

By: Senator(s) White

To: Judiciary, Division B

SENATE BILL NO. 2950

1 AN ACT TO AMEND SECTION 45-27-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF CRIMINAL HISTORY RECORD INFORMATION; TO
3 AMEND SECTION 45-27-7, MISSISSIPPI CODE OF 1972, TO MAKE CRIMINAL
4 INFORMATION IMMEDIATELY ACCESSIBLE BY LOCAL AND STATE CRIMINAL
5 JUSTICE AGENCIES; TO AMEND SECTIONS 45-27-8 AND 45-27-9,
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
7 ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 45-27-3, Mississippi Code of 1972, is
10 amended as follows:

11 45-27-3. For the purposes of this chapter, the following
12 words shall have the meanings ascribed to them in this section
13 unless the context requires otherwise:

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

18 (b) "Offense" means an act which is a felony or a
19 misdemeanor.

20 (c) "Justice information system" means those agencies,
21 procedures, mechanisms, media and forms, as well as the
22 information itself, which are or become involved in the
23 origination, transmittal, storage, retrieval and dissemination of
24 information related to reported offenses and offenders, and the
25 subsequent actions related to such events or persons.

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

28 (i) "Secret data" which includes information
29 dealing with those elements of the operation and programming of

30 the Mississippi Justice Information Center computer system and the
31 communications network and satellite computer systems handling
32 criminal justice information which prevents unlawful intrusion
33 into the system.

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

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

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

51 (v) "Law enforcement agency" or "originating
52 agency" or "agency" which includes a governmental unit or agency
53 composed of one or more persons employed full time or part time by
54 the state as a political subdivision thereof for the following
55 purposes: (A) the administration of criminal justice, which
56 includes the prevention and detection of crime; the apprehension,
57 pretrial release, post-trial release, prosecution, adjudication,
58 correctional supervision or rehabilitation of accused persons or
59 criminal offenders; or the collection, storage and dissemination
60 of criminal history record information; or (B) the enforcement of
61 state laws or local ordinances, which includes making arrests for
62 crimes while acting within the scope of their authority. The

63 agency must perform one or more of the above-described criminal
64 justice duties and allocate a substantial part of its annual
65 budget to the administration of criminal justice.

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

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

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

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

83 **SECTION 2.** Section 45-27-7, Mississippi Code of 1972, is
84 amended as follows:

85 45-27-7. (1) The Mississippi Justice Information Center
86 shall:

87 (a) Develop, operate and maintain an information system
88 which will support the collection, storage, retrieval and
89 dissemination of all crime and offender data described in this
90 chapter, consistent with those principles of scope, security and
91 responsiveness prescribed by this chapter.

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

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

99 (d) Make available, through electronic and any other
100 means which insures immediate access, to all local and state
101 criminal justice agencies, to all federal criminal justice
102 agencies and to criminal justice agencies in other states any
103 information in the files of the center which will aid such
104 agencies in the performance of their official duties. For this
105 purpose the center shall operate on a twenty-four-hour basis,
106 seven (7) days a week. Such information, when authorized by the
107 director of the center, may also be made available to any other
108 agency of this state or any political subdivision thereof and to
109 any federal agency, upon assurance by the agency concerned that
110 the information is to be used for official purposes only in the
111 prevention or detection of crime or the apprehension of criminal
112 offenders.

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

118 (f) Make available, upon request, to nongovernmental
119 entities or employers certain information for noncriminal justice
120 purposes as specified in Section 45-27-12.

121 (g) Institute necessary measures in the design,
122 implementation and continued operation of the justice information
123 system to ensure the privacy and security of the system. Such
124 measures shall include establishing complete control over use of
125 and access to the system and restricting its integral resources
126 and facilities and those either possessed or procured and
127 controlled by criminal justice agencies. Such security measures
128 must meet standards developed by the center as well as those set

129 by the nationally operated systems for interstate sharing of
130 information.

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

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

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

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

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

150 (A) For an offense which is a felony;
151 (B) For an offense which is a misdemeanor;
152 (C) As a fugitive from justice; or

153 (ii) Are or become habitual offenders; or

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

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

158 (b) Compare all fingerprint and other identifying data
159 received with that already on file and determine whether or not a
160 criminal record is found for such person, and at once inform the
161 requesting agency or arresting officer of those facts that may be

162 disseminated consistent with applicable security and privacy laws
163 and regulations. A record shall be maintained for a minimum of
164 one (1) year of the dissemination of each individual criminal
165 history, including at least the date and recipient of such
166 information.

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

174 **SECTION 3.** Section 45-27-8, Mississippi Code of 1972, is
175 amended as follows:

176 45-27-8. The center, by direction of the Commissioner of the
177 Department of Public Safety, shall establish and collect fees
178 reasonably calculated to reimburse the center for the actual cost
179 of searching, reviewing, duplicating, making available
180 electronically and mailing records or information of any kind
181 maintained by the center and authorized for release by this
182 chapter.

183 No records shall be furnished by the center which are
184 classified as confidential by law.

185 All fees collected by the center pursuant to this chapter
186 shall be deposited into the Criminal Information Center Special
187 Fund hereby created in the State Treasury. Monies deposited in
188 such fund shall be expended by the center, as authorized and
189 appropriated by the Legislature, to defray the expenses of the
190 center. Any revenue in the fund which is not encumbered at the
191 end of the fiscal year shall not lapse to the State General Fund
192 but shall remain in the special fund.

