

# Bill Text: MS HB1352 | 2019 | Regular Session | Engrossed

## Mississippi House Bill 1352

**Bill Title:** Criminal Justice Reform Act; create.

**Spectrum:** Slight Partisan Bill (Democrat 10-4)

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MISSISSIPPI LEGISLATURE

2019 Regular Session

To: Judiciary B

By: Representatives White, Karriem, Taylor, Kinkade, Dixon, Baria, Boyd, Willis, Sykes, Gibbs (36th), Mickens, Burnett, Hines, Paden

## House Bill 1352

### (As Passed the House)

AN ACT TO CREATE THE CRIMINAL JUSTICE REFORM ACT; TO AMEND SECTIONS 9-23-1, 9-23-3, 9-23-5, 9-23-7, 9-23-9, 9-23-11, 9-23-13, 9-23-15, 9-23-17, 9-23-19, 9-23-21 AND 9-23-23, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE ELIGIBILITY OF DRUG COURTS, TO CHANGE THE REFERENCE OF DRUG COURTS TO "INTERVENTION COURTS"; TO INCLUDE MENTAL HEALTH COURTS, VETERANS COURTS AND OTHER INTERVENTION COURTS UNDER THE AUTHORITY OF THE INTERVENTION COURTS ADVISORY COMMITTEE; TO AMEND SECTION 9-25-1, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR VETERANS COURTS, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTIONS 9-27-1, 9-27-3, 9-27-7, 9-27-9, 9-27-11, 9-27-15, 9-27-17 AND 9-27-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE RIVERS MCGRAW MENTAL HEALTH PROGRAM, TO CONFORM TO THE PRECEDING SECTIONS BY REMOVING THE WORD "PILOT" THROUGHOUT; TO REPEAL SECTIONS 9-27-13 AND 9-27-21, MISSISSIPPI CODE OF 1972, WHICH REGULATE PILOT PROGRAMS FOR MENTAL HEALTH DIVERSION COURTS; TO BRING FORWARD SECTION 9-27-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES DEFINITIONS FOR MENTAL HEALTH COURTS, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTIONS 47-5-138, 47-7-3.1, 47-7-33.1, 47-7-34 AND 47-7-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR EARNED TIME ALLOWANCE, INMATE CASE PLANS, INMATE DISCHARGE PLANS AND POST RELEASE SUPERVISION, FOR PURPOSE OF AMENDMENT; TO BRING FORWARD SECTION 63-1-216, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SUSPENSION OF DRIVER'S LICENSES UNDER CERTAIN CONDITIONS, FOR PURPOSES OF AMENDMENT; TO AMEND SECTIONS 25-3-35, 43-21-357, 63-11-31.1, 99-3-45 AND 99-19-73, MISSISSIPPI CODE OF 1972, TO CONFORM TO THIS ACT; TO AMEND SECTION 63-1-51, MISSISSIPPI CODE OF 1972, TO REMOVE THE OFFENSE OF CONTEMPT FOR FAILURE TO PAY A FINE OR FEE OR FAILURE TO RESPOND TO A SUMMONS OR CITATION RELATING TO A TRAFFIC VIOLATION AS A GROUNDS FOR REVOKING A PERSON'S DRIVER'S LICENSE; TO AMEND SECTION 63-1-53, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AFTER CERTAIN NOTICE IS GIVEN TO A PERSON WHO FAILS TO TIMELY PAY ANY FINES, FEES OR ASSESSMENTS RELATING TO A TRAFFIC VIOLATION WITHIN 90 DAYS OF RECEIVING THE NOTICE, THE PERSON SHALL BE SUBJECT TO HAVING THE FINES, FEES OR ASSESSMENTS COLLECTED BY A COURT RATHER THAN HAVING HIS OR HER DRIVER'S LICENSE SUSPENDED; TO AMEND SECTION 63-1-52, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION 63-1-71, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT A PERSON'S DRIVER'S LICENSE BE SUSPENDED FOR A CONTROLLED SUBSTANCE VIOLATION THAT IS UNRELATED TO OPERATING A MOTOR VEHICLE; TO AMEND SECTION 63-1-46, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972, TO REVISE THE ELIGIBILITY FOR EXPUNGEMENT; TO AMEND SECTIONS 9-11-15, 9-23-23, 21-23-7 AND 63-11-30, MISSISSIPPI CODE OF 1972, WHICH REFER TO THE AUTHORITY TO EXPUNGE, TO CONFORM TO THE PRECEDING SECTION; TO PROVIDE THAT AN OCCUPATIONAL LICENSING BOARD SHALL NOT AUTOMATICALLY BAR AN INDIVIDUAL FROM OBTAINING A LICENSE BECAUSE OF A CONVICTION FOR A NONVIOLENT CRIME THAT OCCURRED MORE THAN THREE YEARS BEFORE THE APPLICATION FOR SUCH LICENSE; TO CREATE THE "PROGRAMS TO REDUCE RECIDIVISM FUND"; AND FOR RELATED PURPOSES.

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

**SECTION 1.** This act shall be known and may be cited as the "Criminal Justice Reform Act."

**SECTION 2.** Section 9-23-1, Mississippi Code of 1972, is amended as follows:

9-23-1. This chapter shall be known and may be cited as the "Alyce Griffin Clarke \* \* \*

Intervention Court Act."

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

9-23-3. (1) The Legislature of Mississippi recognizes the critical need for judicial intervention to reduce the incidence of alcohol and drug use, alcohol and drug addiction, and crimes committed as a result of alcohol and drug use and alcohol and drug addiction. It is the intent of the Legislature to facilitate local \* \* \* intervention court alternative orders adaptable to chancery, circuit, county, youth, municipal and justice courts.

(2) The goals of the \* \* \* intervention courts under this chapter include the following:

(a) To reduce alcoholism and other drug dependencies among adult and juvenile offenders and defendants and among respondents in juvenile petitions for abuse, neglect or both;

(b) To reduce criminal and delinquent recidivism and the incidence of child abuse and neglect;

(c) To reduce the alcohol-related and other drug-related court workload;

(d) To increase personal, familial and societal accountability of adult and juvenile offenders and defendants and respondents in juvenile petitions for abuse, neglect or both;

(e) To promote effective interaction and use of resources among criminal and juvenile justice personnel, child protective services personnel and community agencies; and

(f) To use corrections resources more effectively by redirecting prison-bound offenders whose criminal conduct is driven in part by drug and alcohol dependence to intensive supervision and clinical treatment available in the \* \* \* intervention court.

**SECTION 4.** Section 9-23-5, Mississippi Code of 1972, is amended as follows:

9-23-5. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed unless the context clearly requires otherwise:

(a) "Chemical" tests means the analysis of an individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v) saliva, (vi) urine, or (vii) other bodily substance to determine the presence of alcohol or a controlled substance.

(b) "Crime of violence" means an offense listed in Section 97-3-2.

(c) " \* \* \* Intervention court" means an immediate and highly structured intervention process for substance abuse treatment of eligible defendants or juveniles that:

(i) Brings together substance abuse professionals, local social programs and intensive judicial monitoring; and

(ii) Follows the key components of \* \* \* intervention courts published by the \* \* \* Intervention Court Program Office of the United States Department of Justice.

(d) "Evidence-based practices" means supervision policies, procedures and practices that scientific research demonstrates reduce recidivism.

(e) "Risk and needs assessment" means the use of an actuarial assessment tool validated on a Mississippi corrections population to determine a person's risk to reoffend and the characteristics that, if addressed, reduce the risk to reoffend.

**SECTION 5.** Section 9-23-7, Mississippi Code of 1972, is amended as follows:

9-23-7. The Administrative Office of Courts shall be responsible for certification and monitoring of local \* \* \* intervention courts according to standards promulgated by the State \* \* \* Intervention Courts Advisory Committee.

**SECTION 6.** Section 9-23-9, Mississippi Code of 1972, is amended as follows:

9-23-9. (1) The State \* \* \* Intervention Courts Advisory Committee is established to develop and periodically update proposed statewide evaluation plans and models for monitoring all critical aspects of \* \* \* intervention courts, mental health courts, veterans courts and other intervention courts that may be created hereafter. The committee must provide the proposed evaluation plans to the Chief Justice and the Administrative Office of Courts. The committee shall be chaired by the Director of the Administrative Office of Courts and shall consist of \* \* \* eleven (11) members all of whom shall be appointed by the Supreme Court \* \* \*. The members shall be broadly representative of the courts, mental health, veterans affairs, law enforcement, corrections, criminal defense bar, prosecutors association, juvenile justice, child protective services and substance abuse treatment communities.

(2) The State \* \* \* Intervention Courts Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state officials concerning improvements to \* \* \* intervention court policies and procedures including the \* \* \* intervention court certification process. The committee may make suggestions as to the criteria for eligibility, and other procedural and substantive guidelines for \* \* \* intervention court operation.

(3) The State \* \* \* Intervention Courts Advisory Committee shall act as arbiter of disputes arising out of the operation of \* \* \* intervention courts established under this chapter and make recommendations to improve the \* \* \* intervention courts; it shall also make recommendations to the Supreme Court necessary and incident to compliance with established rules.

(4) The State \* \* \* Intervention Courts Advisory Committee shall establish through rules and regulations a viable and fiscally responsible plan to expand the number of adult and juvenile \* \* \* intervention court programs operating in Mississippi. These rules and regulations shall include plans to increase participation in existing and future programs while maintaining their voluntary nature.

(5) The State \* \* \* Intervention Courts Advisory Committee shall receive and review the monthly reports submitted to the Administrative Office of Courts by each certified \* \* \* intervention court and provide comments and make recommendations, as necessary, to the Chief Justice and the Director of the Administrative Office of Courts.

**SECTION 7.** Section 9-23-11, Mississippi Code of 1972, is amended as follows:

9-23-11. (1) The Administrative Office of Courts shall establish, implement and operate a uniform certification process for all \* \* \* intervention courts and other problem-solving courts including juvenile courts, veterans courts or any other court designed to adjudicate criminal

actions involving an identified classification of criminal defendant to ensure funding for \* \* \* intervention courts supports effective and proven practices that reduce recidivism and substance dependency among their participants.

(2) The Administrative Office of Courts shall establish a certification process that ensures any new or existing \* \* \* intervention court meets minimum standards for \* \* \* intervention court operation.

(a) These standards shall include, but are not limited to:

(i) The use of evidence-based practices including, but not limited to, the use of a valid and reliable risk and needs assessment tool to identify participants and deliver appropriate interventions;

(ii) Targeting medium to high risk offenders for participation;

(iii) The use of current, evidence-based interventions proven to reduce dependency on drugs or alcohol, or both;

(iv) Frequent testing for alcohol or drugs;

(v) Coordinated strategy between all \* \* \* intervention court program personnel involving the use of graduated clinical interventions;

(vi) Ongoing judicial interaction with each participant; and

(vii) Monitoring and evaluation of \* \* \* intervention court program implementation and outcomes through data collection and reporting.

(b) \* \* \* Intervention court certification applications shall include:

(i) A description of the need for the \* \* \* intervention court;

(ii) The targeted population for the \* \* \* intervention court;

(iii) The eligibility criteria for \* \* \* intervention court participants;

(iv) A description of the process for identifying appropriate participants including the use of a risk and needs assessment and a clinical assessment;

(v) A description of the \* \* \* intervention court intervention components including anticipated budget and implementation plan;

(vi) The data collection plan which shall include collecting the following data:

1. Total number of participants;

2. Total number of successful participants;

3. Total number of unsuccessful participants and the reason why each participant did not complete the program;

4. Total number of participants who were arrested for a new criminal offense while in the \* \* \* intervention court program;

5. Total number of participants who were convicted of a new felony or misdemeanor offense while in the \* \* \* intervention court program;

6. Total number of participants who committed at least one (1) violation while in the \* \* \* intervention court program and the resulting sanction(s);

7. Results of the initial risk and needs assessment or other clinical assessment conducted on each participant; \* \* \*

8. Total number of applications for screening by race, gender, offense(s) charged indigence and if not accepted the reason for nonacceptance; and

\* \* \* 9. Any other data or information as required by the Administrative Office of Courts.

