

By: Representative Staples

To: Technology; Revenue and  
Expenditure General Bills

HOUSE BILL NO. 1189

1 AN ACT TO AMEND SECTION 25-53-51, MISSISSIPPI CODE OF 1972,  
 2 TO REMOVE THE MINIMUM BOND REQUIREMENT FOR PERSONS QUALIFYING FOR  
 3 THE POSITION OF INFORMATION CONFIDENTIALITY OFFICER WITH THE  
 4 MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES; TO  
 5 REMOVE THE REQUIREMENT THAT SUCH PERSON BE IDENTIFIED WITH A PHOTO  
 6 IDENTIFICATION CARD; TO REQUIRE PERSONS SUBMITTING APPLICATION FOR  
 7 EMPLOYMENT WITH MDITS TO SUBMIT TO A CRIMINAL BACKGROUND RECORDS  
 8 CHECK; TO PROVIDE IMMUNITY FROM LIABILITY FOR DISCRIMINATION TO  
 9 MDITS AND ITS PERSONNEL FOR EMPLOYMENT DECISION MADE BASED ON THE  
 10 RESULTS OF THE CRIMINAL BACKGROUND CHECK; AND FOR RELATED  
 11 PURPOSES.

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

13 **SECTION 1.** Section 25-53-51, Mississippi Code of 1972, is  
 14 amended as follows:

15 25-53-51. To qualify for the position of information  
 16 confidentiality officer a person must:

17 (a) Be an employee of a state agency or institution in  
 18 a position such that his duties require him to handle or process  
 19 or supervise the handling or processing of data in conjunction  
 20 with the use of automated information technology equipment for an  
 21 agency or institution other than that for whom he is regularly  
 22 employed.



23           (b) Have been continuously employed for a period of at  
24 least one hundred eighty (180) days by such agency or institution  
25 or have successfully been cleared for employment through an  
26 investigation that shall consist of a determination as to good  
27 moral character and that the prospective employee has not been  
28 convicted of a felony. In order to determine the applicant's  
29 suitability for employment at the Mississippi Department of  
30 Information Technology Services, the applicant shall be  
31 fingerprinted. If no disqualifying record is identified at the  
32 state level, the fingerprints shall be forwarded by the  
33 Mississippi Department of Public Safety to the Federal Bureau of  
34 Investigation for a national criminal history record check. A  
35 prospective employee may be provisionally employed based on a  
36 reference check by the employing agency pending final receipt of  
37 the results of a national criminal history record check for a  
38 period not to exceed one hundred eighty (180) days.

39           (c) Successfully complete a suitable instructional  
40 course on the subjects of information security, privacy and  
41 confidentiality and protection, to be developed and taught under  
42 the supervision of the executive director. An employee may work  
43 in a provisional capacity under the direct supervision of an  
44 information confidentiality officer as part of an on-the-job  
45 training program while completing instructional requirements, for  
46 a period not to exceed ninety (90) days.



47 (d) Be duly sworn to the following oath: "I, \_\_\_\_\_,  
48 do solemnly swear to protect and uphold the confidentiality of all  
49 information that may come to my knowledge that is designated as  
50 'confidential information' by another state agency or institution  
51 for which I may handle or process in the normal course of my  
52 duties. I swear to exercise reasonable care in the handling and  
53 processing of all such designated data and further that I will not  
54 reveal or otherwise divulge information from such data obtained.  
55 I understand that proven violation of this oath will subject me to  
56 forfeiture of my bond and dismissal from employment."

57 \* \* \*

58 **SECTION 2.** (1) The Mississippi Department of Information  
59 Technology Services shall require any private firm under contract  
60 with MDITS to provide services or any person who submits  
61 application for employment to submit to criminal records  
62 background checks and child abuse registry checks, which shall be  
63 obtained through the appropriate governmental authority, and that  
64 such criminal record information and registry checks remain on  
65 file for any new hires applying for employment and not previously  
66 employed in any agency or political subdivision of the state  
67 requiring the same before July 1, 2016. In order to determine the  
68 applicant's suitability for employment, the applicant shall be  
69 fingerprinted. If no disqualifying record is identified at the  
70 state level, the fingerprints shall be forwarded by the Department  
71 of Public Safety to the Federal Bureau of Investigation for a



72 national criminal history record check. The fee for such  
73 fingerprinting and criminal history record check shall be paid by  
74 the applicant, not to exceed Fifty Dollars (\$50.00). However,  
75 MDITS or a private firm under contract with MDITS to provide  
76 services, in its discretion, may elect to pay the fee for the  
77 fingerprinting and criminal history record check on behalf of any  
78 applicant. Under no circumstances shall the executive director or  
79 any officer or employee of MDITS or private firm under contract  
80 with MDITS to provide services with access to the results of any  
81 criminal records check or any individual other than the subject of  
82 the criminal history record checks disseminate information  
83 received through any such checks except insofar as required to  
84 fulfill the purposes of this section. The determination whether  
85 the applicant has a disqualifying crime, as set forth in  
86 subsection (2) of this section, shall be made by the appropriate  
87 governmental authority, and the appropriate governmental authority  
88 shall notify MDITS and the private firm whether a disqualifying  
89 crime exists.

90 (2) If such fingerprinting or criminal record checks  
91 disclose a felony conviction, guilty plea or plea of nolo  
92 contendere to a felony of possession or sale of drugs, murder,  
93 manslaughter, armed robbery, rape, sexual battery, sex offense  
94 listed in Section 45-33-23(h), child abuse, arson, grand  
95 larceny, burglary, gratification of lust or aggravated assault  
96 which has not been reversed on appeal or for which a pardon has



97 not been granted, the new hire shall not be eligible to be  
98 employed at MDITS. Any employment contract for a new hire  
99 executed by the executive director of MDITS or his or her designee  
100 or by a private firm under contract to provide services to MDITS  
101 shall be voidable if the new hire receives a disqualifying  
102 criminal record check. MDITS may grant waivers for such  
103 mitigating circumstances, which shall include, but not be limited  
104 to:

- 105 (a) Age at which the crime was committed;
- 106 (b) Circumstances surrounding the crime;
- 107 (c) Length of time since the conviction and criminal  
108 history since the conviction;
- 109 (d) Work history;
- 110 (e) Current employment and character references; and
- 111 (f) Other evidence demonstrating the ability of the  
112 person to perform the employment responsibilities competently and  
113 that the person does not pose a threat to the health or safety of  
114 the general public with whom he or she will be in contact by  
115 virtue of employment.

116 (3) Neither MDITS, its executive director, nor any of its  
117 officer or employees shall be held liable in any employment  
118 discrimination suit in which an allegation of discrimination is  
119 made regarding an employment decision authorized under this  
120 section.



121           **SECTION 3.** This act shall take effect and be in force from  
122 and after July 1, 2016.

