

By: Representative Horan

To: Judiciary B

HOUSE BILL NO. 1088

1 AN ACT TO AMEND SECTION 45-27-9, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE LAW ENFORCEMENT AGENCIES TO REPORT TO THE MISSISSIPPI
3 JUSTICE INFORMATION CENTER ALL PERSONS INVOLVED AND CRIMES
4 COMMITTED, REGARDLESS OF CONVICTION, THAT ARE SUBJECT TO AN
5 ENHANCED PENALTY; AND FOR RELATED PURPOSES.

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

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

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



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

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



45 All persons in charge of law enforcement agencies shall submit to
46 the center detailed descriptions of arrests or takings into
47 custody which result in release without charge or subsequent
48 exoneration from criminal liability within twenty-four (24) hours
49 of the release or exoneration.

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

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



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

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

88 (6) All persons in charge of law enforcement agencies, all
89 court clerks, all municipal justices where they have no clerks,
90 all justice court judges and all persons in charge of state and
91 county probation and parole offices, shall supply the center with
92 the information described in subsections (4) and (10) of this
93 section on the basis of the forms and instructions for the
94 disposition form to be supplied by the center.



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

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

116 (9) All law enforcement agencies in the state shall
117 immediately notify the center if at any time after making a report
118 as required by subsection (8) of this section it is determined by
119 the reporting department or agency that a person is no longer



120 wanted or that a vehicle or property stolen has been recovered.
121 Furthermore, if the agency making the apprehension or recovery is
122 not the one which made the original report, then it shall
123 immediately notify the originating agency of the full particulars
124 relating to the apprehension or recovery using methods prescribed
125 by the center.

126 (10) All law enforcement agencies in the state shall report
127 to the center, in a manner prescribed by the center, all persons
128 involved and crimes committed, regardless of conviction, that are
129 subject to an enhanced penalty under Sections 99-19-301 through
130 99-19-307, 99-19-351 through 99-19-357, and 99-19-401.

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

138 (* * * 12) The center shall not be held liable for the
139 failure to purge, destroy or expunge records if an agency or court
140 fails to forward to the center proper documentation ordering the
141 action.

142 (* * * 13) Any criminal justice department or agency making
143 an expenditure in excess of Five Thousand Dollars (\$5,000.00) in
144 any calendar year on software or programming upgrades concerning a



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

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

