SENATE BILL NO. 2986
(As Sent to Governor)

AN ACT TO REVISE SEX OFFENDER REGISTRATION; TO AMEND SECTION 45-33-23, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 45-33-25, MISSISSIPPI CODE OF 1972, TO REVISE THE REGISTRATION INFORMATION REQUIRED; TO AMEND SECTION 45-33-27, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME FRAME FOR REGISTRATION; TO AMEND SECTION 45-33-29, MISSISSIPPI CODE OF 1972, TO REVISE AN OFFENDER'S DUTY TO NOTIFY THE DEPARTMENT OF CHANGES; TO AMEND SECTION 45-33-31, MISSISSIPPI CODE OF 1972, TO REVISE REREGISTRATION; TO AMEND SECTION 45-33-33, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES FOR FAILURE TO REGISTER; TO AMEND SECTION 45-33-35, MISSISSIPPI CODE OF 1972, TO REVISE THE CENTRAL REGISTRY OF OFFENDERS; TO AMEND SECTION 45-33-37, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REVISE THE RELIEF FROM THE DUTY TO REGISTER; TO PROVIDE THAT CERTAIN OFFENDERS SHALL BE SUBJECT TO LIFETIME REGISTRATION; TO AMEND SECTION 45-33-49, MISSISSIPPI CODE OF 1972, TO REVISE PUBLIC NOTIFICATION; TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF 1972, TO REVISE THE CENTRAL REGISTRY OF OFFENDERS; TO AMEND THE MISSISSIPPI JUSTICE INFORMATION CENTER ACT; TO AMEND SECTION 45-27-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RECORD-KEEPING DUTIES OF THE CENTER; TO AMEND SECTION 45-27-3, MISSISSIPPI CODE OF 1972, TO REVISE THE CENTRAL REGISTRY OF CRIMINAL JUSTICE AGENCIES; TO AMEND SECTION 45-27-11, MISSISSIPPI CODE OF 1972, TO REVISE THE INSPECTION OF, AND CORRECTION OF ERRORS IN, RECORDS; TO CODIFY SECTION 45-27-12, MISSISSIPPI CODE OF 1972, TO PERMIT DISSEMINATION OF INFORMATION FOR CERTAIN NONCRIMINAL USES; TO AMEND SECTION 45-27-13, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES FOR VIOLATIONS; TO AMEND SECTION 45-27-17, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES AND FUNCTIONS OF THE CENTER; TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION 45-27-8, MISSISSIPPI CODE OF 1972, TO AUTHORIZE IMPOSITION OF FEES; TO AMEND SECTION 45-27-9, MISSISSIPPI CODE OF 1972, TO REVISE SUBMISSION OF DATA BY CRIMINAL JUSTICE AGENCIES; TO AMEND SECTION 45-27-11, MISSISSIPPI CODE OF 1972, TO REVISE THE INSPECTION OF, AND CORRECTION OF ERRORS IN, RECORDS; TO CODIFY SECTION 45-27-12, MISSISSIPPI CODE OF 1972, TO PERMIT DISSEMINATION OF INFORMATION FOR CERTAIN NONCRIMINAL USES; TO AMEND SECTION 45-27-13, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES FOR VIOLATIONS; TO AMEND SECTION 45-27-17, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES AND FUNCTIONS OF THE CENTER; TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION 45-27-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CENTER'S RECORDS ARE EXEMPT FROM THE PUBLIC RECORDS LAW; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 45-33-23, Mississippi Code of 1972, is amended as follows:

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To: Judiciary
45-33-23. For the purposes of this chapter, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Conviction" shall mean that, regarding the person's offense, there has been a determination or judgment of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere regardless of whether adjudication is withheld. "Conviction of similar offenses" includes, but is not limited to, a conviction by a federal or military tribunal, including a court martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian Reservation or other federal property, and a conviction in any state of the United States.

(b) "Jurisdiction" shall mean any state court, federal court, military court or Indian tribunal.

(c) "Permanent residence" is defined as a place where the person abides, lodges, or resides for a period of fourteen (14) or more consecutive days.

(d) "Registration" means providing information to the appropriate agency within the timeframe specified as required by this chapter.

(e) "Registration duties" means obtaining the registration information required on the form specified by the department as well as the photograph, fingerprints, and biological sample of the registrant. Biological samples are to be forwarded to the State Crime Laboratory pursuant to Section 45-33-37; the photograph, fingerprints and other registration information are to be forwarded to the Department of Public Safety within three (3) days of registration.

(f) "Responsible agency" is defined as the person or government entity whose duty it is to obtain information from a criminal sex offender upon conviction and to transmit that information to the Mississippi Department of Public Safety.
(i) For a criminal sex offender being released from the custody of the Department of Corrections, the responsible agency is the Department of Corrections.