(c) Every \* \* \* intervention court shall be certified under the following schedule:

(i) An \* \* \* intervention court application submitted after July 1, 2014, shall require certification of the \* \* \* intervention court based on the proposed \* \* \* intervention court plan;

(ii) An \* \* \* intervention court established after July 1, 2014, shall be recertified after its second year of funded operation;

(iii) An \* \* \* intervention court in existence on July 1, 2014, must submit a certification petition within one (1) year of July 1, 2014, and be certified pursuant to the requirements of this section prior to expending \* \* \* intervention court resources budgeted for fiscal year 2016; and

(iv) All \* \* \* intervention courts shall submit a re-certification petition every two (2) years to the Administrative Office of Courts after the initial certification.

(3) All certified \* \* \* intervention courts shall measure successful completion of the \* \* \* intervention court based on those participants who complete the program without a new criminal conviction.

(4) (a) All certified \* \* \* intervention courts must collect and submit to the Administrative Office of Courts each month, the following data:

(i) Total number of participants at the beginning of the month;

(ii) Total number of participants at the end of the month;

(iii) Total number of participants who began the program in the month;

(iv) Total number of participants who successfully completed the \* \* \* intervention court in the month;

(v) Total number of participants who left the program in the month;

(vi) Total number of participants who were arrested for a new criminal offense while in the \* \* \* intervention court program in the month;

(vii) Total number of participants who were convicted for a new criminal arrest while in the \* \* \* intervention court program in the month; and

(viii) Total number of participants who committed at least one (1) violation while in the \* \* \* intervention court program and any resulting sanction(s).

(b) By August 1, 2015, and each year thereafter, the Administrative Office of Courts shall report to the PEER Committee the information in subsection (4) (a) of this section in a sortable, electronic format.

(5) All certified \* \* \* intervention courts may individually establish rules and may make special orders and rules as necessary that do not conflict with the rules promulgated by the Supreme Court or the Administrative Office of Courts.

(6) A certified \* \* \* intervention court may appoint the full- or part-time employees it deems necessary for the work of the \* \* \* intervention court and shall fix the compensation of those employees. Such employees shall serve at the will and pleasure of the judge or the judge's designee.

(7) The Administrative Office of Courts shall promulgate rules and regulations to carry out the certification and re-certification process and make any other policies not inconsistent with this section to carry out this process.

(8) A certified \* \* \* intervention court established under this chapter is subject to the regulatory powers of the Administrative Office of Courts as set forth in Section 9-23-17.

**SECTION 8.** Section 9-23-13, Mississippi Code of 1972, is amended as follows:

9-23-13. (1) An \* \* \* intervention court's alcohol and drug intervention component shall provide for eligible individuals, either directly or through referrals, a range of necessary court intervention services, including, but not limited to, the following:

(a) Screening using a valid and reliable assessment tool effective for identifying alcohol and drug dependent persons for eligibility and appropriate services;

(b) Clinical assessment, for a DUI offense, if the person has two (2) or more DUI convictions, the court shall order the person to undergo an assessment that uses a standardized evidence-based instrument performed by a physician to determine whether he or she has a diagnosis for alcohol dependence and would likely benefit from a court-approved medication-assisted treatment indicated and approved for the treatment of alcohol dependence by the United States Food and Drug Administration, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. Upon considering the results of the assessment, the court shall refer the person to a rehabilitative program that offers one or more forms of court-approved medications which are used for the treatment of alcohol dependence by the United States Food and Drug Administration;

(c) Education;

(d) Referral;

(e) Service coordination and case management; and

(f) Counseling and rehabilitative care.

(2) Any inpatient treatment or inpatient detoxification program ordered by the court shall be certified by the Department of Mental Health, other appropriate state agency or the equivalent agency of another state.

(3) All intervention courts shall make available the option for participants to use court-approved medication-assisted treatment while participating in the programs of the court in accordance with the recommendations of the National Drug Court Institute to combat the opioid

epidemic.

**SECTION 9.** Section 9-23-15, Mississippi Code of 1972, is amended as follows:

9-23-15. (1) In order to be eligible for alternative sentencing through a local \* \* \*

intervention court, the participant must satisfy each of the following criteria:

(a) The participant cannot have any felony convictions for any offenses that are crimes of violence as defined in Section 97-3-2 within the previous ten (10) years.

(b) The crime before the court cannot be a crime of violence as defined in Section 97-3-2.

(c) Other criminal proceedings alleging commission of a crime of violence cannot be pending against the participant.

(d) The participant cannot be \* \* \* charged with burglary of a dwelling under Section 97-17-23(2) or 97-17-37.

(e) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.

(f) The crime charged cannot be one of trafficking in controlled substances under Section 41-29-139(f), nor can the participant have a prior conviction for same.

(2) Participation in the services of an alcohol and drug intervention component shall be open only to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another \* \* \* intervention court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

(3) (a) As a condition of participation in a \* \* \* intervention court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the \* \* \* intervention court. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the \* \* \* intervention court or the laboratory; however, if testing is available from other sources or the program itself, the judge may waive any fees for testing. The judge may waive all fees if the applicant is determined to be indigent.

(b) A laboratory that performs a chemical test under this section shall report the results of the test to the \* \* \* intervention court.

(4) A person does not have a right to participate in \* \* \* intervention court under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in \* \* \* intervention court under this chapter. However, any person meeting the eligibility criteria in subsection (1) of this section shall, upon request, be screened for admission to intervention court.

**SECTION 10.** Section 9-23-17, Mississippi Code of 1972, is amended as follows:

9-23-17. With regard to any \* \* \* intervention court \* \* \*, the Administrative Office of Courts shall do the following:

- (a) Certify and re-certify \* \* \* intervention court applications that meet standards established by the Administrative Office of Courts in accordance with this chapter.
- (b) Ensure that the structure of the intervention component complies with rules adopted under this section and applicable federal regulations.
- (c) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.
- (d) Make agreements and contracts to effectuate the purposes of this chapter with:
- (i) Another department, authority or agency of the state;
  - (ii) Another state;
  - (iii) The federal government;
  - (iv) A state-supported or private university; or
  - (v) A public or private agency, foundation, corporation or individual.
- (e) Directly, or by contract, approve and certify any intervention component established under this chapter.
- (f) Require, as a condition of operation, that each \* \* \* intervention court created or funded under this chapter be certified by the Administrative Office of Courts.
- (g) Collect monthly data reports submitted by all certified \* \* \* intervention courts, provide those reports to the State \* \* \* Intervention Courts Advisory Committee, compile an annual report summarizing the data collected and the outcomes achieved by all certified \* \* \* intervention courts and submit the annual report to the Oversight Task Force.
- (h) Every three (3) years contract with an external evaluator to conduct an evaluation of the effectiveness of the \* \* \* intervention court program, both statewide and individual \* \* \* intervention court programs, in complying with the key components of the \* \* \* intervention courts adopted by the National Association of Drug Court Professionals.
- (i) Adopt rules to implement this chapter.

**SECTION 11.** Section 9-23-19, Mississippi Code of 1972, is amended as follows:

- 9-23-19. (1) All monies received from any source by the \* \* \* intervention court shall be accumulated in a fund to be used only for \* \* \* intervention court purposes. Any funds remaining in this fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the \* \* \* Intervention Court Fund for the funding of further activities by the \* \* \* intervention court.
- (2) An \* \* \* intervention court may apply for and receive the following:
- (a) Gifts, bequests and donations from private sources.
  - (b) Grant and contract money from governmental sources.
  - (c) Other forms of financial assistance approved by the court to supplement the budget of the \* \* \* intervention court.
- (3) The costs of participation in an alcohol and drug intervention program required by the certified \* \* \* intervention court may be paid by the participant or out of user fees or such other

state, federal or private funds that may, from time to time, be made available.

(4) The court may assess such reasonable and appropriate fees to be paid to the local \* \* \* Intervention Court Fund for participation in an alcohol or drug intervention program; however all fees may be waived if the applicant is determined to be indigent.

**SECTION 12.** Section 9-23-21, Mississippi Code of 1972, is amended as follows:

9-23-21. The director and members of the professional and administrative staff of the \* \* \* intervention court who perform duties in good faith under this chapter are immune from civil liability for:

(a) Acts or omissions in providing services under this chapter; and

(b) The reasonable exercise of discretion in determining eligibility to participate in the \* \* \* intervention court.

**SECTION 13.** 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, \* \* \* 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. However, no expunction of any implied consent violation shall be allowed.

**SECTION 14.** Section 9-25-1, Mississippi Code of 1972, is amended as follows:

9-25-1. (1) The Legislature recognizes that our military veterans have provided an invaluable service to our country. In doing so, many may have suffered the effects of, including, but not limited to, post-traumatic stress disorder, traumatic brain injury and depression, and may also suffer drug and alcohol dependency or addiction and co-occurring mental illness and substance abuse problems. As a result of this, some veterans come into contact with the criminal justice system and are charged with felony offenses. There is a critical need for the justice system to recognize these veterans, provide accountability for their wrongdoing, provide for the safety of the public, and provide for the treatment of our veterans. It is the intent of the Legislature to create a framework for which specialized veterans treatment courts may be established at the circuit court level and at the discretion of the circuit court judge.

(2) **Authorization.** A circuit court judge may establish a Veterans Treatment Court program. The Veterans Treatment Court may, at the discretion of the circuit court judge, be a separate court program or as a component of an existing \* \* \* intervention court program. At the discretion of the circuit court judge, the Veterans Treatment Court may be operated in one (1) county within the circuit court district, and allow veteran participants from all counties within the circuit court district to participate.

(3) **Eligibility.** (a) In order to be eligible to participate in a Veterans Treatment Court program established under this section, the attorney representing the state must consent to the defendant's participation in the program. Further, the court in which the criminal case is pending

must have found that the defendant is a veteran of the United States Armed Forces as defined in Title 38 USCS.

(b) Participation in the services of an alcohol and drug intervention component shall only be open to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another Veterans Treatment Court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

(c) (i) As a condition of participation in a Veterans Treatment Court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the Veterans Treatment Court program. A participant may be held liable for costs associated with all chemical tests required under this section. However, a judge may waive any fees for testing.

(ii) A laboratory that performs chemical tests under this section shall report the results of the tests to the Veterans Treatment Courts.

(d) A person does not have the right to participate in a Veterans Treatment Court program under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in the Veterans Treatment Court program.

(e) A defendant shall be excluded from participating in a Veterans Treatment Court program if any one (1) of the following applies:

(i) The crime before the court is a crime of violence as set forth in paragraph (c) of this subsection.

(ii) The defendant does not demonstrate a willingness to participate in a treatment program.

(iii) The defendant has been previously convicted of a felony crime of violence including, but not limited to: murder, rape, sexual battery, statutory rape of a child under the age of sixteen (16), armed robbery, arson, aggravated kidnapping, aggravated assault, stalking, or any offense involving the discharge of a firearm or where serious bodily injury or death resulted to any person.

(f) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the Veterans Treatment Court program or otherwise through the justice system.

(g) Proof of matters under this section may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States Department of Veterans Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office.

(4) **Administrative Office of Courts.** With regard to any Veterans Treatment Court established

under this chapter, the Administrative Office of Courts may do the following:

(a) Ensure that the structure of the intervention component complies with rules adopted under this chapter and applicable federal regulations.

(b) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this chapter and applicable federal regulations.

(c) Enter into agreements and contracts to effectuate the purposes of this chapter with:

(i) Another department, authority, or agency of the state;

(ii) Another state;

(iii) The federal government;

(iv) A state-supported or private university; or

(v) A public or private agency, foundation, corporation, or individual.

(d) Directly, or by contract, approve and certify any intervention component established under this chapter.

(e) Require, as a condition of operation, that each veterans court created or funded under this chapter be certified by the Administrative Office of Courts.

(f) Adopt rules to implement this chapter.

