

By: Representative Ladner

To: Judiciary B

HOUSE BILL NO. 1040
(As Sent to Governor)

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. The PEER committee may conduct random
31 review of the records of any agency or clerks referenced in this
32 subsection (1) to determine whether the duties of such agencies
33 and clerks are being fulfilled in a timely manner. The PEER
34 committee, based on its findings, if any, shall recommend measures
35 to ensure that the duties are more effectively carried out in a
36 timely manner.

37 (2) All persons in charge of law enforcement agencies shall
38 obtain, or cause to be obtained, fingerprints according to the
39 fingerprint system of identification established by the Director
40 of the Federal Bureau of Investigation, full face and profile
41 photographs (if equipment is available) and other available
42 identifying data, of each person arrested or taken into custody
43 for an offense of a type designated in subsection (1) of this
44 section, of all persons arrested or taken into custody as
45 fugitives from justice and of all unidentified human corpses in



46 their jurisdictions, but photographs need not be taken if it is
47 known that photographs of the type listed, taken within the
48 previous year, are on file. Any record taken in connection with
49 any person arrested or taken into custody and subsequently
50 released without charge or cleared of the offense through court
51 proceedings shall be purged from the files of the center and
52 destroyed upon receipt by the center of a lawful expunction order.
53 All persons in charge of law enforcement agencies shall submit to
54 the center detailed descriptions of arrests or takings into
55 custody which result in release without charge or subsequent
56 exoneration from criminal liability within twenty-four (24) hours
57 of the release or exoneration.

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

67 (4) All persons in charge of law enforcement agencies shall
68 submit to the center detailed descriptions of arrest warrants and
69 related identifying data immediately upon determination of the
70 fact that the warrant cannot be served for the reasons stated. If



71 the warrant is subsequently served or withdrawn, the law
72 enforcement agency concerned must immediately notify the center of
73 the service or withdrawal. Also, the agency concerned must
74 annually, no later than January 31 of each year and at other times
75 if requested by the center, confirm all arrest warrants which
76 continue to be outstanding. Upon receipt of a lawful expunction
77 order, the center shall purge and destroy files of all data
78 relating to an offense when an individual is subsequently
79 exonerated from criminal liability of that offense. The center
80 shall not be liable for the failure to purge, destroy or expunge
81 any records if an agency or court fails to forward to the center
82 proper documentation ordering the action.

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



96 (6) All persons in charge of law enforcement agencies, all
97 court clerks, all municipal justices where they have no clerks,
98 all justice court judges and all persons in charge of state and
99 county probation and parole offices, shall supply the center with
100 the information described in subsections (4) and (10) of this
101 section on the basis of the forms and instructions for the
102 disposition form to be supplied by the center.

103 (7) All persons in charge of law enforcement agencies in
104 this state shall furnish the center with any other identifying
105 data required in accordance with guidelines established by the
106 center. All law enforcement agencies and correctional
107 institutions in this state having criminal identification files
108 shall cooperate in providing the center with copies of the items
109 in the files which will aid in establishing the nucleus of the
110 state criminal identification file.

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



121 agency's determination that it has grounds to believe that a
122 vehicle or property was stolen or that the wanted person should be
123 arrested.

124 (9) All law enforcement agencies in the state shall
125 immediately notify the center if at any time after making a report
126 as required by subsection (8) of this section it is determined by
127 the reporting department or agency that a person is no longer
128 wanted or that a vehicle or property stolen has been recovered.
129 Furthermore, if the agency making the apprehension or recovery is
130 not the one which made the original report, then it shall
131 immediately notify the originating agency of the full particulars
132 relating to the apprehension or recovery using methods prescribed
133 by the center.

134 (10) All law enforcement agencies in the state and clerks of
135 the various courts shall promptly report to the center all
136 instances where records of convictions of criminals are ordered
137 expunged by courts of this state as now provided by law. The
138 center shall promptly expunge from the files of the center and
139 destroy all records pertaining to any convictions that are ordered
140 expunged by the courts of this state as provided by law.

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

144 (12) Any criminal justice department or agency making an
145 expenditure in excess of Five Thousand Dollars (\$5,000.00) in any



146 calendar year on software or programming upgrades concerning a
147 computerized records management system or jail management system
148 shall ensure that the new or upgraded system is formatted to
149 Department of Justice approved XML format and that no impediments
150 to data sharing with other agencies or departments exist in the
151 software programming.

152 (13) (a) All law enforcement agencies within the state
153 shall:

154 (i) Implement an incident-based reporting system
155 within the agency or department that meets the reporting
156 requirements of the National Incident-Based Reporting System
157 (NIBRS) of the Uniform Crime Reporting Program of the Federal
158 Bureau of Investigation;

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

163 (iii) Report the information as soon as is
164 practicable after the investigating agency or department
165 ascertains that a qualifying crime has been committed in its
166 jurisdiction, once the state-level NIBRS Repository is available.

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



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

