; or the person was found not guilty at
665 trial.

666 **SECTION 6.** This act shall take effect and be in force from
667 and after July 1, 2026.