(5) **State \* \* \* Intervention Court Advisory Committee.** (a) The State \* \* \* Intervention

Court Advisory Committee shall be responsible for developing statewide rules and policies as they relate to Veterans Treatment Court programs.

(b) The State \* \* \* Intervention Court Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state officials concerning improvements to Veterans Treatment Court policies and procedures.

(c) The State \* \* \* Intervention Court Advisory Committee shall act as an arbiter of disputes arising out of the operation of Veterans Treatment Court programs established under this chapter and make recommendations to improve the Veterans Treatment Court programs.

(6) **Funding for Veterans Treatment Courts.** (a) All monies received from any source by the Veterans Treatment Court program shall be accumulated in a fund to be used only for Veterans Treatment Court purposes. Any funds remaining in this fund at the end of the fiscal year shall not lapse into the General Fund, but shall be retained in the Veterans Treatment Court fund for the funding of further activities by the Veterans Treatment Court program.

(b) A Veterans Treatment Court program may apply for and receive the following:

(i) Gifts, bequests and donations from private sources.

(ii) Grant and contract money from governmental sources.

(iii) Other forms of financial assistance approved by the court to supplement the budget of the Veterans Treatment Court program.

(7) **Immunity.** The coordinator and members of the professional and administrative staff of the Veterans Treatment Court program who perform duties in good faith under this chapter are immune from civil liability for:

(a) Acts or omissions in providing services under this chapter; and

(b) The reasonable exercise of discretion in determining eligibility to participate in the Veterans Treatment Court program.

(8) This section shall be codified as a separate article in Title 9, Mississippi Code of 1972.

**SECTION 15.** Section 9-27-1, Mississippi Code of 1972, is amended as follows:

9-27-1. This chapter shall be known and may be cited as the Rivers McGraw Mental Health Diversion \* \* \* Program Act.

**SECTION 16.** Section 9-27-3, Mississippi Code of 1972, is amended as follows:

9-27-3. (1) The Legislature recognizes the critical need for judicial intervention to establish court processes and procedures that are more responsive to the needs of defendants with mental illnesses, while maintaining public safety and the integrity of the court process. \* \* \*

(2) The goals of the mental health diversion \* \* \* programs under this chapter include the following:

(a) Reduce the number of future criminal justice contacts among offenders with mental illnesses;

(b) Reduce the inappropriate institutionalization of people with mental illnesses;

(c) Improve the mental health and well-being of defendants who come in contact with the criminal justice system;

(d) Improve linkages between the criminal justice system and the mental health system;

(e) Expedite case processing;

(f) Protect public safety;

(g) Establish linkages with other state and local agencies and programs that target people with mental illnesses in order to maximize the delivery of services; and

(h) To use corrections resources more effectively by redirecting prison-bound offenders whose criminal conduct is driven in part by mental illnesses to intensive supervision and clinical treatment available in the mental health diversion \* \* \* program.

**SECTION 17.** Section 9-27-5, Mississippi Code of 1972, is brought forward as follows:

9-27-5. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed unless the context clearly requires otherwise:

(a) "Chemical tests" means the analysis of an individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v) saliva, (vi) urine, or (vii) other bodily substance to determine the presence of alcohol or a controlled substance.

(b) "Mental health diversion program" means an immediate and highly structured intervention process for mental health treatment of eligible defendants or juveniles that:

(i) Brings together mental health professionals, local social programs and intensive judicial monitoring; and

(ii) Follows the key components of the mental health court curriculum published by

the Bureau of Justice of the United States Department of Justice.

(c) "Evidence-based practices" means supervision policies, procedures and practices that scientific research demonstrates reduce recidivism.

(d) "Risk and needs assessment" means the use of an actuarial assessment tool validated on a Mississippi corrections population to determine a person's risk to reoffend and the characteristics that, if addressed, reduce the risk to reoffend.

**SECTION 18.** Section 9-27-7, Mississippi Code of 1972, is amended as follows:

9-27-7. (1) The Administrative Office of Courts is the repository for reports filed by \* \* \* programs established under this chapter. The goal of the \* \* \* programs is to support effective and proven practices that reduce recidivism and provide treatment for participants.

(2) \* \* \* Programs must adhere to the standards established in this chapter.

(a) These standards shall include, but are not limited to:

(i) The use of evidence-based practices including, but not limited to, the use of a valid and reliable risk and needs assessment tool to identify participants and deliver appropriate treatments;

(ii) Targeting medium- to high-risk offenders for participation;

(iii) The use of current, evidence-based interventions proven to provide mental health treatment;

(iv) Coordinated strategy between all mental health diversion \* \* \* program personnel;

(v) Ongoing judicial interaction with each participant; and

(vi) Monitoring and evaluation of mental health diversion \* \* \* program implementation and outcomes through data collection and reporting.

(b) \* \* \* Programs must implement a data collection plan, which shall include collecting the following data:

(i) Total number of participants;

(ii) Total number of successful participants;

(iii) Total number of unsuccessful participants and the reason why each participant did not complete the program;

(iv) Total number of participants who were arrested for a new criminal offense while in the program;

(v) Total number of participants who were convicted of a new felony or misdemeanor offense while in the program;

(vi) Total number of participants who committed at least one (1) violation while in the program and the resulting sanction(s);

(vii) Results of the initial risk and needs assessment or other clinical assessment conducted on each participant; and

(viii) Any other data or information as required by the Administrative Office of

Courts.

(3) All mental health diversion \* \* \* programs must measure successful completion of the program based on those participants who complete the program without a new criminal conviction.

(4) (a) \* \* \* Programs must collect and submit to the Administrative Office of Courts each month, the following data:

(i) Total number of participants at the beginning of the month;

(ii) Total number of participants at the end of the month;

(iii) Total number of participants who began the program in the month;

(iv) Total number of participants who successfully completed the program in the month;

(v) Total number of participants who left the program in the month;

(vi) Total number of participants who were arrested for a new criminal offense while in the program in the month;

(vii) Total number of participants who were convicted for a new criminal arrest while in the program in the month; and

(viii) Total number of participants who committed at least one (1) violation while in the program and any resulting sanction(s).

(b) By August 1, 2018, and each year thereafter, the Administrative Office of Courts shall report to the PEER Committee the information in subsection (4) (a) of this section in a sortable, electronic format.

(5) Mental health diversion \* \* \* programs may individually establish rules and may make special orders and rules as necessary that do not conflict with rules promulgated by the Supreme Court or the Administrative Office of Courts.

(6) A mental health diversion \* \* \* program may appoint the full or part-time employees it deems necessary for the work of the mental health diversion \* \* \* program and shall fix the compensation of those employees, who shall serve at the will and pleasure of the senior circuit court judge.

(7) A mental health diversion \* \* \* program established under this chapter is subject to the regulatory powers of the Administrative Office of Courts as set forth in Section 9-27-13.

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

9-27-9. (1) A mental health diversion \* \* \* program's mental health intervention component shall provide for eligible individuals, either directly or through referrals, a range of necessary court treatment services, including, but not limited to, the following:

(a) Screening using a valid and reliable assessment tool effective for identifying persons affected by mental health issues for eligibility and appropriate services;

(b) Clinical assessment;

(c) Education;

(d) Referral;

(e) Service coordination and case management; and

(f) Counseling and rehabilitative care.

(2) Any inpatient treatment ordered by the court shall be certified by the Department of Mental Health, other appropriate state agency or the equivalent agency of another state.

**SECTION 20.** Section 9-27-11, Mississippi Code of 1972, is amended as follows:

9-27-11. (1) In order to be eligible for alternative sentencing through a local mental health diversion \* \* \* program, the participant must satisfy each of the following criteria:

(a) The participant cannot have any felony convictions for any offenses that are crimes of violence as defined in Section 97-3-2, other than burglary under Section 97-17-23(1), within the previous ten (10) years.

(b) The crime before the court cannot be a crime of violence as defined in Section 97-3-2, other than burglary under Section 97-17-23(1).

(c) Other criminal proceedings alleging commission of a crime of violence other than burglary under Section 97-17-23(1) cannot be pending against the participant.

(d) The crime before the court cannot be a charge of driving under the influence of alcohol or any other substance that resulted in the death of a person. In addition, persons who are ineligible for nonadjudication under Section 63-11-30 shall be ineligible to participate in a mental health diversion program.

(e) The crime charged cannot be one of trafficking in controlled substances under Section 41-29-139(f), nor can the participant have a prior conviction for same.

(2) Participation in the services of a mental health treatment component shall be open only to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another mental health diversion program. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

(3) (a) As a condition of participation in a mental health diversion program, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the program. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the mental health diversion program or the laboratory; however, if testing is available from other sources or the program itself, the judge may waive any fees for testing. Also, fees may be waived if the applicant is determined to be indigent.

(b) A laboratory that performs a chemical test under this section shall report the results of the test to the mental health diversion program.

(4) A person does not have a right to participate in a mental health diversion program under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in the mental health diversion program under this chapter. However, any person meeting the eligibility criteria in subsection (1) of this section, shall, upon request, be screened for admission into the program.

**SECTION 21.** Section 9-27-15, Mississippi Code of 1972, is amended as follows:

9-27-15. (1) All monies received from any source by a mental health diversion \* \* \* program shall be accumulated in a local fund to be used only for mental health diversion \* \* \* program purposes. Any funds remaining in a local fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the mental health diversion \* \* \* program fund for the funding of further activities by the mental health diversion \* \* \* program. \* \* \*

(2) A mental health diversion \* \* \* program may apply for and receive the following:

(a) Gifts, bequests and donations from private sources.

(b) Grant and contract monies from governmental sources.

(c) Other forms of financial assistance approved by the court to supplement the budget of the mental health diversion \* \* \* program.

(3) The costs of participation in a mental health treatment program required by the mental health diversion \* \* \* program may be paid by the participant or out of user fees or such other state, federal or private funds that may, from time to time, be made available.

(4) The court may assess reasonable and appropriate fees to be paid to the local mental health diversion \* \* \* program fund for participation in a mental health treatment program; however all fees may be waived if the applicant is determined to be indigent.

**SECTION 22.** Section 9-27-17, Mississippi Code of 1972, is amended as follows:

9-27-17. The director and members of the professional and administrative staff of the mental health diversion program who perform duties in good faith under this chapter are immune from civil liability for:

(a) Acts or omissions in providing services under this chapter; and

(b) The reasonable exercise of discretion in determining eligibility to participate in the mental health diversion \* \* \* program.

**SECTION 23.** Section 9-27-19, Mississippi Code of 1972, is amended as follows:

9-27-19. If the participant completes all requirements imposed upon him by the mental health diversion \* \* \* program, \* \* \* the charge and prosecution shall be dismissed. If the defendant or participant was sentenced at the time of entry of a plea of guilty, the successful completion of the mental health diversion \* \* \* program order and other requirements of probation or suspension of sentence will result in the record of the criminal conviction or adjudication being expunged.

**SECTION 24.** Sections 9-27-13 and 9-27-21, Mississippi Code of 1972, which regulate pilot programs for mental health diversion courts, are repealed.

**SECTION 25.** Section 47-5-138, Mississippi Code of 1972, is brought forward as follows:

47-5-138. (1) The department may promulgate rules and regulations to carry out an earned time allowance program based on the good conduct and performance of an inmate. An inmate is eligible to receive an earned time allowance of one-half (1/2) of the period of confinement imposed by the court except those inmates excluded by law. When an inmate is committed to the custody of the department, the department shall determine a conditional earned time release date by

subtracting the earned time allowance from an inmate's term of sentence. This subsection does not apply to any sentence imposed after June 30, 1995.

(2) An inmate may forfeit all or part of his earned time allowance for a serious violation of rules. No forfeiture of the earned time allowance shall be effective except upon approval of the commissioner, or his designee, and forfeited earned time may not be restored.

(3) (a) For the purposes of this subsection, "final order" means an order of a state or federal court that dismisses a lawsuit brought by an inmate while the inmate was in the custody of the Department of Corrections as frivolous, malicious or for failure to state a claim upon which relief could be granted.