(ii) For a criminal sex offender being released from a county jail, the responsible agency is the sheriff of that county.

(iii) For a criminal sex offender being released from a municipal jail, the responsible agency is the police department of that municipality.

(iv) For a sex offender in the custody of youth court, the responsible agency is the youth court.

(v) For a criminal sex offender who is being placed on probation, including conditional discharge or unconditional discharge, without any sentence of incarceration, the responsible agency is the sentencing court.

(vi) For an offender who has been committed to a mental institution following an acquittal by reason of insanity, the responsible agency is the facility from which the offender is released. Specifically, the director of said facility shall notify the Department of Public Safety prior to the offender's release.

(vii) For a criminal sex offender who is being released from a jurisdiction outside this state or who has a prior conviction in another state and who is to reside in this state, the responsible agency is the Department of Public Safety.

(g) "Sex offense" means any of the following offenses:

(i) Section 97-3-53 relating to kidnapping, if the victim was below the age of eighteen (18);

(ii) Section 97-3-65 relating to rape; however, conviction or adjudication under Section 97-3-65(1)(a) on or after July 1, 1998, when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;
(iii) Section 97-3-71 relating to rape and assault with intent to ravish;

(iv) Section 97-3-95 relating to sexual battery; however, conviction or adjudication under Section 97-3-95(1)(c) on or after July 1, 1998, when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;

(v) Section 97-5-5 relating to enticing child for concealment, prostitution or marriage;

(vi) Section 97-5-23 relating to the touching of a child for lustful purposes;

(vii) Section 97-5-27 relating to the dissemination of sexually oriented material to children;

(viii) Section 97-5-33 relating to the exploitation of children;

(ix) Section 97-5-41 relating to the carnal knowledge of a stepchild, adopted child or child of a cohabiting partner;

(x) Section 97-29-59 relating to unnatural intercourse;

(xi) Section 97-1-7 relating to attempt to commit any of the above-referenced offenses;

(xii) Section 97-29-3 relating to adultery or fornication between teacher and pupil;

(xiii) Any other offense resulting in a conviction in another jurisdiction, whether state, federal or military, which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere; ** *

(xiv) Any offense resulting in a conviction in another jurisdiction, whether state, federal or military, for which registration is required in the jurisdiction where the conviction was had.

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(h) "Temporary residence" is defined as a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address; for a person whose permanent residence is not in this state, the place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in the state; or a place where a person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(i) "Department" unless otherwise specified is defined as the Mississippi Department of Public Safety.

SECTION 2. Section 45-33-25, Mississippi Code of 1972, is amended as follows:

45-33-25. (1) Any person residing in this state who has been convicted of any sex offense or attempted sex offense or who has been acquitted by reason of insanity for any sex offense or attempted sex offense or twice adjudicated delinquent for any sex offense or attempted sex offense shall register with the Mississippi Department of Public Safety. Registration shall not be required for an offense that is not a registrable sex offense. The department shall provide the initial registration information as well as every change of address to the sheriff of the county of the residence address of the registrant through either written notice, electronic or telephone transmissions, or online access to registration information. Further, the department shall provide this information to the Federal Bureau of Investigation. Additionally, upon notification by the registrant that he intends to reside outside the State of Mississippi, the department shall notify the appropriate state law enforcement agency of any state to which a registrant is moving or has moved.

(2) Any person required to register under this chapter shall submit the following information at the time of registration:
(a) Name, including a former name which has been legally changed;
(b) Street address;
(c) Place of employment;
(d) Crime for which convicted;
(e) Date and place of conviction, adjudication or acquittal by reason of insanity;
(f) Aliases used;
(g) Social security number;
(h) Date and place of birth;
(i) Age, race, sex, height, weight, and hair and eye colors;
(j) A brief description of the offense or offenses for which the registration is required;
(k) Identifying factors;
(l) Anticipated future residence;
(m) Offense history;
(n) Photograph;
(o) Fingerprints;
(p) * * * Documentation of any treatment received for any mental abnormality or personality disorder of the person;
(q) Biological sample; * * *
(r) Name of any institution of higher learning at which the offender is employed, carries on a vocation (with or without compensation) or is enrolled as a student; and
(s) Any other information deemed necessary.

(3) For purposes of this chapter, a person is considered to be residing in this state if he maintains a permanent or temporary residence as defined in Section 45-33-23, including students, temporary employees and military personnel on assignment.

