

Expungement Statutes

Statute	Year Amended	Brief Description
9-23-23	2003	Successfully complete Drug Court for an offense other than Implied Consent
21-23-7	2009	Municipal Court
41-29-150(d)(2)	2010	If violate 41-29-139(c) or (d) AND non-adjudicated AND comply with terms non-adjudication
43-21-159(1) or (2)	2003	“Crime” should have been filed in Youth Court but filed in another court
45-27-9	2007	Expungement order must be lawful
45-27-11	2001	Agency declines correct criminal record; Appealed to County or Circuit Court; Appellate Court may order corrections made or expunction
45-27-21	2006	Copy to Mississippi Crime Information Center
63-9-11	2005	Completed driving school after conviction for violating Chapter 3,5, or 7 of Title 63 (Traffic)
67-3-70(6)	2002	Purchase or possession, by a minor, of light wine or beer
99-15-26(5)	2008	First-time non-adjudication of misdemeanor other than crime against the person or implied consent
99-15-57(1)	2003	Pled guilty no more than 6 months prior to effective date of 99-15-26
99-15-57(2)	2003	The person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case
99-15-59	1998	Person is arrested, issued a citation, or held for any misdemeanor and not formally charged or prosecuted with an offense within twelve (12) months of arrest or dismissed
99-19-71(1)	2010	First-time convicted of misdemeanor other than traffic offense
99-19-71(2)	2010	Certain felony convictions
99-19-71(4)	2010	The person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case
99-19-72	2010	Expunction filing fee

§ 9-23-23. Successful completion of drug court may result in expunction of criminal record.

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, no expunction of any implied consent violation shall be allowed.

Sources: Laws, 2003, ch. 515, § 12, eff from and after July 1, 2003.

§ 21-23-7. Powers and duties of municipal judge; mayor serving as municipal judge.

- (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 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, excluding conviction for a traffic violation, 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	\$ 10.00
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.

Sources: Codes, 1892, § 3001; 1906, §§ 3398, 3399; Hemingway's 1917, §§ 5926-5929; 1930, §§ 2535-2537; 1942, §§ 3374-103, 3374-104; Laws, 1910, ch. 169; Laws, 1936, ch. 276; Laws, 1950, ch. 491, §§ 103, 104; Laws, 1958, ch. 517, §§ 1, 2; Laws, 1960, ch. 424; Laws, 1976, ch. 312; Laws, 1979, ch. 401, § 4; Laws, 1987, ch. 380, § 1; Laws, 1988, ch. 564, § 1; Laws, 1991, ch. 322, § 1; Laws, 1996, ch. 454, § 1; Laws, 1997, ch. 417, § 1; Laws, 2000, ch. 619, § 1; Laws, 2007, ch. 495, § 3; Laws, 2009, ch. 374, § 2; Laws, 2009, ch. 545, § 8, eff from and after July 1, 2009.

§ 41-29-150. Participation in drug rehabilitation programs; probation; expunction of record upon application to court.