(b) On receipt of a final order, the department shall forfeit:

(i) Sixty (60) days of an inmate's accrued earned time if the department has received one (1) final order as defined herein;

(ii) One hundred twenty (120) days of an inmate's accrued earned time if the department has received two (2) final orders as defined herein;

(iii) One hundred eighty (180) days of an inmate's accrued earned time if the department has received three (3) or more final orders as defined herein.

(c) The department may not restore earned time forfeited under this subsection.

(4) An inmate who meets the good conduct and performance requirements of the earned time allowance program may be released on his conditional earned time release date.

(5) For any sentence imposed after June 30, 1995, an inmate may receive an earned time allowance of four and one-half (4-1/2) days for each thirty (30) days served if the department determines that the inmate has complied with the good conduct and performance requirements of the earned time allowance program. The earned time allowance under this subsection shall not exceed fifteen percent (15%) of an inmate's term of sentence; however, beginning July 1, 2006, no person under the age of twenty-one (21) who has committed a nonviolent offense, and who is under the jurisdiction of the Department of Corrections, shall be subject to the fifteen percent (15%) limitation for earned time allowances as described in this subsection (5).

(6) Any inmate, who is released before the expiration of his term of sentence under this section, shall be placed under earned release supervision until the expiration of the term of sentence. The inmate shall retain inmate status and remain under the jurisdiction of the department. The period of earned release supervision shall be conducted in the same manner as a period of supervised parole. The department shall develop rules, terms and conditions for the earned release supervision program. The commissioner shall designate the appropriate hearing officer within the department to conduct revocation hearings for inmates violating the conditions of earned release supervision.

(7) If the earned release supervision is revoked, the inmate shall serve the remainder of the sentence, but the time the inmate served on earned release supervision before revocation, shall be applied to reduce his sentence.

**SECTION 26.** Section 47-7-3.1, Mississippi Code of 1972, is brought forward as follows:

47-7-3.1. (1) In consultation with the Parole Board, the department shall develop a case plan for all parole eligible inmates to guide an inmate's rehabilitation while in the department's custody and to reduce the likelihood of recidivism after release.

(2) Within ninety (90) days of admission, the department shall complete a case plan on all inmates which shall include, but not limited to:

(a) Programming and treatment requirements based on the results of a risk and needs assessment;

(b) Any programming or treatment requirements contained in the sentencing order; and

(c) General behavior requirements in accordance with the rules and policies of the department.

(3) The department shall provide the inmate with a written copy of the case plan and the inmate's caseworker shall explain the conditions set forth in the case plan.

(a) Within ninety (90) days of admission, the caseworker shall notify the inmate of their parole eligibility date as calculated in accordance with Section 47-7-3(3);

(b) At the time a parole-eligible inmate receives the case plan, the department shall send the case plan to the Parole Board for approval.

(4) The department shall ensure that the case plan is achievable prior to inmate's parole eligibility date.

(5) The caseworker shall meet with the inmate every eight (8) weeks from the date the offender received the case plan to review the inmate's case plan progress.

(6) Every four (4) months the department shall electronically submit a progress report on each parole-eligible inmate's case plan to the Parole Board. The board may meet to review an inmate's case plan and may provide written input to the caseworker on the inmate's progress toward completion of the case plan.

(7) The Parole Board shall provide semiannually to the Oversight Task Force the number of parole hearings held, the number of prisoners released to parole without a hearing and the number of parolees released after a hearing.

**SECTION 27.** Section 47-7-33.1, Mississippi Code of 1972, is brought forward as follows:

47-7-33.1. (1) The department shall create a discharge plan for any offender returning to the community, regardless of whether the person will discharge from the custody of the department, or is released on parole, pardon, or otherwise. At least ninety (90) days prior to an offender's earliest release date, the commissioner shall conduct a pre-release assessment and complete a written discharge plan based on the assessment results. The discharge plan for parole eligible offenders shall be sent to the parole board at least thirty (30) days prior to the offender's parole eligibility date for approval. The board may suggest changes to the plan that it deems necessary to ensure a successful transition.

(2) The pre-release assessment shall identify whether an inmate requires assistance obtaining

the following basic needs upon release: transportation, clothing and food, financial resources, identification documents, housing, employment, education, health care and support systems. The discharge plan shall include information necessary to address these needs and the steps being taken by the department to assist in this process. Based on the findings of the assessment, the commissioner shall:

(a) Arrange transportation for inmates from the correctional facility to their release destination;

(b) Ensure inmates have clean, seasonally appropriate clothing, and provide inmates with a list of food providers and other basic resources immediately accessible upon release;

(c) Ensure inmates have a driver's license or a state-issued identification card that is not a Department of Corrections identification card;

(d) Assist inmates in identifying safe, affordable housing upon release. If accommodations are not available, determine whether temporary housing is available for at least ten (10) days after release. If temporary housing is not available, the discharge plan shall reflect that satisfactory housing has not been established and the person may be a candidate for transitional reentry center placement;

(e) Refer inmates without secured employment to employment opportunities;

(f) Provide inmates with contact information of a health care facility/provider in the community in which they plan to reside;

(g) Notify family members of the release date and release plan, if inmate agrees; and

(h) Refer inmates to a community or a faith-based organization that can offer support within the first twenty-four (24) hours of release;

(3) A written discharge plan shall be provided to the offender and supervising probation officer or parole officer, if applicable.

(4) A discharge plan created for a parole-eligible offender shall also include supervision conditions and the intensity of supervision based on the assessed risk to recidivate and whether there is a need for transitional housing. The board shall approve discharge plans before an offender is released on parole pursuant to this chapter.

**SECTION 28.** Section 47-7-34, Mississippi Code of 1972, is brought forward as follows:

47-7-34. (1) When a court imposes a sentence upon a conviction for any felony committed after June 30, 1995, the court, in addition to any other punishment imposed if the other punishment includes a term of incarceration in a state or local correctional facility, may impose a term of post-release supervision. However, the total number of years of incarceration plus the total number of years of post-release supervision shall not exceed the maximum sentence authorized to be imposed by law for the felony committed. The defendant shall be placed under post-release supervision upon release from the term of incarceration. The period of supervision shall be established by the court.

(2) The period of post-release supervision shall be conducted in the same manner as a like

period of supervised probation, including a requirement that the defendant shall abide by any terms and conditions as the court may establish. Failure to successfully abide by the terms and conditions shall be grounds to terminate the period of post-release supervision and to recommit the defendant to the correctional facility from which he was previously released. Procedures for termination and recommitment shall be conducted in the same manner as procedures for the revocation of probation and imposition of a suspended sentence as required pursuant to Section 47-7-37.

(3) Post-release supervision programs shall be operated through the probation and parole unit of the Division of Community Corrections of the department. The maximum amount of time that the Mississippi Department of Corrections may supervise an offender on the post-release supervision program is five (5) years.

**SECTION 29.** Section 47-7-9, Mississippi Code of 1972, is brought forward as follows:

47-7-9. (1) The circuit judges and county judges in the districts to which Division of Community Corrections personnel have been assigned shall have the power to request of the department transfer or removal of the division personnel from their court.

(2) (a) Division personnel shall investigate all cases referred to them for investigation by the board, the division or by any court in which they are authorized to serve. They shall furnish to each person released under their supervision a written statement of the conditions of probation, parole, earned-release supervision, post-release supervision or suspension and shall instruct the person regarding the same. They shall administer a risk and needs assessment on each person under their supervision to measure criminal risk factors and individual needs. They shall use the results of the risk and needs assessment to guide supervision responses consistent with evidence-based practices as to the level of supervision and the practices used to reduce recidivism. They shall develop a supervision plan for each person assessed as moderate to high risk to reoffend. They shall keep informed concerning the conduct and conditions of persons under their supervision and use all suitable methods that are consistent with evidence-based practices to aid and encourage them and to bring about improvements in their conduct and condition and to reduce the risk of recidivism. They shall keep detailed records of their work and shall make such reports in writing as the court or the board may require.

(b) Division personnel shall complete annual training on evidence-based practices and criminal risk factors, as well as instructions on how to target these factors to reduce recidivism.

(c) The division personnel duly assigned to court districts are hereby vested with all the powers of police officers or sheriffs to make arrests or perform any other duties required of policemen or sheriffs which may be incident to the division personnel responsibilities. All probation and parole officers hired on or after July 1, 1994, will be placed in the Law Enforcement Officers Training Program and will be required to meet the standards outlined by that program.

(d) It is the intention of the Legislature that insofar as practicable the case load of each division personnel supervising offenders in the community (hereinafter field supervisor) shall not exceed the number of cases that may be adequately handled.

(3) (a) Division personnel shall be provided to perform investigation for the court as provided in this subsection. Division personnel shall conduct presentence investigations on all persons convicted of a felony in any circuit court of the state, prior to sentencing and at the request of the circuit court judge of the court of conviction. The presentence evaluation report shall consist of a complete record of the offender's criminal history, educational level, employment history, psychological condition and such other information as the department or judge may deem necessary. Division personnel shall also prepare written victim impact statements at the request of the sentencing judge as provided in Section 99-19-157.

(b) In order that offenders in the custody of the department on July 1, 1976, may benefit from the kind of evaluations authorized in this section, an evaluation report to consist of the information required hereinabove, supplemented by an examination of an offender's record while in custody, shall be compiled by the division upon all offenders in the custody of the department on July 1, 1976. After a study of such reports by the State Parole Board those cases which the board believes would merit some type of executive clemency shall be submitted by the board to the Governor with its recommendation for the appropriate executive action.

(c) The department is authorized to accept gifts, grants and subsidies to conduct this activity.

**SECTION 30.** Section 63-1-216, Mississippi Code of 1972, is brought forward as follows:

63-1-216. (1) (a) A person shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if the person's license or permit to drive has been administratively suspended under Section 63-11-23 or the person has been convicted of a first violation of:

(i) Operating, attempting to operate, or being in actual physical control of a commercial motor vehicle on a highway with an alcohol concentration of four one-hundredths percent (0.04%) or more, or under the influence as provided in Section 63-11-30;

(ii) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(iii) Using a motor vehicle in the commission of any offense under state or federal law that is punishable by imprisonment for a term exceeding one (1) year;

(iv) Refusal to submit to a test to determine the operator's alcohol concentration, as provided in Title 63, Chapter 11, Mississippi Code of 1972;

(v) Operating, attempting to operate, or being in actual physical control of a motor vehicle on a highway with an alcohol concentration of eight one-hundredths percent (0.08%) or more, or under the influence of intoxicating liquor or other substance, as provided in Section 63-11-30;

(vi) Operating, attempting to operate, or being in actual physical control of a motor vehicle on a highway when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely as provided in Section 63-11-30;

(vii) Operating or attempting to operate a commercial motor vehicle while the

license is revoked, suspended, cancelled, or disqualified;

(viii) Operating a commercial motor vehicle in a negligent manner resulting in a fatal injury.

(b) A person shall be disqualified from driving a commercial motor vehicle for three (3) years if convicted of a violation listed in subsection (1) of this section, if the violation occurred while transporting a hazardous material required to be placarded.

(c) A person shall be disqualified from driving a commercial motor vehicle for life if convicted of two (2) or more violations or a combination of them listed in subsection (1) of this section arising from two (2) or more separate occurrences.

(d) A person shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, arising from separate incidents occurring within a three-year period. A disqualification for three (3) serious traffic violations must be imposed consecutively to any other previous period of disqualification.

(e) A person shall be disqualified from driving a commercial motor vehicle for life if the person uses a motor vehicle in the commission of any offense under state or federal law that is punishable by imprisonment for a term exceeding one (1) year involving the manufacture, distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug and for which the person was convicted.

(f) A person who is disqualified from driving a commercial motor vehicle shall surrender the person's Mississippi commercial driver's license no later than the effective date of the disqualification. Upon receipt of the person's commercial driver's license, that person, if otherwise eligible, may apply for a non-CDL, and upon payment of sufficient fees receive the driver's license.

(g) The commissioner shall adopt rules establishing guidelines, including conditions, under which a disqualification for life under this section, except for a disqualification issued pursuant to paragraph (e) of this subsection, may be reduced to a period of not less than ten (10) years.