SECTION 3. Section 45-33-27, Mississippi Code of 1972, is amended as follows:
45-33-27. (1) A person required to register on the basis of a conviction, adjudication of delinquency or acquittal by reason of insanity entered shall register within three (3) days of the date of judgment unless the person is immediately confined or committed, in which case the person shall register when released in accordance with the procedures established by the department. * * *

(2) If a person who is required to register under this section is released from prison or placed on parole or supervised release, the Department of Corrections shall perform the registration duties at the time of release and forward the registration information to the Department of Public Safety within three (3) days.

(3) If a person required to register under this section is placed on probation, the court, at the time of entering the order, shall inform the person of the duty to register, obtain the registration information and forward the registration information to the Department of Public Safety within three (3) days.

(4) Any person required to register who is neither incarcerated, detained nor committed at the time the requirement to register shall attach shall present himself to the county sheriff who shall perform the registration duties and forward the registration information to the Department of Public Safety within three (3) days.

(5) An offender moving to or returning to this state from another jurisdiction shall notify the Department of Public Safety ten (10) days before the person first resides in or returns to a county in this state and shall register with the department within ten (10) days of first residing in or returning to a county of this state. The offender must then present himself to the sheriff of the county in which he intends to reside to provide the required registration information.
(6) A person, other than a person confined in a correctional or juvenile detention facility or involuntarily committed on the basis of mental illness, who is required to register on the basis of a sex offense for which a conviction, adjudication of delinquency or acquittal by reason of insanity was entered prior to July 1, 1995, shall register with the sheriff of the county in which he resides no later than August 15, 2000.

SECTION 4. Section 45-33-29, Mississippi Code of 1972, is amended as follows:

45-33-29. (1) Upon any change of address, an offender under this chapter must notify the department in writing no less than ten (10) days before he intends to first reside at the new address.

(2) Upon any change in the status of a registrant, employment or vocation at any institution of higher learning, the offender must notify the department in writing within ten (10) days of the change.

SECTION 5. Section 45-33-31, Mississippi Code of 1972, is amended as follows:

45-33-31. All registrants shall register every ninety (90) days. Reregistration includes the submission of current information to the department and the verification of registration information, including the street address and telephone number of the registrant; name, street address and telephone number of the registrant; employment along with any other registration information that may need to be verified.

(a) The Department of Public Safety shall send a nonforwardable verification form to the last reported address of the person * * *.

(b) The person shall return the verification form to the department within ten (10) days after receipt of the form verifying that the person resides at the address last reported.
(c) If the person fails to submit the verification form to the department within ten (10) days after receipt of the form, the person shall be in violation of this section.

SECTION 6. Section 45-33-33, Mississippi Code of 1972, is amended as follows:

45-33-33. (1) The failure of an offender to provide any registration or other information, including, but not limited to, initial registration, reregistration or change of address information, as required by this chapter, is a violation of the law. Additionally, forgery of information or submission of information under false pretenses is also a violation of the law.

(2) Unless otherwise specified, a violation of this chapter shall be considered a felony and shall be punishable by a fine not more than Five Thousand Dollars ($5,000.00) or imprisonment in the State Penitentiary for not more than five (5) years, or both fine and imprisonment.

(3) Whenever it appears that an offender has failed to comply with the duty to register or reregister, the department shall promptly notify the sheriff of the county of the last known address of the offender. Upon notification, the sheriff shall attempt to locate the offender at his last known address.

(a) If the sheriff locates the offender he shall enforce the provisions of this chapter. The sheriff shall then notify the department with the current information regarding the offender.

(b) If the sheriff is unable to locate the offender, the sheriff shall promptly notify the department and initiate a criminal prosecution against the offender for the failure to register or reregister. The sheriff shall make the appropriate transactions into the Federal Bureau of Investigation's wanted-person database.

(4) A first violation of this chapter may result in the arrest of the offender. Upon any second or subsequent violation...
of this chapter, the offender shall be arrested for such
violation.

(5) Any prosecution for a violation of this section shall be
brought by a prosecutor in the county of such violation.

SECTION 7. Section 45-33-35, Mississippi Code of 1972, is
amended as follows:

45-33-35. (1) The Mississippi Department of Public Safety
shall maintain a central registry of sex offender information as
defined in Section 45-33-25 and shall adopt rules and regulations
necessary to carry out this section. The responsible agencies
shall provide the information required in Section 45-33-25 on a
form developed by the department to ensure accurate information is
maintained.

(2) Upon conviction, adjudication or acquittal by reason of
insanity of any sex offender, if the sex offender is not
immediately confined or not sentenced to a term of imprisonment,
the clerk of the court which convicted and sentenced the sex
offender shall inform the person of the duty to register and shall
perform the registration duties as described in Section 45-33-23
and forward the information to the department.