- (a) Any person convicted under Section 41-29-139 may be required, in the discretion of the court, as a part of the sentence otherwise imposed, or in lieu of imprisonment in cases of probation or suspension of sentence, to attend a course of instruction conducted by the bureau, the State Board of Health, or any similar agency, on the effects, medically, psychologically and socially, of the misuse of controlled substances. The course may be conducted at any correctional institution, detention center or hospital, or at any center or treatment facility established for the purpose of education and rehabilitation of those persons committed because of abuse of controlled substances.
- (b) Any person convicted under Section 41-29-139 who is found to be dependent upon or addicted to any controlled substance shall be required, as a part of the sentence otherwise imposed, or in lieu of imprisonment in cases of parole, probation or suspension of sentence, to receive medical treatment for such dependency or addiction. The regimen of medical treatment may include confinement in a medical facility of any correctional institution, detention center or hospital, or at any center or facility established for treatment of those persons committed because of a dependence or addiction to controlled substances.
- (c) Those persons previously convicted of a felony under Section 41-29-139 and who are now confined at the Mississippi State Hospital at Whitfield, Mississippi, or at the East Mississippi State Hospital at Meridian, Mississippi, for the term of their sentence shall remain under the jurisdiction of the Mississippi Department of Corrections and shall be required to abide by all reasonable rules and regulations promulgated by the director and staff of said institutions and of the Department of Corrections. Any persons so confined who shall refuse to abide by said rules or who attempt an escape or who shall escape shall be transferred to the State Penitentiary or to a county jail, where appropriate, to serve the remainder of the term of imprisonment; this provision shall not preclude prosecution and conviction for escape from said institutions.
- (d) (1) If any person who has not previously been convicted of violating Section 41-29-139, or the laws of the United States or of another state relating to narcotic drugs, stimulant or depressant substances, other controlled substances or marihuana is found to be guilty of a violation of subsection (c) or (d) of Section 41-29-139, after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed three (3) years, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the bureau solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the penalties prescribed under this article for second or subsequent conviction, or for any other purpose. Discharge and dismissal under this subsection may occur only once with respect to any person; and
- (2) Upon the dismissal of a person and discharge of proceedings against him under paragraph (1) of this subsection, the person may apply to the court for an order to **expunge** from all official records, other than the nonpublic records to be retained by the bureau under paragraph (1) of this subsection, all recordation relating to his arrest, indictment, trial, finding of guilt, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged, or that the person had satisfactorily served his sentence or period of probation and parole, it shall enter an order of **expunction**. The effect of the order shall be to restore the person, in the contemplation of the law, to the status he occupied before such arrest or indictment. No person as to whom such an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, indictment or trial in response to any inquiry made of him for any purpose. 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**.

- (e) Every person who has been or may hereafter be convicted of a felony offense under Section 41-29-139 and sentenced under Section 41-29-150(c) shall be under the jurisdiction of the Mississippi Department of Corrections.
- (f) It shall be unlawful for any person confined under the provisions of subsection (b) or (c) of this section to escape or attempt to escape from said institution, and, upon conviction, said person shall be guilty of a felony and shall be imprisoned for a term not to exceed two (2) years.
- (g) It is the intent and purpose of the Legislature to promote the rehabilitation of persons convicted of offenses under the Uniform Controlled Substances Law.

Sources: Codes, 1942, § 6831-74(j-p); Laws, 1972, ch. 520, § 9; Laws, 1977, ch. 495, § 1; Laws, 1978, ch. 522, § 1; Laws, 1981, ch. 502, § 8; Laws, 2010, ch. 460, § 2, eff from and after July 1, 2010.

§ 43-21-159. Transfer of cases from other courts.

- (1) When a person appears before a court other than the youth court, and it is determined that the person is a child under jurisdiction of the youth court, such court shall, unless the jurisdiction of the offense has been transferred to such court as provided in this chapter, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted, immediately dismiss the proceeding without prejudice and forward all documents pertaining to the cause to the youth court; and all entries in permanent records shall be **expunged**. The youth court shall have the power to order and supervise the **expunction** or the destruction of such records in accordance with Section 43-21-265. Upon petition therefor, the youth court shall **expunge** the record of any case within its jurisdiction 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. In cases where the child is charged with a hunting or fishing violation or a traffic violation whether it be any state or federal law, a violation of the Mississippi Implied Consent Law, or municipal ordinance or county resolution or where the child is charged with a violation of Section 67-3-70, the appropriate criminal court shall proceed to dispose of the same in the same manner as for other adult offenders and it shall not be necessary to transfer the case to the youth court of the county. Unless the cause has been transferred, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult, except for violations under the Implied Consent Law, and was convicted, the youth court shall have power on its own motion to remove jurisdiction from any criminal court of any offense including a hunting or fishing violation, a traffic violation, or a violation of Section 67-3-70, committed by a child in a matter under the jurisdiction of the youth court and proceed therewith in accordance with the provisions of this chapter.
- (2) After conviction and sentence of any child by any other court having original jurisdiction on a misdemeanor charge, and within the time allowed for an appeal of such conviction and sentence, the youth court of the county shall have the full power to stay the execution of the sentence and to release the child on good behavior or on other order as the youth court may see fit to make unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted. When a child is convicted of a misdemeanor and is committed to, incarcerated in or imprisoned in a jail or other place of detention by a criminal court having proper jurisdiction of such charge, such court shall notify the youth court judge or the judge's designee of the conviction and sentence prior to the commencement of such incarceration. The youth court shall have the power to order and supervise the destruction of any records involving children maintained by the criminal court in accordance with Section 43-21-265. However, the youth court shall have the power to set aside a judgment of any other court rendered in any matter over which the youth court has exclusive original jurisdiction, to **expunge** or destroy the records thereof in accordance with Section 43-21-265, and to order a refund of fines and costs.
- (3) Nothing in subsection (1) or (2) shall apply to a youth who has a pending charge or a conviction for any crime over which circuit court has original jurisdiction.
- (4) In any case wherein the defendant is a child as defined in this chapter and of which the circuit court has original