(h) A person shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

(i) A person shall be disqualified from driving a commercial motor vehicle for a period of one hundred twenty (120) days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in a separate incident.

(j) A person shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(k) A person who is simultaneously subject to a disqualification issued by the

administrator of the Federal Motor Carrier Safety Administration pursuant to 49 CFR, Part 383.52 and a disqualification under any other provision of this section shall serve those disqualification periods concurrently.

(2) (a) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for one (1) year, if:

(i) The person is convicted of a first violation of operating, attempting to operate or being in actual physical control of a commercial motor vehicle on a highway with an alcohol concentration of four one-hundredths percent (0.04%) or more, or under the influence, as provided in Section 63-11-30; and

(ii) The person's commercial driver's license is issued by a state or country that does not issue commercial driver's licenses and disqualify persons in accordance with 49 CFR, Parts 383 and 384.

(b) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for three (3) years if the person is convicted of violating subsection (1) of this section, and the violation occurred while the person was transporting a hazardous material required to be placarded.

(c) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for life if the person is convicted a second time of violating subsection (1) of this section, and both convictions arise out of separate occurrences.

(d) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for sixty (60) days if the person is convicted of two (2) serious traffic violations, or for one hundred twenty (120) days if the person is convicted of three (3) serious traffic violations, arising from separate incidents occurring within a three-year period.

(e) A person's privilege to operate a commercial motor vehicle in the State of Mississippi shall be suspended for life if the person uses a commercial motor vehicle in the commission of any offense under state or federal law that is punishable by imprisonment for a term exceeding one (1) year, involving the manufacture, distribution, or dispensing of a regulated drug, or possession with intent to manufacture, distribute, or dispense a regulated drug, and for which the person was convicted.

(f) In addition to the reasons specified in this section for suspension of the commercial driver's license, the commissioner shall be authorized to suspend the commercial driver's license of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a commercial driver's license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a commercial driver's license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a commercial driver's license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this article, the provisions

of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 31.** Section 25-3-35, Mississippi Code of 1972, is amended as follows:

25-3-35. (1) The annual salaries of the following judges are fixed as follows:

**From and after January 1, 2013, through December 31, 2013:**

Chief Justice of the Supreme Court..... \$126,292.50

Presiding Justices of the Supreme Court, each.. 123,600.75

Associate Justices of the Supreme Court, each.. 122,460.00

**From and after January 1, 2014, through December 31, 2014:**

Chief Justice of the Supreme Court..... \$137,195.00

Presiding Justices of the Supreme Court, each.. 134,011.50

Associate Justices of the Supreme Court, each.. 132,390.00

**From and after January 1, 2015, through December 31, 2015:**

Chief Justice of the Supreme Court..... \$148,097.50

Presiding Justices of the Supreme Court, each.. 144,422.25

Associate Justices of the Supreme Court, each.. 142,320.00

**From and after January 1, 2016:**

Chief Justice of the Supreme Court..... \$159,000.00

Presiding Justices of the Supreme Court, each.. 154,833.00

Associate Justices of the Supreme Court, each.. 152,250.00

There are imposed upon the Supreme Court justices the extra duties of taking all necessary action to promote judicial education in schools, \* \* \* intervention courts, electronic filing and case management systems as developed by the Administrative Office of Courts, or such other additional duties as may be assigned by the Chief Justice of the Supreme Court. For such extra services each justice, from and after January 1, 2013, shall receive a sum sufficient to aggregate, per annum, the salaries set forth in this subsection (1).

The fixed salaries in this subsection (1) shall be paid from the State General Fund and from the Judicial System Operation Fund created under Section 9-21-45. No less than: One Hundred Fifteen Thousand Three Hundred Ninety Dollars (\$115,390.00) of the Chief Justice's salary in this subsection (1), One Hundred Thirteen Thousand One Hundred Ninety Dollars (\$113,190.00) of the salary of a presiding justice in this subsection (1), and One Hundred Twelve Thousand Five Hundred Thirty Dollars (\$112,530.00) of the salary of an associate justice in this subsection (1) shall be paid from general fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the salary of the Chief Justice, a presiding justice and an associate justice to the levels set forth in this subsection (1).

The fixed salaries as specified in this subsection (1) shall be the exclusive and total compensation which can be reported to the Public Employees' Retirement System for retirement purposes; however, any judge in office on December 31, 2003, may continue to report his expense allowance as part of his compensation for retirement purposes.

(2) The annual salaries of the judges of the Court of Appeals of Mississippi are fixed as follows:

**From and after January 1, 2013, through December 31, 2013:**

Chief Judge of the Court of Appeals..... \$117,992.00  
Associate Judges of the Court of Appeals, each. 114,994.25

**From and after January 1, 2014, through December 31, 2014:**

Chief Judge of the Court of Appeals..... \$127,854.00  
Associate Judges of the Court of Appeals, each. 124,938.50

**From and after January 1, 2015, through December 31, 2015:**

Chief Judge of the Court of Appeals..... \$137,716.00  
Associate Judges of the Court of Appeals, each. 134,882.75

**From and after January 1, 2016:**

Chief Judge of the Court of Appeals..... \$147,578.00  
Associate Judges of the Court of Appeals, each. 144,827.00

From and after January 1, 2013, each judge shall receive a sum sufficient to aggregate, per annum, the salaries set forth in this subsection (2).

The fixed salaries in this subsection (2) shall be paid from the State General Fund and from the Judicial System Operation Fund created under Section 9-21-45. No less than One Hundred Eight Thousand One Hundred Thirty Dollars (\$108,130.00) of the Chief Judge's salary in this subsection (2) shall be paid from general fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the Chief Judge's salary to the level set forth in this subsection (2). No less than One Hundred Five Thousand Fifty Dollars (\$105,050.00) of the salary of an associate judge in this subsection (2) shall be paid from general fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the salary of an associate judge to the level set forth in this subsection (2).

The fixed salaries as specified in this subsection (2) shall be the exclusive and total compensation which can be reported to the Public Employees' Retirement System for retirement purposes; however, any judge in office on December 31, 2003, may continue to report his expense allowance as part of his compensation for retirement purposes.

(3) The annual salaries of the chancery and circuit court judges are fixed as follows:

**From and after January 1, 2013, through December 31, 2013:**

Chancery Judges, each..... \$112,127.50  
Circuit Judges, each..... 112,127.50

**From and after January 1, 2014, through December 31, 2014:**

Chancery Judges, each..... \$120,085.00  
Circuit Judges, each..... 120,085.00

**From and after January 1, 2015, through December 31, 2015:**

Chancery Judges, each..... \$128,042.50

Circuit Judges, each..... 128,042.50

**From and after January 1, 2016:**

Chancery Judges, each..... \$136,000.00

Circuit Judges, each..... 136,000.00

In addition to their present official duties, the circuit and chancery judges shall take necessary action to promote judicial education in schools, \* \* \* intervention courts, electronic filing and case management systems as developed by the Administrative Office of Courts, or such other additional duties as may be assigned by the Chief Justice of the Supreme Court. For such extra services each judge, from and after January 1, 2013, shall receive a sum sufficient to aggregate, per annum, the salaries set forth in this subsection (3).

The fixed salaries in this subsection (3) shall be paid from the State General Fund and from the Judicial System Operation Fund created under Section 9-21-45. No less than One Hundred Four Thousand One Hundred Seventy Dollars (\$104,170.00) of the salary of a chancery or circuit Judge in this subsection (3) shall be paid from general fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the salary of a chancery or circuit judge to the levels set forth in this subsection (3).

(4) From and after January 1, 2019, and every four (4) years thereafter, the annual salaries of the judges in subsections (1), (2) and (3) shall be fixed at the level of compensation recommended by the State Personnel Board according to the board's most recent report on judicial salaries, as required under Section 25-9-115, to the extent that sufficient funds are available. The annual salaries fixed in accordance with this subsection (4) shall not become effective until the commencement of the next immediately succeeding term of office.

(5) The Supreme Court shall prepare a payroll for chancery judges and circuit judges and submit such payroll to the Department of Finance and Administration.

(6) The annual salary of the full-time district attorneys shall be:

**From and after January 1, 2013, through December 31, 2013:**

One Hundred Three Thousand Three Hundred Twenty-two Dollars (\$103,322.00).

**From and after January 1, 2014, through December 31, 2014:**

One Hundred Ten Thousand Eight Hundred Forty-eight Dollars (\$110,848.00).

**From and after January 1, 2015, through December 31, 2015:**

One Hundred Eighteen Thousand Three Hundred Seventy-four Dollars (\$118,374.00).

**From and after January 1, 2016:**

One Hundred Twenty-five Thousand Nine Hundred Dollars (\$125,900.00).

(7) The annual salary of the full-time legal assistants shall be not less than Fifteen Thousand Dollars (\$15,000.00) nor more than eighty percent (80%) of the salary of the district attorney for legal assistants who have been licensed to practice law for five (5) years or less; eighty-five percent (85%) of the salary of the district attorney for legal assistants who have been

licensed to practice law for at least five (5) years but less than fifteen (15) years; and ninety percent (90%) of the salary of the district attorney for legal assistants who have been licensed to practice law for at least fifteen (15) years or more.

**SECTION 32.** Section 43-21-357, Mississippi Code of 1972, is amended as follows:

43-21-357. (1) After receiving a report, the youth court intake unit shall promptly make a preliminary inquiry to determine whether the interest of the child, other children in the same environment or the public requires the youth court to take further action. As part of the preliminary inquiry, the youth court intake unit may request or the youth court may order the Department of Human Services, the Department of Youth Services, any successor agency or any other qualified public employee to make an investigation or report concerning the child and any other children in the same environment, and present the findings thereof to the youth court intake unit. If the youth court intake unit receives a neglect or abuse report, the youth court intake unit shall immediately forward the complaint to the Department of Human Services to promptly make an investigation or report concerning the child and any other children in the same environment and promptly present the findings thereof to the youth court intake unit. If it appears from the preliminary inquiry that the child or other children in the same environment are within the jurisdiction of the court, the youth court intake unit shall recommend to the youth court:

- (a) That the youth court take no action;
- (b) That an informal adjustment be made;
- (c) The Department of Human Services, Division of Family and Children Services, monitor the child, family and other children in the same environment;
- (d) That the child is warned or counseled informally;
- (e) That the child be referred to the youth court \* \* \* intervention court; or
- (f) That a petition be filed.

(2) The youth court shall then, without a hearing:

- (a) Order that no action be taken;
- (b) Order that an informal adjustment be made;
- (c) Order that the Department of Human Services, Division of Family and Children Services, monitor the child, family and other children in the same environment;
- (d) Order that the child is warned or counseled informally;
- (e) That the child be referred to the youth \* \* \* intervention court; or
- (f) Order that a petition be filed.

(3) If the preliminary inquiry discloses that a child needs emergency medical treatment, the judge may order the necessary treatment.

**SECTION 33.** Section 63-11-31.1, Mississippi Code of 1972, is amended as follows:

63-11-31.1. (1) The Mississippi Forensics Laboratory shall promulgate rules and regulations for court-ordered drug testing of DUI/other drug violators and shall approve which vendors are eligible to be utilized by the trial courts when ordering defendants to undergo drug testing as a

condition of continuing to exercise the privilege to drive. The Forensics Laboratory may assess fees to the vendors, and shall prescribe the maximum costs to the offender for drug testing. The Forensics Laboratory may seek the advice of the State \* \* \* Intervention Court Advisory Committee in fulfilling these duties.

(2) The Forensics Laboratory must evaluate proposals made by prospective vendors for acceptability, including, without limitation, the following factors:

- (a) A description of the method used for assessment;
- (b) The frequency with which the offender will be tested;
- (c) The procedure used by the vendor to ensure the accuracy of the test results;
- (d) The length of time allowed the offender to provide a biological sample after being given notice;
- (e) The frequency with which the vendor will make reports to the court;
- (f) The list of approved sites for the collection of biological samples for testing.