(3) Upon release from prison, placement on parole or
supervised release, the Department of Corrections shall inform the
person of the duty to register and shall perform the registration
duties as described in Section 45-33-23 and forward the
information to the Department of Public Safety.

(4) Upon release from confinement in a mental institution
following an acquittal by reason of insanity, the director of the
facility shall inform the offender of the duty to register and
shall notify the Department of Public Safety of the offender's
release.

(5) Upon release from a youthful offender facility, the
director of the facility shall inform the person of the duty to
register and shall perform the registration duties as described in
Section 45-33-23 and forward the information to the Department of Public Safety.

(6) In addition to performing the registration duties, the responsible agency shall:

(a) Inform the person having a duty to register that:

(i) The person shall report in writing any change of address to the department ten (10) days before changing address.

(ii) Any change of address to another state shall be reported to the department in writing no less than ten (10) days before the change of address. The offender shall comply with any registration requirement in the new state.

(iii) The person must register in any state where the person is employed, carries on a vocation, is stationed in the military or is a student.

(iv) All address verifications must be returned to the department within the required time period.

(v) Any change in status of a registrant's enrollment, employment or vocation at any institution of higher learning shall be reported to the department in writing within ten (10) days of the change.

(b) Require the person to read and sign a form stating that the duty of the person to register under this chapter has been explained.

(c) Obtain or facilitate the obtaining of a biological sample from every registrant as required by this chapter if such biological sample has not already been provided to the Mississippi Crime Lab.

SECTION 8. Section 45-33-37, Mississippi Code of 1972, is amended as follows:

45-33-37. (1) The Mississippi Crime Laboratory shall develop a plan for and establish a deoxyribonucleic acid (DNA) identification system. In implementing the plan, the Mississippi
Crime Laboratory shall purchase the appropriate equipment. The DNA identification system as established herein shall be compatible with that utilized by the Federal Bureau of Investigation.

(2) From and after January 1, 1996, every individual convicted of a sex offense or in the custody of the Mississippi Department of Corrections for a sex offense as defined in Section 45-33-23 shall submit a biological sample for purposes of DNA identification analysis before release from or transfer to a state correctional facility or county jail or other detention facility.

(3) From and after January 1, 1996, any person having a duty to register under Section 45-33-25 for whom a DNA analysis is not already on file shall submit a biological sample for purposes of DNA identification analysis within five (5) working days after registration.

SECTION 9. Section 45-33-45, Mississippi Code of 1972, which sets forth standards for the designation of an offender as a sexual predator, is hereby repealed.

SECTION 10. Section 45-33-47, Mississippi Code of 1972, is amended as follows:

45-33-47. (1) A sex offender with a duty to register under Section 45-33-25 shall only be relieved of the duty under subsection (2) of this section.

(2) A person having a duty to register under Section 45-33-25 may petition the circuit court of the sentencing jurisdiction to be relieved of that duty under the following conditions:

(a) The offender has maintained his registration in Mississippi for not less than ten (10) years from the most recent date of occurrence of at least one (1) of the following: release from prison, placement on parole, supervised release or probation. Incarceration for any offense will restart the ten-year minimum
registration requirement. Registration in any other jurisdiction or state does not reduce the ten-year time requirement for maintaining registration in Mississippi.

(b) If the offender has been convicted of one (1) of the following offenses, the offender is subject to lifetime registration and shall not be relieved of the duty to register:

(i) Section 97-3-65 relating to rape;

(ii) Section 97-3-71 relating to rape and assault with intent to ravish;

(iii) Section 97-3-95 relating to sexual battery;

(iv) Subsection (1) or (2) of Section 97-5-33 relating to the exploitation of children;

(v) Section 97-5-41 relating to the carnal knowledge of a stepchild, adopted child or child of a cohabiting partner; or

(vi) Any conviction for violation of a similar law of another jurisdiction.

(c) An offender who has two (2) separate convictions for any of the offenses described in Section 45-33-23 is subject to lifetime registration and shall not be eligible to petition to be relieved of the duty to register as long as at least one (1) of the convictions was entered on or after July 1, 1995.

(d) An offender who resides in Mississippi and who has been designated a sexual predator, a sexually violent predator or a similar designation in another state, is subject to lifetime registration and shall not be eligible to petition to be relieved of the duty to register.

(e) An offender twice adjudicated delinquent in a youth court for the crime of rape pursuant to Section 96-3-65 or sexual battery pursuant to Section 97-3-95 is subject to lifetime registration and shall not be eligible to petition to be relieved of the duty to register.
(3) In determining whether to release an offender from the obligation to register, the court shall consider the nature of the registrable offense committed and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction. The court may relieve the offender of the duty to register only if the petitioner shows, by clear and convincing evidence, that the registrant properly maintained his registration as required by law and that future registration of the petitioner will not serve the purposes of this chapter.

