

By: Representative Ladner

To: Judiciary B

HOUSE BILL NO. 1040

1 AN ACT TO AMEND SECTION 45-27-9, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE ALL LAW ENFORCEMENT AGENCIES TO IMPLEMENT AN
 3 INCIDENT-BASED REPORTING SYSTEM WITHIN THEIR AGENCY OR DEPARTMENT
 4 THAT MEETS THE REPORTING REQUIREMENTS OF THE NATIONAL
 5 INCIDENT-BASED REPORTING SYSTEM (NIBRS) OF THE UNIFORM CRIME
 6 REPORTING PROGRAM OF THE FEDERAL BUREAU OF INVESTIGATION; AND FOR
 7 RELATED PURPOSES.

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

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

11 45-27-9. (1) All criminal justice agencies within the state
 12 shall submit to the center an arrest card that will transmit
 13 fingerprints, descriptions, photographs (when specifically
 14 requested), and other identifying data on persons who have been
 15 lawfully arrested or taken into custody in this state for all
 16 felonies and misdemeanors as described in Section 45-27-7(2)(a).
 17 It shall be the duty of all chiefs of police, sheriffs, district
 18 attorneys, courts, court clerks, judges, parole and probation
 19 officers, wardens or other persons in charge of correctional
 20 institutions in this state to furnish the center with all data



21 required by the rules duly promulgated under the Administrative
22 Procedures Act to carry out its responsibilities under this
23 chapter, and the duty of courts and court clerks to submit a
24 disposition form for every disposition. It shall be the duty of
25 all criminal justice agencies within the state to supply the
26 prosecutor and the proper court with the disposition form that is
27 attached to the physical arrest card if fingerprints were taken
28 manually or, if fingerprints were captured digitally, the
29 disposition form generated by the electronic fingerprint device at
30 the time of the arrest.

31 (2) All persons in charge of law enforcement agencies shall
32 obtain, or cause to be obtained, fingerprints according to the
33 fingerprint system of identification established by the Director
34 of the Federal Bureau of Investigation, full face and profile
35 photographs (if equipment is available) and other available
36 identifying data, of each person arrested or taken into custody
37 for an offense of a type designated in subsection (1) of this
38 section, of all persons arrested or taken into custody as
39 fugitives from justice and of all unidentified human corpses in
40 their jurisdictions, but photographs need not be taken if it is
41 known that photographs of the type listed, taken within the
42 previous year, are on file. Any record taken in connection with
43 any person arrested or taken into custody and subsequently
44 released without charge or cleared of the offense through court
45 proceedings shall be purged from the files of the center and



46 destroyed upon receipt by the center of a lawful expunction order.
47 All persons in charge of law enforcement agencies shall submit to
48 the center detailed descriptions of arrests or takings into
49 custody which result in release without charge or subsequent
50 exoneration from criminal liability within twenty-four (24) hours
51 of the release or exoneration.

52 (3) Fingerprints and other identifying data required to be
53 taken under subsection (2) shall be forwarded within twenty-four
54 (24) hours after taking for filing and classification, but the
55 period of twenty-four (24) hours may be extended to cover any
56 intervening holiday or weekend. Photographs taken shall be
57 forwarded at the discretion of the agency concerned, but, if not
58 forwarded, the fingerprint record shall be marked "Photo
59 Available" and the photographs shall be forwarded subsequently if
60 the center so requests.

61 (4) All persons in charge of law enforcement agencies shall
62 submit to the center detailed descriptions of arrest warrants and
63 related identifying data immediately upon determination of the
64 fact that the warrant cannot be served for the reasons stated. If
65 the warrant is subsequently served or withdrawn, the law
66 enforcement agency concerned must immediately notify the center of
67 the service or withdrawal. Also, the agency concerned must
68 annually, no later than January 31 of each year and at other times
69 if requested by the center, confirm all arrest warrants which
70 continue to be outstanding. Upon receipt of a lawful expunction



71 order, the center shall purge and destroy files of all data
72 relating to an offense when an individual is subsequently
73 exonerated from criminal liability of that offense. The center
74 shall not be liable for the failure to purge, destroy or expunge
75 any records if an agency or court fails to forward to the center
76 proper documentation ordering the action.