(3) The Forensics Laboratory must promulgate regulations for the program and for vendors, including at a minimum:

- (a) That the offender must pay the cost of the testing program or, if the court finds the offender to be indigent, that the cost be paid from the Interlock Device Fund.
- (b) How indigent funds will be accessed by the vendors, and the maximum cost to the offender or the fund.

(4) The Forensics Laboratory will provide the list of approved vendors, subject to continuous updating, to the Mississippi Judicial College for dissemination to the trial courts.

**SECTION 34.** Section 99-3-45, Mississippi Code of 1972, is amended as follows:

99-3-45. A person under the age of twenty-one (21) who is released under either Section 99-3-17 or 99-3-18 following arrest must be given notice:

- (a) That the person is allowed to call a parent, guardian or custodian in addition to any other opportunity to call that has been afforded to such person; and
- (b) That \* \* \* Intervention Court and other pretrial diversion programs may be available for many offenses.

**SECTION 35.** Section 99-19-73, Mississippi Code of 1972, is amended as follows:

99-19-73. (1) **Traffic violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation in Title 63, Mississippi Code of 1972, except offenses relating to the Mississippi Implied Consent Law (Section 63-11-1 et seq.) and offenses relating to vehicular parking or registration:

FUND	AMOUNT
State Court Education Fund.....	[Deleted]
State Prosecutor Education Fund.....	[Deleted]
Vulnerable Persons Training,	

Investigation and Prosecution Trust Fund.....	[Deleted]
Child Support Prosecution Trust Fund.....	[Deleted]
Driver Training Penalty Assessment Fund.....	[Deleted]
Law Enforcement Officers Training Fund.....	[Deleted]
Spinal Cord and Head Injury Trust Fund	
(for all moving violations).....	[Deleted]
Emergency Medical Services Operating Fund.....	[Deleted]
Mississippi Leadership Council on Aging Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters	
Death Benefits Trust Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters	
Disability Benefits Trust Fund.....	[Deleted]
State Prosecutor Compensation Fund for the purpose	
of providing additional compensation for	
district attorneys and their legal assistants....	[Deleted]
Crisis Intervention Mental Health Fund.....	[Deleted]
* * * <u>Intervention</u> Court Fund.....	[Deleted]
Judicial Performance Fund.....	[Deleted]
Capital Defense Counsel Fund.....	[Deleted]
Indigent Appeals Fund.....	[Deleted]
Capital Post-Conviction Counsel Fund.....	[Deleted]
Victims of Domestic Violence Fund.....	[Deleted]
Public Defenders Education Fund.....	[Deleted]
Domestic Violence Training Fund.....	[Deleted]
Attorney General's Cyber Crime Unit.....	[Deleted]
Children's Safe Center Fund.....	[Deleted]
DuBard School for Language Disorders Fund.....	[Deleted]
Children's Advocacy Centers Fund.....	[Deleted]
Judicial System Operation Fund.....	[Deleted]
GENERAL FUND.....	\$ 90.50

(2) **Implied Consent Law violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or any other penalty for any violation of the Mississippi Implied Consent Law (Section 63-11-1 et seq.):

FUND	AMOUNT
Crime Victims' Compensation Fund.....	[Deleted]
State Court Education Fund.....	[Deleted]
State Prosecutor Education Fund.....	[Deleted]

Vulnerable Persons Training,	
Investigation and Prosecution Trust Fund.....	[Deleted]
Child Support Prosecution Trust Fund.....	[Deleted]
Driver Training Penalty Assessment Fund.....	[Deleted]
Law Enforcement Officers Training Fund.....	[Deleted]
Emergency Medical Services Operating Fund.....	[Deleted]
Mississippi Alcohol Safety Education Program Fund.....	[Deleted]
Federal-State Alcohol Program Fund.....	[Deleted]
Mississippi Forensics Laboratory	
Implied Consent Law Fund.....	[Deleted]
Spinal Cord and Head Injury Trust Fund.....	[Deleted]
Capital Defense Counsel Fund.....	[Deleted]
Indigent Appeals Fund.....	[Deleted]
Capital Post-Conviction Counsel Fund.....	[Deleted]
Victims of Domestic Violence Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters	
Death Benefits Trust Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters	
Disability Benefits Trust Fund.....	[Deleted]
State Prosecutor Compensation Fund for the purpose	
of providing additional compensation for	
district attorneys and their legal assistants....	[Deleted]
Crisis Intervention Mental Health Fund.....	[Deleted]
* * * <u>Intervention</u> Court Fund.....	[Deleted]
Statewide Victims' Information and	
Notification System Fund.....	[Deleted]
Public Defenders Education Fund.....	[Deleted]
Domestic Violence Training Fund.....	[Deleted]
Attorney General's Cyber Crime Unit.....	[Deleted]
GENERAL FUND.....	\$ 243.50

(3) **Game and Fish Law violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any violation of the game and fish statutes or regulations of this state:

FUND	AMOUNT
State Court Education Fund.....	[Deleted]
State Prosecutor Education Fund.....	[Deleted]

Vulnerable Persons Training,

Investigation and Prosecution Trust Fund..... [Deleted]

Law Enforcement Officers Training Fund..... [Deleted]

Hunter Education and Training Program Fund..... [Deleted]

Law Enforcement Officers and Fire Fighters  
 Death Benefits Trust Fund..... [Deleted]

Law Enforcement Officers and Fire Fighters  
 Disability Benefits Trust Fund..... [Deleted]

State Prosecutor Compensation Fund for the purpose  
 of providing additional compensation for district  
 attorneys and their legal assistants..... [Deleted]

Crisis Intervention Mental Health Fund..... [Deleted]

\* \* \* Intervention Court Fund..... [Deleted]

Capital Defense Counsel Fund..... [Deleted]

Indigent Appeals Fund..... [Deleted]

Capital Post-Conviction Counsel Fund..... [Deleted]

Victims of Domestic Violence Fund..... [Deleted]

Public Defenders Education Fund..... [Deleted]

Domestic Violence Training Fund..... [Deleted]

Attorney General's Cyber Crime Unit..... [Deleted]

GENERAL FUND..... \$ 89.00

(4) [Deleted]

(5) **Speeding, reckless and careless driving violations.** In addition to any assessment imposed under subsection (1) or (2) of this section, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for driving a vehicle on a road or highway:

(a) At a speed that exceeds the posted speed limit by at least ten (10) miles per hour but not more than twenty (20) miles per hour..... \$10.00

(b) At a speed that exceeds the posted speed limit by at least twenty (20) miles per hour but not more than thirty (30) miles per hour..... \$20.00

(c) At a speed that exceeds the posted speed limit by thirty (30) miles per hour or more..... \$30.00

(d) In violation of Section 63-3-1201, which is the offense of reckless driving..... \$10.00

(e) In violation of Section 63-3-1213, which is the offense of careless driving..... \$10.00

All assessments collected under this subsection shall be deposited into the State General

Fund.

(6) **Other misdemeanors.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any misdemeanor violation not specified in subsection (1), (2) or (3) of this section, except offenses relating to vehicular parking or registration:

FUND	AMOUNT
Crime Victims' Compensation Fund.....	[\$Deleted]
State Court Education Fund.....	[Deleted]
State Prosecutor Education Fund.....	[Deleted]
Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	[Deleted]
Child Support Prosecution Trust Fund.....	[Deleted]
Law Enforcement Officers Training Fund.....	[Deleted]
Capital Defense Counsel Fund.....	[Deleted]
Indigent Appeals Fund.....	[Deleted]
Capital Post-Conviction Counsel Fund.....	[Deleted]
Victims of Domestic Violence Fund.....	[Deleted]
State Crime Stoppers Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	[Deleted]
State Prosecutor Compensation Fund for the purpose of providing additional compensation for district attorneys and their legal assistants....	[Deleted]
Crisis Intervention Mental Health Fund.....	[Deleted]
* * * <u>Intervention</u> Court Fund.....	[Deleted]
Judicial Performance Fund.....	[Deleted]
Statewide Victims' Information and Notification System Fund.....	[Deleted]
Public Defenders Education Fund.....	[Deleted]
Domestic Violence Training Fund.....	[Deleted]
Attorney General's Cyber Crime Unit.....	[Deleted]
Information Exchange Network Fund.....	[Deleted]
Motorcycle Officer Training Fund.....	[Deleted]
Civil Legal Assistance Fund.....	[Deleted]
Justice Court Collections Fund.....	[Deleted]

Municipal Court Collections Fund..... [Deleted]

GENERAL FUND..... \$121.75

(7) **Other felonies.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment from each person upon whom a court imposes a fine or other penalty for any felony violation not specified in subsection (1), (2) or (3) of this section:

FUND	AMOUNT
Crime Victims' Compensation Fund.....	\$[Deleted]
State Court Education Fund.....	[Deleted]
State Prosecutor Education Fund.....	[Deleted]
Vulnerable Persons Training, Investigation and Prosecution Trust Fund.....	[Deleted]
Child Support Prosecution Trust Fund.....	[Deleted]
Law Enforcement Officers Training Fund.....	[Deleted]
Capital Defense Counsel Fund.....	[Deleted]
Indigent Appeals Fund.....	[Deleted]
Capital Post-Conviction Counsel Fund.....	[Deleted]
Victims of Domestic Violence Fund.....	[Deleted]
Criminal Justice Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	[Deleted]
Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund.....	[Deleted]
State Prosecutor Compensation Fund for the purpose of providing additional compensation for district attorneys and their legal assistants....	[Deleted]
Crisis Intervention Mental Health Fund.....	[Deleted]
* * * <u>Intervention</u> Court Fund.....	[Deleted]
Statewide Victims' Information and Notification System Fund.....	[Deleted]
Public Defenders Education Fund.....	[Deleted]
Domestic Violence Training Fund.....	[Deleted]
Attorney General's Cyber Crime Unit.....	[Deleted]
Forensics Laboratory DNA Identification System Fund...	[Deleted]
GENERAL FUND.....	\$280.50

(8) **Additional assessments on certain violations:**

(a) **Railroad crossing violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in

addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation involving railroad crossings under Section 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013 or 77-9-249:

Operation Lifesaver Fund..... \$25.00

(b) **Drug violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation of Section 41-29-139:

Drug Evidence Disposition Fund..... \$25.00

(c) **Motor vehicle liability insurance violations.** In addition to any monetary penalties and any other penalties imposed by law, there shall be imposed and collected the following state assessment in addition to all other state assessments due under this section from each person upon whom a court imposes a fine or other penalty for any violation of Section 63-15-4(4) or Section 63-16-13(1):

Uninsured Motorist Identification Fund:

First offense.....\$200.00

Second offense.....\$300.00

Third or subsequent offense.....\$400.00

(9) If a fine or other penalty imposed is suspended, in whole or in part, such suspension shall not affect the state assessment under this section. No state assessment imposed under the provisions of this section may be suspended or reduced by the court.

(10) (a) After a determination by the court of the amount due, it shall be the duty of the clerk of the court to promptly collect all state assessments imposed under the provisions of this section. The state assessments imposed under the provisions of this section may not be paid by personal check.

(b) It shall be the duty of the chancery clerk of each county to deposit all state assessments collected in the circuit, county and justice courts in the county on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The chancery clerk shall make a monthly lump-sum deposit of the total state assessments collected in the circuit, county and justice courts in the county under this section, and shall report to the Department of Finance and Administration the total number of violations under each subsection for which state assessments were collected in the circuit, county and justice courts in the county during that month.

(c) It shall be the duty of the municipal clerk of each municipality to deposit all the state assessments collected in the municipal court in the municipality on a monthly basis with the State Treasurer pursuant to appropriate procedures established by the State Auditor. The municipal clerk shall make a monthly lump-sum deposit of the total state assessments collected in the municipal court in the municipality under this section, and shall report to the Department of

Finance and Administration the total number of violations under each subsection for which state assessments were collected in the municipal court in the municipality during that month.

(11) It shall be the duty of the Department of Finance and Administration to deposit on a monthly basis all state assessments into the State General Fund or proper special fund in the State Treasury. The Department of Finance and Administration shall issue regulations providing for the proper allocation of these funds.