(4) The offender will be required to continue registration for any sex offense conviction unless the conviction is set aside in any post-conviction proceeding, the offender receives a pardon, or the charge is dismissed. Upon submission of the appropriate documentation to the department of one (1) of these occurrences, registration duties will be discontinued.

SECTION 11. Section 45-33-49, Mississippi Code of 1972, is amended as follows:

45-33-49. (1) Records maintained pursuant to this chapter shall be open to law enforcement agencies which shall be authorized to release relevant and necessary information regarding sex offenders to the public.

(2) The identity of a victim of an offense that requires registration under this chapter shall not be released.

(3) A sheriff shall maintain records for registrants of the county and shall make available to any person upon request the name, address, place of employment, crime for which convicted, date and place of conviction of any registrant, and any other information deemed necessary for the protection of the public. The sheriffs shall be responsible for verifying their respective registries annually against the department's records to ensure current information is available at both levels.

(4) Upon written request, the department may also provide to any person the name, address, photograph, if available, date of
photograph, place of employment, crime for which convicted, date and place of conviction of any registrant, hair, eye color, height, race, sex and date of birth of any registrant, and any other information deemed necessary for the protection of the public. Additionally, the department may utilize an internet web site or other electronic means to release the information.

(5) The Department of Education, the Mississippi Private School Association and the Department of Health shall notify all schools and licensed day care centers annually regarding the availability upon request of this information.

(6) Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public exposed to danger of any circumstances or individuals that pose a danger under circumstances that are not enumerated in this section.

(7) Nothing in this chapter shall be construed to prevent law enforcement officers from providing community notification of any circumstances or individuals that pose or could pose a danger under circumstances that are not enumerated in this chapter.

SECTION 12. Section 37-9-17, Mississippi Code of 1972, is amended as follows:

37-9-17. (1) On or before April 1 of each year, the principal of each school shall recommend to the superintendent of the local school district the licensed employees or noninstructional employees to be employed for the school involved except those licensed employees or noninstructional employees who have been previously employed and who have a contract valid for the ensuing scholastic year. If such recommendations meet with the approval of the superintendent, the superintendent shall recommend the employment of such licensed employees or noninstructional employees to the local school board, and, unless good reason to the contrary exists, the board shall elect the employees so recommended. If, for any reason, the local school board declines to elect the employees so recommended, the superintendent may submit to the board a written recommendation that the employees be elected, and the board shall elect the employees as recommended if there is no good reason to the contrary. If the employees so recommended are not elected by the board, the superintendent shall request the board to elect the employees within thirty calendar days after the board receives the superintendent’s written recommendation. If the employees so recommended are not elected by the board within thirty calendar days after the superintendent’s written recommendation, the employees shall not be employed, and the superintendent shall make no further recommendations to the board for the appointment of such employees.
board shall decline to elect any employee so recommended, additional recommendations for the places to be filled shall be
made by the principal to the superintendent and then by the
superintendent to the local school board as provided above. The
school board of any local school district shall be authorized to
designate a personnel supervisor or another principal employed by
the school district to recommend to the superintendent licensed
employees or noninstructional employees; however, this
authorization shall be restricted to no more than two (2)
positions for each employment period for each school in the local
school district. Any noninstructional employee employed upon the
recommendation of a personnel supervisor or another principal
employed by the local school district must have been employed by
the local school district at the time the superintendent was
elected or appointed to office; a noninstructional employee
employed under this authorization may not be paid compensation in
excess of the statewide average compensation for such
noninstructional position with comparable experience, as
established by the State Department of Education. The school
board of any local school district shall be authorized to
designate a personnel supervisor or another principal employed by
the school district to accept the recommendations of principals or
their designees for licensed employees or noninstructional
employees and to transmit approved recommendations to the local
school board; however, this authorization shall be restricted to
no more than two (2) positions for each employment period for each
school in the local school district.

When the licensed employees have been elected as provided in
the preceding paragraph, the superintendent of the district shall
enter into a contract with such persons in the manner provided in
this chapter.

If, at the commencement of the scholastic year, any licensed
employee shall present to the superintendent a license of a higher
grade than that specified in such individual's contract, such individual may, if funds are available from minimum education program funds of the district, or from district funds, be paid from such funds the amount to which such higher grade license would have entitled the individual, had the license been held at the time the contract was executed.