jurisdiction, the circuit judge, upon a finding that it would be in the best interest of such child and in the interest of justice, may at any stage of the proceedings prior to the attachment of jeopardy transfer such proceedings to the youth court for further proceedings unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted or has previously been convicted of a crime which was in original circuit court jurisdiction, and the youth court shall, upon acquiring jurisdiction, proceed as provided in this chapter for the adjudication and disposition of delinquent child proceeding proceedings. If the case is not transferred to the youth court and the youth is convicted of a crime by any circuit court, the trial judge shall sentence the youth as though such youth was an adult. The circuit court shall not have the authority to commit such child to the custody of the Department of Youth Services for placement in a state-supported training school.

- (5) In no event shall a court sentence an offender over the age of eighteen (18) to the custody of the Division of Youth Services for placement in a state-supported training school.
- (6) When a child's driver's license is suspended by the youth court for any reason, the clerk of the youth court shall report the suspension, without a court order under Section 43-21-261, to the Commissioner of Public Safety in the same manner as such suspensions are reported in cases involving adults.
- (7) No offense involving the use or possession of a firearm by a child who has reached his fifteenth birthday and which, if committed by an adult would be a felony, shall be transferred to the youth court.

Sources: Laws, 1979, ch. 506, § 19; Laws, 1980, ch. 550, § 7; Laws, 1983, ch. 435, § 9; Laws, 1985, ch. 431, § 5; Laws, 1986, ch. 467, § 2; Laws, 1994, ch. 595, § 3; Laws, 1996, ch. 454, § 2; Laws, 1996, ch. 527, § 17; Laws, 2003, ch. 557, § 1, eff from and after passage (approved Apr. 24, 2003.)

§ 45-27-9. Submission of data to center by criminal justice agencies; center to promptly purge records upon receipt of lawful expunction order; new or upgraded computerized records management systems to be formatted to Department of Justice approved format.