(12) The State Auditor shall establish by regulation procedures for refunds of state assessments, including refunds associated with assessments imposed before July 1, 1990, and refunds after appeals in which the defendant's conviction is reversed. The Auditor shall provide in the regulations for certification of eligibility for refunds and may require the defendant seeking a refund to submit a verified copy of a court order or abstract by which the defendant is entitled to a refund. All refunds of state assessments shall be made in accordance with the procedures established by the Auditor.

**SECTION 36.** Section 63-1-51, Mississippi Code of 1972, is amended as follows:

63-1-51. (1) It shall be the duty of the court clerk, upon conviction of any person holding a license issued pursuant to this article where the penalty for a traffic violation is as much as Ten Dollars (\$10.00), to mail a copy of abstract of the court record or provide an electronically or computer generated copy of abstract of the court record immediately to the commissioner at Jackson, Mississippi, showing the date of conviction, penalty, etc., so that a record of same may be made by the Department of Public Safety. The commissioner shall forthwith revoke the license of any person for a period of one (1) year upon receiving a duly certified record of each person's convictions of any of the following offenses when such conviction has become final:

- (a) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;
- (b) Any felony in the commission of which a motor vehicle is used;
- (c) Failure to stop and render aid as required under the laws of this state in event of a motor vehicle accident resulting in the death or personal injury of another;
- (d) Perjury or the willful making of a false affidavit or statement under oath to the department under this article or under any other law relating to the ownership or operation of motor vehicles; or
- (e) Conviction, or forfeiture of bail not vacated, upon three (3) charges of reckless driving committed within a period of twelve (12) months \* \* \*.

\* \* \*

(2) The commissioner shall revoke the license issued pursuant to this article of any person convicted of negligent homicide, in addition to any penalty now provided by law.

(3) In addition to the reasons specified in this section, the commissioner shall be authorized to suspend the license issued to any person pursuant to this article for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure

for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this article, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 37.** Section 63-1-53, Mississippi Code of 1972, is amended as follows:

63-1-53. (1) \* \* \* Upon failure of any person to pay timely any fine, fee or assessment levied as a result of any violation of this title, the clerk of the court shall give written notice to such person by United States first-class mail at his last known address advising such person that, if within \* \* \* ninety (90) days after such notice is deposited in the mail, the person \* \* \* has not paid the entire amount of all fines, fees and assessments levied, then the court will \* \* \* pursue collection as for any other delinquent payment, and shall be entitled to collection of all additional fees in accordance with subsection (4) of this section.

(2) The commissioner is hereby authorized to suspend the license of an operator without preliminary hearing upon a showing by his records or other sufficient evidence that the licensee:

(a) Has committed an offense for which mandatory revocation of license is required upon conviction except under the provisions of the Mississippi Implied Consent Law;

(b) Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;

(c) Is an habitually reckless or negligent driver of a motor vehicle;

(d) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(e) Is incompetent to drive a motor vehicle;

(f) Has permitted an unlawful or fraudulent use of such license;

(g) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; or

(h) \* \* \*

Has committed a violation for which mandatory revocation of license is required upon conviction, entering a plea of nolo contendere to, or adjudication of delinquency, pursuant to the provisions of subsection (1) of Section 63-1-71.

(3) Notice that a person's license is suspended or will be suspended under subsection (2) of this section shall be given by the commissioner in the manner and at the time provided for under Section 63-1-52, and upon such person's request, he shall be afforded an opportunity for a hearing as early as practicable, but not to exceed twenty (20) days after receipt of such request in the county wherein the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner, or his duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses and the

production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the commissioner shall either rescind any order of suspension or, good cause appearing therefor, may extend any suspension of such license or revoke such license.

(4) If a licensee has not paid all cash appearance bonds authorized under Section 99-19-3 or all fines, fees or other assessments levied as a result of a violation of this title within ninety (90) days \* \* \* of receiving notice of the licensee's failure to pay all fines, fees or other assessments as provided in subsection (1) of this section, the court is authorized to pursue collection under Section 21-17-1(6) or 19-3-41(2) as for any other delinquent payment, and shall be entitled to collection of all additional fees authorized under those sections.

**SECTION 38.** Section 63-1-52, Mississippi Code of 1972, is amended as follows:

63-1-52. (1) Whenever the Commissioner of Public Safety suspends, cancels or revokes the driver's license or driving privileges of any person, notice of the suspension, cancellation or revocation shall be given to such person by the commissioner, or his duly authorized agent, in the manner provided in subsection (2) of this section and at the time provided in subsection (3) of this section or in the manner and at the time provided in subsection (4) of this section.

(2) Notice shall be given in the following manner:

(a) In writing, (i) by United States Certificate of Mail; or (ii) by personal service at the person's address as it appears on the driving record maintained by the Department of Public Safety or at the person's last-known address; or (iii) by personal notice being given by any law enforcement officer of this state or any duly authorized agent of the Commissioner of Public Safety on forms prescribed and furnished by the Commissioner of Public Safety; whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Driver License Compact Law, the Mississippi Implied Consent Law, the Mississippi Motor Vehicle Safety Responsibility Law or \* \* \* subsection (2) (c), (2) (d), (2) (e) or (2) (f) of Section 63-1-53.

(b) In writing, by United States first class mail, whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Commercial Driver's License Law, the Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section 63-1-51, \* \* \* subsection (2) (g), (2) (h) or (2) (i) of Section 63-1-53 or Section 63-9-25.

(3) Notice shall be given at the following time:

(a) Before suspension, revocation or cancellation, whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Driver License Compact Law, the Mississippi Motor Vehicle Safety Responsibility Law or \* \* \* subsection (2) (c), (2) (d), (2) (e) or (2) (f) of Section 63-1-53.

(b) Unless otherwise specifically provided for by law, at the time of suspension, revocation or cancellation, whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Commercial Driver's License Law,

the Mississippi Implied Consent Law, the Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section 63-1-51, \* \* \* subsection (2)(g) \* \* \* of Section 63-1-53 or Section 63-9-25.

(4) Whenever the Commissioner of Public Safety suspends, revokes or cancels the driver's license or driving privileges of any person in accordance with some provision of law other than a provision of law referred to in subsections (2) and (3) of this section, and the manner and time for giving notice is not provided for in such law, then notice of such suspension, revocation or cancellation shall be given in the manner and at the time provided for under \* \* \* subsections (2)(b) and (3)(b) of this section.

**SECTION 39.** Section 63-1-71, Mississippi Code of 1972, is amended as follows:

63-1-71. (1) \* \* \* Notwithstanding the provisions of Section 63-11-30(2)(a) and in addition to any penalty authorized by the Uniform Controlled Substances Law or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of driving under the influence of a controlled substance, or entering a plea of nolo contendere thereto, or adjudicated delinquent therefor, in a court of this state, and every person convicted of driving under the influence of a controlled substance, or entering a plea of nolo contendere thereto, or adjudicated delinquent therefor, under the laws of the United States, another state, a territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, shall forthwith forfeit his right to operate a motor vehicle over the highways of this state for a period of not less than six (6) months. In the case of any person who at the time of the imposition of sentence does not have a driver's license or is less than fifteen (15) years of age, the period of the suspension of driving privileges authorized herein shall commence on the day the sentence is imposed and shall run for a period of not less than six (6) months after the day the person obtains a driver's license or reaches the age of fifteen (15) years. If the driving privilege of any person is under revocation or suspension at the time of any conviction or adjudication of delinquency for \* \* \* driving under the influence of a controlled substance, the revocation or suspension period imposed herein shall commence as of the date of termination of the existing revocation or suspension.

(2) The court in this state before whom any person is convicted of or adjudicated delinquent for \* \* \* driving under the influence of a controlled substance shall collect forthwith the Mississippi driver's license of the person and forward such license to the Department of Public Safety along with a report indicating the first and last day of the suspension or revocation period imposed pursuant to this section. If the court is for any reason unable to collect the license of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the Commissioner of Public Safety. That report shall include the complete name, address, date of birth, eye color and sex of the person and shall indicate the first and last day of the suspension or revocation period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a

motor vehicle during the period of license suspension or revocation imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in Section 63-11-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of Section 63-11-40. If the person is the holder of a driver's license from another jurisdiction, the court shall not collect the license but shall notify forthwith the Commissioner of Public Safety who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's nonresident driving privilege in this state.

(3) The county court or circuit court having jurisdiction, on petition, may reduce the suspension of driving privileges under this section if the denial of which would constitute a hardship on the offender. When the petition is filed, such person shall pay to the circuit clerk of the court where the petition is filed a fee of Twenty Dollars (\$20.00) for each year, or portion thereof, of license revocation or suspension remaining under the original sentence, which shall be deposited into the State General Fund to the credit of a special fund hereby created in the State Treasury to be used for alcohol or drug abuse treatment and education, upon appropriation by the Legislature. This fee shall be in addition to any other court costs or fees required for the filing of petitions.

**SECTION 40.** Section 63-1-46, Mississippi Code of 1972, is amended as follows:

63-1-46. (1) (a) Except as otherwise provided in this section, a fee of One Hundred Dollars (\$100.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended, revoked or cancelled.

(b) The funds received under the provisions of this subsection shall be distributed as follows:

(i) Twenty-five Dollars (\$25.00) shall be deposited into the State General Fund in accordance with Section 45-1-23;

(ii) Twenty-five Dollars (\$25.00) shall be paid to the Board of Trustees of the Public Employees' Retirement System for funding the Mississippi Highway Safety Patrol Retirement System as provided under Section 25-13-7;

(iii) Twenty-five Dollars (\$25.00) shall be deposited into the special fund created in Section 63-1-45(3) for purchases of equipment by the Mississippi Highway Safety Patrol; and

(iv) Twenty-five Dollars (\$25.00) shall be deposited into the Interlock Device Fund created in Section 63-11-33.

(2) (a) A fee of One Hundred Seventy-five Dollars (\$175.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended or revoked under the provisions of the Mississippi Implied Consent Law or as a result of a conviction of \* \* \* driving under the influence of a controlled substance under the provisions of Section 63-1-71.

(b) The funds received under the provisions of this subsection shall be distributed as follows:

(i) One Hundred Dollars (\$100.00) shall be deposited into the State General Fund in accordance with Section 45-1-23;

(ii) Twenty-five Dollars (\$25.00) shall be paid to the Board of Trustees of the Public Employees' Retirement System for funding the Mississippi Highway Safety Patrol Retirement System as provided under Section 25-13-7;

(iii) Twenty-five Dollars (\$25.00) shall be deposited into the special fund created in Section 63-1-45(3) for purchases of equipment by the Mississippi Highway Safety Patrol; and

(iv) Twenty-five Dollars (\$25.00) shall be deposited into the Interlock Device Fund created in Section 63-11-33.

(3) (a) A fee of Twenty-five Dollars (\$25.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended for nonpayment of child support under the provisions of Sections 93-11-151 through 93-11-163. The funds received under the provisions of this subsection shall be deposited into the State General Fund in accordance with Section 45-1-23.

(b) The procedure for the reinstatement of a license issued under this article that has been suspended for being out of compliance with an order for support, as defined in Section 93-11-153, and the payment of any fees for the reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(4) A fee of Twenty-five Dollars (\$25.00) will be charged for the reinstatement of a license that was suspended due to payment by a draft or other instrument that is dishonored by the payor.

(5) All reinstatement fees charged under this section shall be in addition to the fees prescribed in Section 63-1-43.

**SECTION 41.** Section 99-19-71, Mississippi Code of 1972, is amended as follows:

99-19-71. (1) Any person who has been convicted of a misdemeanor \* \* \*, and who is a first offender, may petition the justice, county, circuit or municipal court in which the conviction was had for an order to expunge any such conviction from all public records.