(2) Superintendents/directors of schools under the purview of the Mississippi Board of Education and the superintendent of the local school district shall require that current criminal records background checks and current child abuse registry checks are obtained, and that such criminal record information and registry checks are on file for any new hires applying for employment as a licensed or nonlicensed employee at a school not previously employed in such school under the purview of the Mississippi Board of Education or such local school district prior to July 1, 2000. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check. The fee for such fingerprinting and criminal history record check shall be paid by the applicant, not to exceed Fifty Dollars ($50.00); however, the Mississippi Board of Education or the school board of the local school district, in its discretion, may elect to pay the fee for the fingerprinting and criminal history record check on behalf of any applicant. Under no circumstances shall a member of the Mississippi Board of Education, superintendent/director of schools under the purview of the Mississippi Board of Education, local school district superintendent, local school board member or any individual other than the subject of the criminal history record checks disseminate information received through any such checks except insofar as required to fulfill the purposes of this section.
(3) If such fingerprinting or criminal record checks disclose a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(g), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault which has not been reversed on appeal or for which a pardon has not been granted, the new hire shall not be eligible to be employed at such school. Any employment contract for a new hire executed by the superintendent of the local school district or any employment of a new hire by a superintendent/director of a new school under the purview of the Mississippi Board of Education shall be voidable if the new hire receives a disqualifying criminal record check. However, the Mississippi Board of Education or the school board may, in its discretion, allow any applicant aggrieved by the employment decision under this section to appear before the respective board, or before a hearing officer designated for such purpose, to show mitigating circumstances which may exist and allow the new hire to be employed at the school. The Mississippi Board of Education or local school board may grant waivers for such mitigating circumstances, which shall include, but not be limited to: (a) age at which the crime was committed; (b) circumstances surrounding the crime; (c) length of time since the conviction and criminal history since the conviction; (d) work history; (e) current employment and character references; (f) other evidence demonstrating the ability of the person to perform the employment responsibilities competently and that the person does not pose a threat to the health or safety of the children at the school.

(4) No local school district or local school district employee or members of the Mississippi Board of Education or employee of a school under the purview of the Mississippi Board of Education shall be held liable in any employment discrimination.
suit in which an allegation of discrimination is made regarding an employment decision authorized under this Section 37-9-17.

(5) Subsections (2) through (5) of this section shall be repealed on June 30, 2002.

SECTION 13. Section 45-27-1, Mississippi Code of 1972, is amended as follows:

45-27-1. The Legislature finds and declares that a more effective administrative structure now is required to control the collection, storage, dissemination and use of criminal offender record information. These improvements in the organization and control of criminal offender record-keeping are imperative both to strengthen the administration of criminal justice and to assure appropriate protection of rights of individual privacy. * * * The purposes of this chapter are (a) to control and coordinate criminal offender record-keeping within this state; (b) to assure periodic reporting to the Governor and Legislature concerning such record-keeping; and (c) to establish a more effective administrative structure for the collection, maintenance, retrieval and dissemination of criminal history record information described in this chapter, consistent with those principles of scope and security prescribed by this chapter.

SECTION 14. Section 45-27-3, Mississippi Code of 1972, is amended as follows:

45-27-3. For the purposes of this chapter, the following words shall have the meanings ascribed to them in this section unless the context requires otherwise:

(a) "Criminal justice agencies" means public agencies at all levels of government which perform as their principal function activities relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

(b) "Offense" means an act which is a felony or a misdemeanor * * *.
(c) "Justice information system" means those agencies, procedures, mechanisms, media and forms, as well as the information itself, which are or become involved in the origination, transmittal, storage, retrieval and dissemination of information related to reported offenses and offenders, and the subsequent actions related to such events or persons.

(d) "Criminal justice information" means the following classes of information:

(i) "Secret data" which includes information dealing with those elements of the operation and programming of the Mississippi Justice Information Center computer system and the communications network and satellite computer systems handling criminal justice information which prevents unlawful intrusion into the system.

(ii) "Criminal history record information," which means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, affidavits, information or other formal charges and any disposition arising therefrom, sentencing, correctional supervision and release. The term does not include identification information such as fingerprint records or images to the extent that such information does not indicate involvement of the individual in the criminal justice system.

(iii) "Sensitive data," which contains statistical information in the form of reports, lists and documentation which may identify a group characteristic, such as "white" males or "stolen" guns.

(iv) "Restricted data," which contains information relating to data-gathering techniques, distribution methods, manuals and forms.

(v) "Law enforcement agency" or "originating agency" or "agency" which includes a governmental unit or agency composed of one or more persons employed full time or part time by
the state as a political subdivision thereof for the following purposes: (A) the administration of criminal justice, which includes the prevention and detection of crime; the apprehension, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders; or the collection, storage and dissemination of criminal history record information; or (B) the enforcement of state laws or local ordinances, which includes making arrests for crimes while acting within the scope of their authority. The agency must perform one or more of the above-described criminal justice duties and allocate a substantial part of its annual budget to the administration of criminal justice.