- (1) All criminal justice agencies within the state shall submit to the center fingerprints, descriptions, photographs (when specifically requested), and other identifying data on persons who have been lawfully arrested or taken into custody in this state for all felonies and misdemeanors as described in Section 45-27-7(2)(a). It shall be the duty of all chiefs of police, sheriffs, district attorneys, courts, court clerks, judges, parole and probation officers, wardens or other persons in charge of correctional institutions in this state to furnish the center with any other data deemed necessary by the center to carry out its responsibilities under this chapter.
- (2) All persons in charge of law enforcement agencies shall obtain, or cause to be obtained, fingerprints according to the fingerprint system of identification established by the Director of the Federal Bureau of Investigation, full face and profile photographs (if equipment is available) and other available identifying data, of each person arrested or taken into custody for an offense of a type designated in subsection (1) of this section, of all persons arrested or taken into custody as fugitives from justice and of all unidentified human corpses in their jurisdictions, but photographs need not be taken if it is known that photographs of the type listed, taken within the previous year, are on file. Any record taken in connection with any person arrested or taken into custody and subsequently released without charge or cleared of the offense through court proceedings shall be purged from the files of the center and destroyed upon receipt by the center of a lawful expunction order. All persons in charge of law enforcement agencies shall submit to the center detailed descriptions of arrests or takings into custody which result in release without charge or subsequent exoneration from criminal liability within twenty-four (24) hours of such release or exoneration.
- (3) Fingerprints and other identifying data required to be taken under subsection (2) shall be forwarded within twenty-four (24) hours after taking for filing and classification, but the period of twenty-four (24) hours may be extended to cover any intervening holiday or weekend. Photographs taken shall be forwarded at the discretion of the agency concerned, but, if not forwarded, the fingerprint record shall be marked "Photo Available" and the photographs shall be forwarded subsequently if the center so requests.
- (4) All persons in charge of law enforcement agencies shall submit to the center detailed descriptions of arrest warrants and related identifying data immediately upon determination of the fact that the warrant cannot be served for the reasons stated. If the warrant is subsequently served or withdrawn, the law enforcement agency concerned must

immediately notify the center of such service or withdrawal. Also, the agency concerned must annually, no later than January 31 of each year and at other times if requested by the center, confirm all such arrest warrants which continue to be outstanding. Upon receipt of a lawful **expunction** order, the center shall purge and destroy files of all data relating to an offense when an individual is subsequently exonerated from criminal liability of that offense. The center shall not be liable for the failure to purge, destroy or **expunge** any records if an agency or court fails to forward to the center proper documentation ordering such action.

- (5) All persons in charge of state correctional institutions shall obtain fingerprints, according to the fingerprint system of identification established by the Director of the Federal Bureau of Investigation or as otherwise directed by the center, and full face and profile photographs of all persons received on commitment to such institutions. The prints so taken shall be forwarded to the center, together with any other identifying data requested, within ten (10) days after the arrival at the institution of the person committed. At the time of release, the institution will again obtain fingerprints, as before, and forward them to the center within ten (10) days, along with any other related information requested by the center. The institution shall notify the center immediately upon the release of such person.
- (6) All persons in charge of law enforcement agencies, all court clerks, all municipal justices where they have no clerks, all justice court judges and all persons in charge of state and county probation and parole offices, shall supply the center with the information described in subsections (4) and (10) of this section on the basis of the forms and instructions to be supplied by the center.
- (7) All persons in charge of law enforcement agencies in this state shall furnish the center with any other identifying data required in accordance with guidelines established by the center. All law enforcement agencies and correctional institutions in this state having criminal identification files shall cooperate in providing the center with copies of such items in such files which will aid in establishing the nucleus of the state criminal identification file.
- (8) All law enforcement agencies within the state shall report to the center, in a manner prescribed by the center, all persons wanted by and all vehicles and identifiable property stolen from their jurisdictions. The report shall be made as soon as is practical after the investigating department or agency either ascertains that a vehicle or identifiable property has been stolen or obtains a warrant for an individual's arrest or determines that there are reasonable grounds to believe that the individual has committed a crime. The report shall be made within a reasonable time period following the reporting department's or agency's determination that it has grounds to believe that a vehicle or property was stolen or that the wanted person should be arrested.
- (9) All law enforcement agencies in the state shall immediately notify the center if at any time after making a report as required by subsection (8) of this section it is determined by the reporting department or agency that a person is no longer wanted or that a vehicle or property stolen has been recovered. Furthermore, if the agency making such apprehension or recovery is not the one which made the original report, then it shall immediately notify the originating agency of the full particulars relating to such apprehension or recovery using methods prescribed by the center.
- (10) All law enforcement agencies in the state and clerks of the various courts shall promptly report to the center all instances where records of convictions of criminals are ordered **expunged** by courts of this state as now provided by law. The center shall promptly **expunge** from the files of the center and destroy all records pertaining to any convictions that are ordered **expunged** by the courts of this state as provided by law.
- (11) The center shall not be held liable for the failure to purge, destroy or **expunge** records if an agency or court fails to forward to the center proper documentation ordering such action.
- (12) Any criminal justice department or agency making an expenditure in excess of Five Thousand Dollars (\$5,000.00) in any calendar year on software or programming upgrades concerning a computerized records management system or jail management system shall ensure that the new or upgraded system is formatted to Department of Justice approved XML format and that no impediments to data sharing with other agencies or departments exist in the software programming.

