

By: Senator(s) Albritton

To: Judiciary, Division A

SENATE BILL NO. 2908

1 AN ACT TO AMEND SECTIONS 25-1-102, 45-29-1 AND 45-29-3,  
2 MISSISSIPPI CODE OF 1972, TO LIMIT THE OPEN RECORDS EXEMPTION FOR  
3 PROSECUTION AND INVESTIGATIVE FILES TO OPEN INVESTIGATIONS AND  
4 PENDING CASES, BUT TO ALLOW PUBLIC ACCESS ONCE A CASE IS FINALLY  
5 CLOSED; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 25-1-102, Mississippi Code of 1972, is  
8 amended as follows:

9 25-1-102. Records in the possession of a public body, as  
10 defined by paragraph (a) of Section 25-61-3, which represent and  
11 constitute the work product of any attorney, district attorney or  
12 county prosecuting attorney representing a public body and which  
13 are related to litigation made by or against such public body, or  
14 in anticipation of prospective litigation, including all  
15 communications between such attorney made in the course of an  
16 attorney-client relationship, shall be exempt from the provisions  
17 of the Mississippi Public Records Act of 1983; this exemption  
18 shall no longer apply at such time as a person who is the subject  
19 of a prosecution has been convicted and the time for all appeals  
20 has expired.

21 **SECTION 2.** Section 45-29-1, Mississippi Code of 1972, is  
22 amended as follows:

23 45-29-1. (1) Records in the possession of a public body, as  
24 defined by paragraph (a) of Section 25-61-3, which are not  
25 otherwise protected by law, that (i) are compiled in the process  
26 of detecting and investigating any unlawful activity or alleged  
27 unlawful activity, the disclosure of which would harm the  
28 investigation; (ii) would reveal the identity of informants; (iii)

29 would prematurely release information that would impede the public  
30 body's enforcement, investigative or detection efforts in the  
31 proceedings; (iv) would disclose investigatory techniques; (v)  
32 would deprive a person of a right to a fair trial or an impartial  
33 adjudication; (vi) would endanger the life or safety of a public  
34 official or law enforcement personnel; or (vii) are matters  
35 pertaining to quality control or PEER review activities, shall be  
36 exempt from the provisions of the Mississippi Public Records Act  
37 of 1983.

38 (2) Nothing in this section shall be construed to prevent  
39 any and all public bodies from having among themselves a free flow  
40 of information for the purpose of achieving a coordinated and  
41 effective detection and investigation of unlawful activity. Where  
42 the confidentiality of records covered by this section is being  
43 determined in a private hearing before a judge as provided \* \* \*  
44 by \* \* \* Section 25-61-13(2), the public body may delete or  
45 separate from the records the identity of confidential informants  
46 or the identity of the person or persons under investigation.

47 (3) Nothing in this section shall be construed to prevent  
48 the release of records covered by this section relating to the  
49 prosecution of a crime at such time as the person who is the  
50 subject of the prosecution has been convicted and the time for all  
51 appeals has expired.

52 **SECTION 3.** Section 45-29-3, Mississippi Code of 1972, is  
53 amended as follows:

54 45-29-3. (1) The following records shall be exempt from the  
55 provisions of the Mississippi Public Records Law of 1983:

56 (a) Records which are in the possession of a public  
57 body, as defined by paragraph (a) of Section 25-61-3, that  
58 performs as one of its principal functions activities pertaining  
59 to the enforcement of criminal laws, the apprehension of criminal  
60 offenders or the investigation of criminal offenders and \* \* \*  
61 criminal activities, and which records consist of information

62 compiled for the purpose of a criminal investigation, including  
63 reports of informants and investigators, and associated with an  
64 identifiable individual; and

65 (b) Personal information of victims, including victim  
66 impact statements and letters of support on behalf of victims that  
67 are contained in records on file with the Mississippi Department  
68 of Corrections and State Parole Board.

69 (2) Nothing in this section shall be construed to prevent  
70 the release of records covered by this section relating to the  
71 prosecution of a crime at such time as the person who is the  
72 subject of the prosecution has been convicted and the time for all  
73 appeals has expired.

74 **SECTION 4.** This act shall take effect and be in force from  
75 and after July 1, 2006.