(e) "Center" means the Mississippi Justice Information Center or the Mississippi Criminal Information Center.

(f) "Department" means the Mississippi Department of Public Safety.

(g) "Conviction information" means criminal history record information disclosing that a person was found guilty of, or has pleaded guilty or nolo contendere to, a criminal offense in a court of law, together with any sentencing information. This includes a conviction in a federal or military tribunal, including a court martial conducted by the Armed Forces of the United States, or a conviction for an offense committed on an Indian Reservation or other federal property, or any court of a state of the United States.

(h) "Nonconviction information" means arrest without disposition information if an interval of one (1) year has elapsed from the date of arrest and no active prosecution for the charge is pending, as well as, all acquittals and all dismissals.

SECTION 15. Section 45-27-7, Mississippi Code of 1972, is amended as follows:

45-27-7. (1) The Mississippi Justice Information Center shall:
(a) Develop, operate and maintain an information system which will support the collection, storage, retrieval and dissemination of all crime and offender data described in this chapter, consistent with those principles of scope, security and responsiveness prescribed by this chapter.

(b) Cooperate with all criminal justice agencies within the state in providing those forms, procedures, standards and related training assistance necessary for the uniform operation of the statewide center.

(c) Offer assistance and, when practicable, instruction to all local law enforcement agencies in establishing efficient local records systems.

(d) Make available, upon request, to all local and state criminal justice agencies, to all federal criminal justice agencies and to criminal justice agencies in other states any information in the files of the center which will aid such agencies in the performance of their official duties. For this purpose the center shall operate on a twenty-four-hour basis, seven (7) days a week. Such information, when authorized by the director of the center, may also be made available to any other agency of this state or any political subdivision thereof and to any federal agency, upon assurance by the agency concerned that the information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders.

(e) Cooperate with other agencies of this state, the crime information agencies of other states, and the national crime information center systems of the Federal Bureau of Investigation in developing and conducting an interstate, national and international system of criminal identification and records.

(f) Make available, upon request, to nongovernmental entities or employers certain information for noncriminal justice purposes as specified in Section 45-27-12.
(g) Institute necessary measures in the design, implementation and continued operation of the justice information system to ensure the privacy and security of the system. Such measures shall include establishing complete control over use of and access to the system and restricting its integral resources and facilities and those either possessed or procured and controlled by criminal justice agencies. Such security measures must meet standards developed by the center as well as those set by the nationally operated systems for interstate sharing of information.

(h) Provide data processing for files listing motor vehicle drivers' license numbers, motor vehicle registration numbers, wanted and stolen motor vehicles, outstanding warrants, identifiable stolen property and such other files as may be of general assistance to law enforcement agencies; provided, however, that the purchase, lease, rental or acquisition in any manner of "computer equipment or services," as defined in Section 25-53-3, Mississippi Code of 1972, shall be subject to the approval of the Mississippi Information Technology Services.

(i) Maintain a field coordination and support unit which shall have all the power conferred by law upon any peace officer of this state.

(2) The department, including the investigative division or the center, shall:

(a) Obtain and store fingerprints, descriptions, photographs and any other pertinent identifying data on persons who:

 (i) Have been or are hereafter arrested or taken into custody in this state:

     (A) For an offense which is a felony;
     (B) For an offense which is a misdemeanor * * *
     (C) As a fugitive from justice; or
(ii) Are or become habitual offenders; or

(iii) Are currently or become confined to any prison, penitentiary or other penal institution; or

(iv) Are unidentified human corpses found in the state.

(b) Compare all fingerprint and other identifying data received with that already on file and determine whether or not a criminal record is found for such person, and at once inform the requesting agency or arresting officer of those facts that may be disseminated consistent with applicable security and privacy laws and regulations. A record shall be maintained for a minimum of one (1) year of the dissemination of each individual criminal history, including at least the date and recipient of such information.

(c) Establish procedures to respond to those individuals who file requests to review their own records, pursuant to Sections 45-27-11 and 45-27-12, and to cooperate in the correction of the central center records and those of contributing agencies when their accuracy has been successfully challenged either through the related contributing agencies or by court order issued on behalf of an individual.

SECTION 16. The following provision shall be codified as Section 45-27-8, Mississippi Code of 1972:

45-27-8. Mississippi Justice Information Center authorized to charge fees for services and reports.

The center, by direction of the Commissioner of the Department of Public Safety, shall establish and collect fees reasonably calculated to reimburse the center for the actual cost of searching, reviewing, duplicating and mailing records or information of any kind maintained by the center and authorized for release by this chapter.