§ 45-27-11. Review or challenge of criminal offender records; correction of errors in records.

The center shall make a person's criminal records available for inspection by him or his attorney upon written request. Prior to inspection, the person must submit a set of fingerprints, sign a written authorization for the records check, and provide any other identifying information required by the center. Should such person or his attorney contest the accuracy of any portion of such records, the center shall make available to such person or his attorney a copy of the contested record upon written application identifying the portion of the record contested and showing the reason for the contest of accuracy. Forms, procedures, fees, identification and other related aspects pertinent to such access may be prescribed by the center in making access available.

If an individual believes such information to be inaccurate or incomplete, he may request the original agency having custody or control of the records to purge, modify or supplement them and to so notify the center of such changes. Should the agency decline to so act or should the individual believe the agency's decision to be otherwise unsatisfactory, the individual or his attorney may within thirty (30) days of such decision enter an appeal to the county or circuit court of the county of his residence or to such court in the county where such agency exists. The court in each such case shall conduct a de novo hearing and may order such relief as it finds to be required by law. Such appeals shall be entered in the same manner as other appeals are entered.

Should the record in question be found to be inaccurate or incomplete, the court shall order it to be appropriately **expunged**, modified or supplemented by an explanatory notation. Each agency or individual in the state with custody, possession or control of any such record shall promptly cause each and every copy thereof in his custody, possession or control to be altered in accordance with the court's order. Notification of each such deletion, amendment and supplementary notation shall be promptly disseminated to any individuals or agencies to which the records in question have been communicated as well as to the individual whose records have been ordered so altered. The center shall not be held liable for the failure to modify, supplement, destroy or **expunge** records if an agency or court fails to forward to the center proper documentation ordering such action.

Agencies, including the center, at which criminal offender records are sought to be inspected may prescribe reasonable hours and places of inspection and may impose such additional procedures, fees or restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security, to verify the identities of those who seek to inspect them and to maintain an orderly and efficient mechanism for such access.

Sources: Laws, 1980, ch. 555, § 6; reenacted, 1983, ch. 381, § 6; Laws, 2001, ch. 500, § 18, eff from and after July 1, 2001.

§ 45-27-21. Database of all expunction and nonadjudication orders created; accessibility to database.

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

Sources: Laws, 2006, ch. 490, § 1, eff from and after July 1, 2006.

§ 45-33-55. Exemptions for expunction.

Except for juvenile criminal history information that has been sealed by order of the court, this chapter exempts sex offenses from laws of this state or court orders authorizing the destroying, **expunging**, purging or sealing of criminal history records to the extent such information is authorized for dissemination under this chapter.

Sources: Laws, 2000, ch. 499, § 18, eff from and after July 1, 2000.

§ 63-9-11. Penalties for violations of Chapters 3, 5 or 7.