193 **SECTION 4.** Section 45-27-9, Mississippi Code of 1972, is
194 amended as follows:

195 45-27-9. (1) All criminal justice agencies within the state
196 shall submit to the center fingerprints, descriptions, photographs
197 (when specifically requested), and other identifying data on
198 persons who have been lawfully arrested or taken into custody in
199 this state for all felonies and misdemeanors as described in
200 Section 45-27-7(2)(a). It shall be the duty of all chiefs of
201 police, sheriffs, district attorneys, courts, court clerks,
202 judges, parole and probation officers, wardens or other persons in
203 charge of correctional institutions in this state to furnish the
204 center with any other data deemed necessary by the center to carry
205 out its responsibilities under this chapter.

206 (2) All persons in charge of law enforcement agencies shall
207 obtain, or cause to be obtained, fingerprints according to the
208 fingerprint system of identification established by the Director
209 of the Federal Bureau of Investigation, full face and profile
210 photographs (if equipment is available) and other available
211 identifying data, of each person arrested or taken into custody
212 for an offense of a type designated in subsection (1) of this
213 section, of all persons arrested or taken into custody as
214 fugitives from justice and of all unidentified human corpses in
215 their jurisdictions, but photographs need not be taken if it is
216 known that photographs of the type listed, taken within the
217 previous year, are on file. Any record taken in connection with
218 any person arrested or taken into custody and subsequently
219 released without charge or cleared of the offense through court
220 proceedings shall be purged from the files of the center and
221 destroyed upon receipt by the center of a lawful expunction order.
222 All persons in charge of law enforcement agencies shall submit to
223 the center detailed descriptions of arrests or takings into
224 custody which result in release without charge, release on bond or
225 subsequent exoneration from criminal liability immediately after
226 such release or exoneration.

227 (3) Fingerprints and other identifying data required to be
228 taken under subsection (2) shall be forwarded within twenty-four
229 (24) hours after taking for filing and classification, but the
230 period of twenty-four (24) hours may be extended to cover any
231 intervening holiday or weekend. Photographs taken shall be
232 forwarded at the discretion of the agency concerned, but, if not
233 forwarded, the fingerprint record shall be marked "Photo
234 Available" and the photographs shall be forwarded subsequently if
235 the center so requests.

236 (4) All persons in charge of law enforcement agencies shall
237 submit to the center detailed descriptions of arrest warrants and
238 related identifying data immediately upon determination of the
239 fact that the warrant cannot be served for the reasons stated. If
240 the warrant is subsequently served or withdrawn, the law
241 enforcement agency concerned must immediately notify the center of
242 such service or withdrawal. Also, the agency concerned must
243 annually, no later than January 31 of each year and at other times
244 if requested by the center, confirm all such arrest warrants which
245 continue to be outstanding. Upon receipt of a lawful expunction
246 order, the center shall purge and destroy files of all data
247 relating to an offense when an individual is subsequently
248 exonerated from criminal liability of that offense. The center
249 shall not be liable for the failure to purge, destroy or expunge
250 any records if an agency or court fails to forward to the center
251 proper documentation ordering such action.

252 (5) All persons in charge of state correctional institutions
253 shall obtain fingerprints, according to the fingerprint system of
254 identification established by the Director of the Federal Bureau
255 of Investigation or as otherwise directed by the center, and full
256 face and profile photographs of all persons received on commitment
257 to such institutions. The prints so taken shall be forwarded to
258 the center, together with any other identifying data requested,
259 within ten (10) days after the arrival at the institution of the

260 person committed. At the time of release, the institution will
261 again obtain fingerprints, as before, and forward them to the
262 center within ten (10) days, along with any other related
263 information requested by the center. The institution shall notify
264 the center immediately upon the release of such person.

265 (6) All persons in charge of law enforcement agencies, all
266 court clerks, all municipal justices where they have no clerks,
267 all justice court judges and all persons in charge of state and
268 county probation and parole offices, shall supply the center with
269 the information described in subsections (4) and (10) of this
270 section on the basis of the forms and instructions to be supplied
271 by the center.

272 (7) All persons in charge of law enforcement agencies in
273 this state shall furnish the center with any other identifying
274 data required in accordance with guidelines established by the
275 center. All law enforcement agencies and correctional
276 institutions in this state having criminal identification files
277 shall cooperate in providing the center with copies of such items
278 in such files which will aid in establishing the nucleus of the
279 state criminal identification file.

280 (8) All law enforcement agencies within the state shall
281 report to the center, in a manner prescribed by the center, all
282 persons wanted by and all vehicles and identifiable property
283 stolen from their jurisdictions. The report shall be made as soon
284 as is practical after the investigating department or agency
285 either ascertains that a vehicle or identifiable property has been
286 stolen or obtains a warrant for an individual's arrest or
287 determines that there are reasonable grounds to believe that the
288 individual has committed a crime. The report shall be made within
289 a reasonable time period following the reporting department's or
290 agency's determination that it has grounds to believe that a
291 vehicle or property was stolen or that the wanted person should be
292 arrested.

293 (9) All law enforcement agencies in the state shall
294 immediately notify the center if at any time after making a report
295 as required by subsection (8) of this section it is determined by
296 the reporting department or agency that a person is no longer
297 wanted or that a vehicle or property stolen has been recovered.
298 Furthermore, if the agency making such apprehension or recovery is
299 not the one which made the original report, then it shall
300 immediately notify the originating agency of the full particulars
301 relating to such apprehension or recovery using methods prescribed
302 by the center.

303 (10) All law enforcement agencies in the state and clerks of
304 the various courts shall promptly report to the center all
305 instances where records of convictions of criminals are ordered
306 expunged by courts of this state as now provided by law. The
307 center shall promptly expunge from the files of the center and
308 destroy all records pertaining to any convictions that are ordered
309 expunged by the courts of this state as provided by law.

310 (11) The center shall not be held liable for the failure to
311 purge, destroy or expunge records if an agency or court fails to
312 forward to the center proper documentation ordering such action.

313 **SECTION 5.** This act shall take effect and be in force from
314 and after July 1, 2004.