No records shall be furnished by the center which are classified as confidential by law.
All fees collected by the center pursuant to this chapter shall be deposited into the Criminal Information Center Special Fund hereby created in the State Treasury. Monies deposited in such fund shall be expended by the center, as authorized and appropriated by the Legislature, to defray the expenses of the center. Any revenue in the fund which is not encumbered at the end of the fiscal year shall not lapse to the State General Fund but shall remain in the special fund.

SECTION 17. Section 45-27-9, Mississippi Code of 1972, is amended as follows:

45-27-9. (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) Fingerprint 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.

SECTION 18. Section 45-27-11, Mississippi Code of 1972, is amended as follows:
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.

SECTION 19. The following provision shall be codified as
Section 45-27-12, Mississippi Code of 1972.

45-27-12. Dissemination of certain criminal history record
information for noncriminal justice purposes.

(1) State conviction information and arrest information less
than one (1) year old which is contained in the center's database
shall be made available for the following noncriminal justice
purposes:

(a) To any local, state or federal governmental agency
that requests the information for the enforcement of a local,
state or federal law;

(b) To any nongovernmental entity or any employer
authorized either by the subject of record in writing or by state
or federal law to receive such information; and

(c) To any federal agency or central repository in
another state requesting the information for purposes authorized
by law.
(2) Information disseminated for noncriminal justice purposes as specified in this section shall be used only for the purpose for which it was made available and may not be re-disseminated.

(3) No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or organization that would not be eligible to receive the information pursuant to this section. Nonconviction information shall not be available under the provisions of this section for noncriminal justice purposes.

(4) Upon request for a check pursuant to this section, the nongovernmental entity or employer must provide proper identification and authorization information from the subject of the record to be checked and adhere to policies established by the center for such record checks.

(5) Any individual or his attorney who is the subject of the record to be checked, upon positive verification of the individual's identity, may request to review the disseminated information and shall follow the procedure set forth in Section 45-27-11. If the individual wishes to correct the record as it appears in the center's system, the person shall follow the procedure set forth in Section 45-27-11. The right of a person to review the person's criminal history record information shall not be used by a prospective employer or others as a means to circumvent procedures or fees for accessing records for noncriminal justice purposes.

(6) The center may impose procedures, including the submission of fingerprints, fees or restrictions, as are reasonably necessary 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 access. All fees shall be assessed and deposited in accordance with the provisions of Section 45-27-8.
(7) Local agencies may release their own agency records according to their own policies.

(8) Release of the above-described information for noncriminal justice purposes shall be made only by the center, under the limitations of this section, and such compiled records will not be released or disclosed for noncriminal justice purposes by other agencies in the state.

SECTION 20. Section 45-27-13, Mississippi Code of 1972, is amended as follows:

(1) Any person who knowingly requests, obtains or attempts to obtain criminal history record information and other information maintained in the center’s network under false pretenses or who misuses criminal history record information or information maintained in the center’s network except in accordance with law or who knowingly communicates or attempts to communicate criminal history record information to any agency or person except in accordance with this chapter, or any member, officer, employee or agent of the center, or any participating agency who knowingly falsifies criminal history record information, or any records relating thereto, shall for each such offense be fined not more than Five Thousand Dollars ($5,000.00) or be imprisoned for not more than one (1) year, or both fined and imprisoned.

(2) Any person who knowingly discloses or attempts to disclose the techniques or methods employed to ensure the security and privacy of information or data contained in criminal justice information systems, except in accordance with this chapter, shall for each such offense be fined not more than Five Thousand Dollars ($5,000.00) or be imprisoned for not more than two (2) years in the custody of the Department of Corrections, or both.

SECTION 21. Section 45-27-17, Mississippi Code of 1972, is amended as follows:
45-27-17. **Counts, municipalities and users of network authorized to pay pro rata cost of justice information center.**

All boards of supervisors, municipal authorities of the state and other users of the network are hereby authorized to appropriate and pay, in their discretion, to the Department of Public Safety such sum as may be assessed against said county or municipality or user agency as their pro rata cost of the justice information system and Mississippi Justice Information Center.

SECTION 22. The following provision shall be codified as Section 45-27-19, Mississippi Code of 1972:

45-27-19. **Exemption of Records.**

(1) Unless specifically authorized by law, records maintained by the center shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(2) Intelligence and investigative files maintained by law enforcement shall be kept separate from criminal history record information and shall be exempt from dissemination under the provisions of this chapter and the Mississippi Public Records Law.

SECTION 23. Section 12 of this act shall take effect and be in force from and after its passage, and the remainder of this act shall take effect and be in force from and after July 1, 2001.