- (1) It is a misdemeanor for any person to violate any of the provisions of Chapter 3, 5 or 7 of this title, unless such violation is by such chapters or other law of this state declared to be a felony.
- (2) Every person convicted of a misdemeanor for a violation of any of the provisions of such chapters for which another penalty is not provided shall for first conviction thereof be punished by a fine of not more than One Hundred Dollars (\$100.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year thereafter such person shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) or by imprisonment for not more than twenty (20) days or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction such person shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.
- (3) (a) Whenever a person not covered under Section 63-1-55 is charged with a misdemeanor violation of any of the provisions of Chapter 3, 5 or 7 of this title, the person shall be eligible to participate in not less than four (4) hours of a traffic safety violator course and thereby have no record of the violation on the person's driving record if the person meets all the following conditions:
 - (i) The defendant has a valid Mississippi driver's license or permit.
 - (ii) The defendant has not had a conviction of a violation under Chapter 3, 5 or 7 of this title within three (3) years before the current offense; any conviction entered before October 1, 2002, does not constitute a prior offense for the purposes of this subsection (3).
 - (iii) The defendant's public and nonpublic driving record as maintained by the Department of Public Safety does not indicate successful completion of a traffic safety violator course under this section in the three-year period before the offense.
 - (iv) The defendant files an affidavit with the court stating that this is the defendant's first conviction in more than three (3) years or since October 1, 2002, whichever is the lesser period of time; the defendant is not in the process of taking a course under this section; and the defendant has not completed a course under this section that is not yet reflected on the defendant's public or nonpublic driving record.
 - (v) The offense charged is for a misdemeanor offense under Chapter 3, 5 or 7 of this title.
 - (vi) The defendant pays the applicable fine, costs and any assessments required by law to be paid upon conviction of such an offense.
 - (vii) The defendant pays to the court an additional fee of Ten Dollars (\$10.00) to elect to proceed under the provisions of this subsection (3).
- (b) (i)
 1. An eligible defendant may enter a plea of nolo contendere or guilty in person or in writing and present to the court, in person or by mail postmarked on or before the appearance date on the citation, an oral or written request to participate in a course under this subsection (3).
 2. The court shall withhold acceptance of the plea and defer sentencing in order to allow the eligible defendant ninety (90) days to successfully complete not less than four (4) hours of a court-approved traffic safety violator course at the cost of the defendant. Upon proof of successful completion entered with the court, the court shall dismiss the prosecution and direct that the case be closed. The only record maintained thereafter shall be the nonpublic record required under Section 63-9-17 solely for use by the courts in determining eligibility under this subsection (3).
- (ii) If a person pleads not guilty to a misdemeanor offense under any of the provisions of Chapter 3, 5 or 7 of this title but is convicted, and the person meets all the requirements under paragraph (a) of

this subsection, upon request of the defendant the court shall suspend the sentence for such offense to allow the defendant forty-five (45) days to successfully complete not less than four (4) hours of a court-approved traffic safety violator course at his own cost. Upon successful completion by the defendant of the course, the court shall set the conviction aside, dismiss the prosecution and direct that the case be closed. The court on its own motion shall **expunge** the record of the conviction, and the only record maintained thereafter shall be the nonpublic record required under Section 63-9-17 solely for use by the courts in determining an offender's eligibility under this subsection (3).

- (c) An out-of-state resident shall be allowed to complete a substantially similar program in his home state, province or country provided the requirements of this subsection (3) are met, except that the necessary valid driver's license or permit shall be one issued by the home jurisdiction.
 - (d) A court shall not approve a traffic safety violator course under this subsection (3) that does not supply at least four (4) hours of instruction, an instructor's manual setting forth an appropriate curriculum, student workbooks, some scientifically verifiable analysis of the effectiveness of the curriculum and provide minimum qualifications for instructors.
 - (e) A court shall inform a defendant making inquiry or entering a personal appearance of the provisions of this subsection (3).
 - (f) The Department of Public Safety shall cause notice of the provisions of this subsection (3) to be available on its official web site.
 - (g) Failure of a defendant to elect to come under the provisions of this subsection (3) for whatever reason, in and of itself, shall not invalidate a conviction.
 - (h) No employee of the sentencing court shall personally benefit from a defendant's attendance of a traffic safety violator course. Violation of this prohibition shall result in termination of employment.
 - (i) The additional fee of Ten Dollars (\$10.00) imposed under this subsection (3) shall be forwarded by the court clerk to the State Treasurer for deposit into a special fund created in the State Treasury. Monies in the special fund may be expended by the Department of Public Safety, upon legislative appropriation, to defray the costs incurred by the department in maintaining the nonpublic record of persons who are eligible for participation under the provisions of this subsection (3).
- (4) The provisions of subsection (3) of this section shall not be applicable to violation of any of the provisions of Chapter 3, 5 or 7 of this title committed by the holder of a commercial driver's license issued under the Mississippi Commercial Driver's License Law, regardless of whether the violation occurred while operating a commercial motor vehicle or some other motor vehicle.