77 (5) All persons in charge of state correctional institutions
78 shall obtain fingerprints, according to the fingerprint system of
79 identification established by the Director of the Federal Bureau
80 of Investigation or as otherwise directed by the center, and full
81 face and profile photographs of all persons received on commitment
82 to the institutions. The prints so taken shall be forwarded to
83 the center, together with any other identifying data requested,
84 within ten (10) days after the arrival at the institution of the
85 person committed. At the time of release, the institution will
86 again obtain fingerprints, as before, and forward them to the
87 center within ten (10) days, along with any other related
88 information requested by the center. The institution shall notify
89 the center immediately upon the release of the person.

90 (6) All persons in charge of law enforcement agencies, all
91 court clerks, all municipal justices where they have no clerks,
92 all justice court judges and all persons in charge of state and
93 county probation and parole offices, shall supply the center with
94 the information described in subsections (4) and (10) of this



95 section on the basis of the forms and instructions for the
96 disposition form to be supplied by the center.

97 (7) All persons in charge of law enforcement agencies in
98 this state shall furnish the center with any other identifying
99 data required in accordance with guidelines established by the
100 center. All law enforcement agencies and correctional
101 institutions in this state having criminal identification files
102 shall cooperate in providing the center with copies of the items
103 in the files which will aid in establishing the nucleus of the
104 state criminal identification file.

105 (8) All law enforcement agencies within the state shall
106 report to the center, in a manner prescribed by the center, all
107 persons wanted by and all vehicles and identifiable property
108 stolen from their jurisdictions. The report shall be made as soon
109 as is practical after the investigating department or agency
110 either ascertains that a vehicle or identifiable property has been
111 stolen or obtains a warrant for an individual's arrest or
112 determines that there are reasonable grounds to believe that the
113 individual has committed a crime. The report shall be made within
114 a reasonable time period following the reporting department's or
115 agency's determination that it has grounds to believe that a
116 vehicle or property was stolen or that the wanted person should be
117 arrested.

118 (9) All law enforcement agencies in the state shall
119 immediately notify the center if at any time after making a report



120 as required by subsection (8) of this section it is determined by
121 the reporting department or agency that a person is no longer
122 wanted or that a vehicle or property stolen has been recovered.
123 Furthermore, if the agency making the apprehension or recovery is
124 not the one which made the original report, then it shall
125 immediately notify the originating agency of the full particulars
126 relating to the apprehension or recovery using methods prescribed
127 by the center.

128 (10) All law enforcement agencies in the state and clerks of
129 the various courts shall promptly report to the center all
130 instances where records of convictions of criminals are ordered
131 expunged by courts of this state as now provided by law. The
132 center shall promptly expunge from the files of the center and
133 destroy all records pertaining to any convictions that are ordered
134 expunged by the courts of this state as provided by law.

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

138 (12) Any criminal justice department or agency making an
139 expenditure in excess of Five Thousand Dollars (\$5,000.00) in any
140 calendar year on software or programming upgrades concerning a
141 computerized records management system or jail management system
142 shall ensure that the new or upgraded system is formatted to
143 Department of Justice approved XML format and that no impediments



144 to data sharing with other agencies or departments exist in the
145 software programming.

146 (13) (a) All law enforcement agencies within the state
147 shall:

148 (i) Implement an incident-based reporting system
149 within their agency or department that meets the reporting
150 requirements of the National Incident-Based Reporting System
151 (NIBRS) of the Uniform Crime Reporting Program of the Federal
152 Bureau of Investigation;

153 (ii) Use the system described by subparagraph (i)
154 to submit to the center information and statistics concerning
155 criminal offenses committed in the jurisdiction of the local law
156 enforcement agency, in a manner prescribed by the center; and

157 (iii) Report the information as soon as is
158 practical after the investigating agency or department ascertains
159 that a qualifying crime has been committed in their jurisdiction,
160 once the state-level NIBRS Repository is available.

161 (b) No later than July 1, 2019, the department shall
162 submit a report to the Legislature that identifies the number of
163 local law enforcement agencies that have implemented the system
164 described in this subsection (13).

165 **SECTION 2.** This act shall take effect and be in force from
166 and after July 1, 2018.