(2) (a) Except as otherwise provided in this subsection, \* \* \* a person who has been convicted of \* \* \* a felony may petition the court in which the conviction was had for an order to expunge one (1) conviction from all public records five (5) years after the successful completion of all terms and conditions of the sentence for the conviction \* \* \* upon a hearing as determined in the discretion of the court; however, eligibility for expunction shall not apply to a felony classified as a:

(i) Crime of violence as provided in 97-3-2;

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

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

(iv) Third, fourth and subsequent offense DUI as provided in Section 63-11-30(c) and

(4);

(v) Felon in possession of a firearm as provided in Section 97-35-5;

(vi) Failure to register as a sex offender as provided in Section 43-33-33;

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

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

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

\* \* \*

( \* \* \*b) The petitioner shall 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 which is the subject of the petition. In those cases where the court denies the petition, the findings of the court in this respect shall be identified specifically and not generally.

(3) Upon entering an order of expunction 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. The order of expunction shall not preclude a district attorney's office from retaining a nonpublic record thereof for law enforcement purposes only. The existence of an order of expunction shall not preclude an employer from asking a prospective employee if the employee has had an order of expunction entered on his behalf. The effect of the expunction 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. No person as to whom an expunction order has been entered shall be held thereafter under any provision of law to be guilty of perjury or to have otherwise given a false statement by reason of his failure to recite or acknowledge such arrest, indictment or conviction in response to any inquiry made of him for any purpose other than the purpose of determining, in any subsequent proceedings under this section, whether the person is a first offender. A person as to whom an order has been entered, upon request, shall be required to advise the court, in camera, of the previous conviction and expunction in any legal proceeding wherein the person has been called as a prospective juror. The court shall thereafter and before the selection of the jury advise the attorneys representing the parties of the previous conviction and expunction.

(4) Upon petition therefor, a justice, county, circuit or municipal court shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

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

**SECTION 42.** Section 9-11-15, Mississippi Code of 1972, is amended as follows:

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

(2) (a) In counties with a population of less than one hundred fifty thousand (150,000), each justice court shall designate at least one-half (1/2) day each month as a traffic 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.

(3) The justice court may, in its discretion, upon prior notice to the county prosecutor and upon a showing in open court of rehabilitation, good conduct for a period of two (2) years since the last conviction in any court and that the best interest of society would be served, order the record of conviction of a person of any or all misdemeanors in that court expunged, and upon so doing, such person thereafter legally stands as though he or she had never been convicted of the misdemeanor(s) and may lawfully so respond to any query of prior convictions. This order of expunction does not apply to the confidential records of law enforcement agencies and has no effect on the driving record of a person maintained under Title 63, Mississippi Code of 1972, or any other provision of said Title 63.

(4) Notwithstanding the provisions of subsection (3) of this section, a person who was convicted in justice court of a misdemeanor before reaching his twenty-third birthday, \* \* \* and

who is a first offender, may utilize the provisions of Section 99-19-71, to expunge such misdemeanor conviction.

**SECTION 43.** 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 drug court, including the payment of fines and fees assessed, 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 drug court order and other requirements of probation or suspension of sentence will result in the record of the criminal conviction or adjudication being expunged. However, except as otherwise provided in Section 99-19-71, no expunction of any implied consent violation shall be allowed.

**SECTION 44.** 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 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. 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 Title 93, Chapter 21, 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

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

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

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

(6) Upon prior notice to the municipal prosecuting attorney and upon a showing in open court of rehabilitation, good conduct for a period of two (2) years since the last conviction in any court and that the best interest of society would be served, the court may, in its discretion, order the record of conviction of a person of any or all misdemeanors in that court expunged, and upon so doing the said person thereafter legally stands as though he had never been convicted of

the said misdemeanor(s) and may lawfully so respond to any query of prior convictions. This order of expunction does not apply to the confidential records of law enforcement agencies and has no effect on the driving record of a person maintained under Title 63, Mississippi Code of 1972, or any other provision of said Title 63.

(7) Notwithstanding the provisions of subsection (6) of this section, a person who was convicted in municipal court of a misdemeanor before reaching his twenty-third birthday, \* \* \* and who is a first offender, may utilize the provisions of Section 99-19-71, to expunge such misdemeanor conviction.

(8) In the discretion of the court, a plea of nolo contendere may be entered to any charge in municipal court. Upon the entry of a plea of nolo contendere the court shall convict the defendant of the offense charged and shall proceed to sentence the defendant according to law. The judgment of the court shall reflect that the conviction was on a plea of nolo contendere. An appeal may be made from a conviction on a plea of nolo contendere as in other cases.

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

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

(11) The municipal court shall have the power to impose punishment of a fine of not more than One Thousand Dollars (\$1,000.00) or six (6) months imprisonment, or both, for contempt of court. The municipal court may have the power to impose reasonable costs of court, not in excess of the following:

Dismissal of any affidavit, complaint or charge in municipal court.....	\$ 50.00
Suspension of a minor's driver's license in lieu of conviction.....	\$ 50.00
Service of scire facias or return "not found".....	\$ 20.00
Causing search warrant to issue or causing prosecution without reasonable cause or refusing to cooperate after initiating action.....	\$ 100.00
Certified copy of the court record.....	\$ 5.00
Service of arrest warrant for failure to answer citation or traffic summons.....	\$ 25.00
Jail cost per day - actual jail cost paid by the municipality but not to exceed.....	\$ 35.00

Service of court documents related to the filing  
of a petition or issuance of a protection from domestic  
abuse order under Title 93, Chapter 21, Mississippi

Code of 1972 ..... \$ 25.00  
Any other item of court cost..... \$ 50.00

No filing fee or such cost shall be imposed for the bringing of an action in municipal court.

(12) A municipal court judge shall not dismiss a 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.

(13) A municipal court judge shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

**SECTION 45.** 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, the offenses being committed within a period of five (5) years, the person shall be guilty of a misdemeanor, fined not less than Six Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00), shall be imprisoned not less than five (5) days nor more than six (6) months and sentenced to community service work for not less than ten (10) days nor more than six (6) months. The minimum penalties shall not be suspended or reduced by the court and no prosecutor shall offer any suspension or sentence reduction as part of a plea bargain.

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

(iii) 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.

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

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

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

(d) **Fourth and subsequent offense DUI.** (i) For any fourth or subsequent conviction of a violation of subsection (1) of this section, without regard to the time period within which the violations occurred, the person shall be guilty of a felony and fined not less than Three Thousand

Dollars (\$3,000.00) nor more than Ten Thousand Dollars (\$10,000.00), and shall serve not less than two (2) years nor more than ten (10) years in the custody of the Department of Corrections.

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

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

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

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

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

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

(ii) Upon conviction of any person under the age of twenty-one (21) years for the first offense of violating subsection (1) of this section where chemical tests provided for under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined Two Hundred Fifty 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 additional administrative suspension of driving privileges as set forth in Section 63-11-23.

(5) **Aggravated DUI.** (a) Every person who operates any motor vehicle in violation of the provisions of subsection (1) of this section 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 of 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 person charged with causing the death of another as described in this subsection 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.

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

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

(b) A copy of the traffic ticket, citation or affidavit and any other pertinent documents, having been attested as true and correct by the Commissioner of Public Safety, or his designee, shall be sufficient proof of the conviction for purposes of determining the enhanced

penalty for any subsequent convictions of 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 Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) or shall be imprisoned for one (1) year, or both;

(c) 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 third or subsequent conviction shall be guilty of a felony and, upon conviction, shall be fined not less than Ten Thousand Dollars (\$10,000.00) or shall be imprisoned for not less than one (1) year nor more than five (5) years, or both; and

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

(13) **Expunction.** (a) Any person convicted under subsection (2) or (3) of this section of a first or second offense of driving under the influence \* \* \* may petition the circuit court of the county in which the conviction was had for an order to expunge the record of the conviction at least five (5) years after successful completion of all terms and conditions of the sentence imposed for the conviction. Expunction under this subsection will only be available to a person:

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

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

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

(iv) Who has not been convicted of and does not have pending any other offense of

driving under the influence;

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

(vi) Who has not previously had a nonadjudication or expunction of a violation of this section.

(b) A person is eligible for only one (1) expunction under this subsection, and the Department of Public Safety shall maintain a permanent confidential registry of all cases of expunction under this subsection for the sole purpose of determining a person's eligibility for expunction, for nonadjudication, or as a first offender under this section. For purposes of this section, "one (1) expunction" has the meaning as defined in Section 99-19-71.

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

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

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

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

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

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

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

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

**SECTION 46.** (1) As used in this section, the following terms shall have the meanings ascribed herein:

(a) "License" means any license (other than a privilege license), certificate or other evidence of qualification that an individual is required to obtain before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) "Nonviolent conviction" means a conviction for any crime that is not a crime of violence as defined in Section 97-3-2.

(c) "Occupational licensing board" means any state board, commission, department or other agency in Mississippi that is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses.

(2) An occupational licensing board shall not automatically bar an individual from obtaining a license because of a nonviolent conviction that occurred more than three (3) years from the date that such person applied to obtain the license, but shall offer a process to petition the board for individualized consideration.

(3) An individual with a criminal record may petition an occupational licensing board at any time, including before obtaining any required education or training, for a decision of whether the individual's criminal record will disqualify the individual from obtaining state recognition.

(4) The individual will include in the petition the individual's criminal record or authorize the occupational licensing board to obtain the individual's criminal record.

The individual may include additional information about the individual's current circumstances, including, but not limited to, the: (i) time since the offense, (ii) completion of the criminal sentence, (iii) a certificate of rehabilitation or good conduct, (iv) completion of, or active participation in, rehabilitative drug or alcohol treatment, (v) testimonials and recommendations including a progress report from the individual's probation or parole officer, (vi) other evidence of rehabilitation, (vii) training, (viii) employment history, (ix) employment aspirations, and (x) personal information including the age of the individual when the individual committed the offense and the individual's current family responsibilities.

(5) The individual shall not have to provide nor shall the occupational licensing board consider:

(a) Nonconviction information including information related to deferred adjudication,

participation in a diversion program, or an arrest not followed by a conviction; or

(b) A conviction that has been sealed, dismissed, expunged or pardoned.

(6) All occupational licensing boards in Mississippi shall adopt rules, regulations and/or guidelines to establish a process for an individual with a criminal record to petition the board at any time, including before obtaining any required education or training, for a decision of whether the individual's criminal record will disqualify the individual from obtaining a license. However, the occupational licensing board may deny the individual's petition only if it establishes that issuing a license to the individual would be an actual threat to health and safety of the public and the profession.

(7) The provisions of this section shall act to supersede any other provision of law to the contrary that regulates occupational licensing boards.

**SECTION 47.** (1) There is hereby created in the State Treasury, a special fund to be known as "Programs to Reduce Recidivism Fund." Interest earned on the investment of monies in the fund shall be deposited in and credited to the fund. Unexpended and unencumbered monies in the fund at the close of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated, administered, and used solely and exclusively for the purposes provided by this section.

(2) The fund shall be comprised of all monies appropriated, donated, or otherwise made available to provide funding for the purposes set forth in this section. Any funds and savings realized from a reduction in the amount of time a person is required to spend in prison and from criminal justice reform shall be appropriated to the fund by the Legislature and shall be used to defray the additional operational expenses of probation and parole and reentry initiatives. The Mississippi Department of Corrections shall measure and document cost savings from the implementation of criminal justice reform and provide information to the Legislature regarding the estimated savings annually.

(3) The monies in the fund shall be appropriated and used for the following purposes:

(a) To defray the operational expenses of probation and parole and reentry initiatives.

(b) To assist in establishing and reimbursing the operational expenses of corrections rehabilitative programs that do the following:

(i) Provide inmates with fundamental resources in the areas of employment, life skills training, and job placement.

(ii) Provide the inmates with access to as many support services as possible to appreciably increase the likelihood of successful reentry into society and to reduce recidivism.

(4) The fund shall be administered by the Mississippi Department of Corrections, hereinafter referred to as "the administrators." Monies in the fund shall be used to support probation and parole, reentry initiatives, and programs established by the administrators. The administrators shall allocate funds as necessary for the purposes provided in this section. The administrators shall promulgate such rules, regulations, and procedures as are necessary in administering the provisions of this section.

**SECTION 48.** This act shall take effect and be in force from and after July 1, 2019.

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