Sources: Codes, 1942, § 8275; Laws, 1938, ch. 200; Laws, 2002, ch. 566, § 1; Laws, 2004, ch. 315, § 1; Laws, 2005, ch. 541, § 6, eff from and after July 1, 2005.

§ 67-3-70. Purchase of light wine or beer by person under age of 21; penalties; expungement of conviction.

- (1) Except as otherwise provided by Section 67-3-54, any person under the age of twenty-one (21) years who purchases or possesses any light wine or beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a sentence to not more than thirty (30) days' community service.
- (2) Any person under the age of twenty-one (21) years who falsely states he is twenty-one (21) years of age or older or presents any document that indicates he is twenty-one (21) years of age or older for the purpose of purchasing or possessing any light wine or beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a sentence to not more than thirty (30) days community service.

- (3) Except as otherwise provided by Section 67-3-54, any person who knowingly purchases light wine or beer for, or gives or makes available light wine or beer to a person under the age of twenty-one (21) years, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a sentence to not more than thirty (30) days community service.
- (4) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.
- (5) If a person under the age of twenty-one (21) years is convicted or enters a plea of guilty of violating subsection (1) or subsection (2) of this section, the trial judge, in lieu of the penalties otherwise provided under this section, shall suspend the minor's driver's license by taking and keeping it in the custody of the court for a period of time not to exceed ninety (90) days. The judge so ordering the suspension shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR _____ DAYS IN LIEU OF CONVICTION" and such action by the trial judge shall not constitute a conviction. During the period that the minor's driver's license is suspended, the trial judge shall suspend the imposition of any fines or penalties that may be imposed under this section and may place the minor on probation subject to such conditions as the judge deems appropriate. If the minor violates any of the conditions of probation, then the trial judge shall return the driver's license to the minor and impose the fines, penalties, or both, that he would have otherwise imposed, and such action shall constitute a conviction.
- (6) Any person who has been charged with a violation of subsections (1) or (2) of this section may, not sooner than one (1) year after the dismissal and discharge or completion of any sentence and/or payment of any fine, apply to the court for an order to **expunge** from all official records all recordation relating to his arrest, trial, finding or plea of guilty, and dismissal and discharge. If the court determines that such person was dismissed and the proceedings against him discharged or that such person had satisfactorily served his sentence and/or paid his fine, it shall enter such order.

Sources: Laws, 1985, ch. 431, § 3, eff from and after October 1, 1986; Laws, 2002, ch. 570, § 5, eff from and after passage (approved Apr. 11, 2002.)

§ 99-15-26. Dismissal of action upon successful completion of certain court-imposed conditions.

- (1) In all criminal cases, felony and misdemeanor, other than crimes against the person or a violation of Section 97-11-31, the circuit or county court shall be empowered, upon the entry of a plea of guilty by a criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section. In all misdemeanor criminal cases, other than crimes against the person, the justice or municipal court shall be empowered, upon the entry of a plea of guilty by a criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section. No person having previously qualified under the provisions of this section or having ever been convicted of a felony shall be eligible to qualify for release in accordance with this section. A person shall not be eligible to qualify for release in accordance with this section if such person has been charged (a) with an offense pertaining to the sale, barter, transfer, manufacture, distribution or dispensing of a controlled substance, or the possession with intent to sell, barter, transfer, manufacture, distribute or dispense a controlled substance, as provided in Section 41-29-139(a)(1), except for a charge under said provision when the controlled substance involved is one (1) ounce or less of marijuana; (b) with an offense pertaining to the possession of one (1) kilogram or more of marijuana as provided in Section 41-29-139(c)(2)(F) and (G); or (c) with an offense under the Mississippi Implied Consent Law.
- (2) (a) Conditions which the circuit, county, justice or municipal court may impose under subsection (1) of this section shall consist of:
 - (i) Reasonable restitution to the victim of the crime.
 - (ii) Performance of not more than nine hundred sixty (960) hours of public service work approved by the court.
 - (iii) Payment of a fine not to exceed the statutory limit.

