

By: Representative DeLano

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 1147

1 AN ACT TO CREATE NEW SECTION 25-61-11.2, MISSISSIPPI CODE OF
2 1972, TO EXEMPT CERTAIN INFORMATION TECHNOLOGY RECORDS FROM THE
3 MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND SECTIONS 9-5-169
4 AND 25-61-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
5 PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS 25-59-19,
6 25-61-10 AND 31-7-111, MISSISSIPPI CODE OF 1972, WHICH RELATE TO
7 PUBLIC RECORDS, FOR THE PURPOSES OF AMENDMENT; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** The following shall be codified as Section
11 25-61-11.2, Mississippi Code of 1972:

12 25-61-11.2. The following information technology (IT)
13 records shall be exempt from the Mississippi Public Records Act of
14 1983:

- 15 (a) IT infrastructure details, including network
- 16 architecture, schematics, and IT system designs;
- 17 (b) Source code;
- 18 (c) Detailed hardware and software inventories;
- 19 (d) Security plans;
- 20 (e) Vulnerability reports;
- 21 (f) Security risk assessment details;



- 22 (g) Security compliance reports;
23 (h) Authentication credentials;
24 (i) Security policies and processes;
25 (j) Security incident reports; and
26 (k) Any other IT information that if disclosed has the
27 potential to allow unauthorized access to the state's IT assets.

28 **SECTION 2.** Section 9-5-169, Mississippi Code of 1972, is
29 amended as follows:

30 9-5-169. Except as otherwise provided in Section 25-61-11.2,
31 all of the records and papers of the office of the chancery clerk
32 shall, at all reasonable hours on business days, be subject to the
33 inspection and examination of all citizens; and the clerk shall
34 show to any person * * * inquiring for it where any record or
35 paper in his office can be found, and shall allow him access to
36 it, and to examine it and make any copy, note, or memorandum he
37 desires to make of it.

38 **SECTION 3.** Section 25-61-5, Mississippi Code of 1972, is
39 amended as follows:

40 25-61-5. (1) (a) Except as otherwise provided by Sections
41 25-61-9 * * *, 25-61-11 * * * and 25-61-11.2, all public records
42 are hereby declared to be public property, and any person shall
43 have the right to inspect, copy or mechanically reproduce or
44 obtain a reproduction of any public record of a public body in
45 accordance with reasonable written procedures adopted by the
46 public body concerning the cost, time, place and method of access,



47 and public notice of the procedures shall be given by the public
48 body, or, if a public body has not adopted written procedures, the
49 right to inspect, copy or mechanically reproduce or obtain a
50 reproduction of a public record of the public body shall be
51 provided within one (1) working day after a written request for a
52 public record is made. No public body shall adopt procedures
53 which will authorize the public body to produce or deny production
54 of a public record later than seven (7) working days from the date
55 of the receipt of the request for the production of the record.

56 (b) If a public body is unable to produce a public
57 record by the seventh working day after the request is made, the
58 public body must provide a written explanation to the person
59 making the request stating that the record requested will be
60 produced and specifying with particularity why the records cannot
61 be produced within the seven-day period. Unless there is mutual
62 agreement of the parties, or the information requested is part of
63 ongoing negotiations related to a request for competitive sealed
64 proposals, in no event shall the date for the public body's
65 production of the requested records be any later than fourteen
66 (14) working days from the receipt by the public body of the
67 original request. Production of competitive sealed proposals in
68 accordance with requests made pursuant to this section shall be no
69 later than seven (7) working days after the notice of intent to
70 award is issued to the winning proposer. Persons making a request
71 for production of competitive sealed proposals after the notice of



72 intent to award is issued by the public body shall have a
73 reasonable amount of time, but in no event less than seven (7)
74 working days after the production of the competitive sealed
75 proposals, to protest the procurement or intended award prior to
76 contract execution.

77 (2) If any public record contains material which is not
78 exempted under this chapter, the public agency shall redact the
79 exempted material and make the nonexempted material available for
80 examination. Such public agency shall be entitled to charge a
81 reasonable fee for the redaction of any exempted material, not to
82 exceed the agency's actual cost.

83 (3) Denial by a public body of a request for access to or
84 copies of public records under this chapter shall be in writing
85 and shall contain a statement of the specific exemption relied
86 upon by the public body for the denial. Each public body shall
87 maintain a file of all denials of requests for public records.
88 Public bodies shall be required to preserve such denials on file
89 for not less than three (3) years from the date such denials are
90 made. This file shall be made available for inspection or
91 copying, or both, during regular office hours to any person upon
92 written request.

93 **SECTION 4.** Section 25-59-19, Mississippi Code of 1972, is
94 brought forward as follows:



95 25-59-19. All records created or received in the performance
96 of public duty and paid for by public funds are deemed to be
97 public property and shall constitute a record of public acts.

98 **SECTION 5.** Section 25-61-10, Mississippi Code of 1972, is
99 brought forward as follows:

100 25-61-10. (1) Any public body that uses sensitive software,
101 as defined in Section 25-61-9, or proprietary software must not
102 thereby diminish the right of the public to inspect and copy a
103 public record. A public body that uses sensitive software, as
104 defined in Section 25-61-9, or proprietary software to store,
105 manipulate, or retrieve a public record will not be deemed to have
106 diminished the right of the public if it either: (a) if legally
107 obtainable, makes a copy of the software available to the public
108 for application to the public records stored, manipulated, or
109 retrieved by the software; or (b) ensures that the software has
110 the capacity to create an electronic copy of each public record
111 stored, manipulated, or retrieved by the software in some common
112 format such as, but not limited to, the American Standard Code for
113 Information Interchange.

114 (2) A public body shall provide a copy of the record in the
115 format requested if the public body maintains the record in that
116 format, and the public body may charge a fee which must be in
117 accordance with Section 25-61-7.

118 (3) Before a public body acquires or makes a major
119 modification to any information technology system, equipment, or



120 software used to store, retrieve, or manipulate a public record,
121 the public body shall adequately plan for the provision of public
122 access and redaction of exempt or confidential information by the
123 proposed system, equipment or software.

124 (4) A public body may not enter into a contract for the
125 creation or maintenance of a public records data base if that
126 contract impairs the ability of the public to inspect or copy the
127 public records of that agency, including public records that are
128 online or stored in an information technology system used by the
129 public body.

130 **SECTION 6.** Section 31-7-111, Mississippi Code of 1972, is
131 brought forward as follows:

132 31-7-111. Such records, reports, supporting documents or
133 data compiled, maintained, protected or otherwise in the custody
134 of either the purchase clerk or the inventory control clerk shall
135 be made freely available to the other immediately upon request.
136 Such records, reports, supporting documents or data shall be
137 public records and shall be made available for inspection during
138 reasonable hours to any person requesting the same.

139 **SECTION 7.** This act shall take effect and be in force from
140 and after July 1, 2018.