- (iv) Successful completion of drug, alcohol, psychological or psychiatric treatment or any combination thereof if the court deems such treatment necessary.
 - (v) The circuit or county court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed five (5) years. The justice or municipal court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed two (2) years.
- (b) Conditions which the circuit or county court may impose under subsection (1) of this section also include successful completion of a regimented inmate discipline program.
- (3) When the court has imposed upon the defendant the conditions set out in this section, the court shall release the bail bond, if any.
 - (4) Upon successful completion of the court-imposed conditions permitted by subsection (2) of this section, the court shall direct that the cause be dismissed and the case be closed.
 - (5) Upon petition therefor, the 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.
 - (6) This section shall take effect and be in force from and after March 31, 1983.

Sources: Laws, 1983, ch. 446, §§ 1-4; Laws, 1987, ch. 364; Laws, 1989, ch. 565, § 2; Laws, 1996, ch. 391, § 1; Laws, 1996, ch. 454, § 3; Laws, 2003, ch. 557, § 2; Laws, 2004, ch. 455, § 1; Laws, 2007, ch. 549, § 1; Laws, 2008, ch. 458, § 2, eff from and after July 1, 2008.

§ 99-15-57. Relief for certain persons who pled guilty within six months prior to the effective date of section 99-15-26.

- (1) Any person who pled guilty within six (6) months prior to the effective date of Section 99-15-26, Mississippi Code of 1972, and who would have otherwise been eligible for the relief allowed in such section, may apply to the court in which such person was sentenced for an order to **expunge** from all official public records all recordation relating to his arrest, indictment, trial, finding of guilty and sentence. If the court determines, after hearing, that such person has satisfactorily served his sentence or period of probation and parole, pled guilty within six (6) months prior to the effective date of Section 99-15-26 and would have otherwise been eligible for the relief allowed in such section, it may enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or trial in response to any inquiry made of him for any purpose.
- (2) Upon petition therefor, the 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.

Sources: Laws, 1986, ch. 362; Laws, 1996, ch. 454, § 4; Laws, 2003, ch. 557, § 3, eff from and after passage (approved Apr. 24, 2003.)

§ 99-15-59. Expunction of misdemeanor charges.

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

Sources: Laws, 1998, ch. 556, § 1, eff from and after July 1, 1998.

§ 99-19-71. Expunction of misdemeanor conviction of first offender upon petition; expunction of certain felony convictions upon petition.

- (1) Any person who has been convicted of a misdemeanor, excluding a conviction for a traffic violation, 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) Any person who has been convicted of one of the following felonies 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: a bad check offense under Section 97-19-55; possession of a controlled substance or paraphernalia under Section 41-29-139(c) or (d); false pretense under Section 97-19-39; larceny under Section 97-17-41; malicious mischief under Section 97-17-67; or shoplifting under Section 97-23-93. A person is eligible for only one (1) felony **expunction** under this section.
 - (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.

Sources: Laws, 1986, ch. 412; Laws, 1987, ch. 380, § 2; Laws, 1996, ch. 454, § 5; Laws, 2003, ch. 557, § 4; Laws, 2010, ch. 460, § 1, eff from and after July 1, 2010.

§ 99-19-72. Filing fee for petition to expunge certain first offenses; distribution of fees collected.

A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby levied on each petition to expunge an offense under Section 99-19-71 to be collected by the circuit clerk and distributed as follows:

- (a) One Hundred Dollars (\$100.00) to be deposited into the Judicial System Operation Fund;
- (b) Forty Dollars (\$40.00) to be deposited into the District Attorneys Operation Fund; and
- (c) Ten Dollars (\$10.00) to be retained by the circuit clerk collecting the fee for administration purposes.

Sources: Laws, 2010, ch. 561, § 1, eff from and after July 1, 2010.