

By: Representatives Baker, Sykes, Hines

To: Judiciary A

HOUSE BILL NO. 1289

1 AN ACT TO CREATE "THE LAW ENFORCEMENT IDENTITY PROTECTION
 2 ACT"; TO PROVIDE DEFINITIONS FOR SUCH ACT; TO PROHIBIT THE PUBLIC
 3 RELEASE OF ANY INFORMATION REGARDING THE NAME, RESIDENTIAL ADDRESS
 4 OR PHYSICAL DESCRIPTION OF ANY LAW ENFORCEMENT OFFICER WHO IS
 5 INVOLVED IN A FATALITY UNTIL THE MISSISSIPPI BUREAU OF
 6 INVESTIGATION HAS MADE SUCH INFORMATION AVAILABLE TO THE PUBLIC;
 7 TO PROVIDE PENALTIES FOR RELEASE OF INFORMATION IN VIOLATION OF
 8 THIS ACT; TO CREATE A PROCEDURE TO BE FOLLOWED BY A LAW
 9 ENFORCEMENT AGENCY AND THE BUREAU OF INVESTIGATION WHEN A FATALITY
 10 OCCURS; TO AMEND SECTION 45-1-6, MISSISSIPPI CODE OF 1972, TO
 11 CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** (1) As used in this section, the following terms
 14 shall have the following meanings, unless the context requires a
 15 different definition:

16 (a) "Bureau" means the Bureau of Investigation.

17 (b) "Director" means the Director of the Bureau of
18 Investigation.

19 (c) "Fatality" means a death which may be caused by an
20 act of a law enforcement officer while the law enforcement officer
21 was on duty, or while the law enforcement officer was off duty but



22 performing activities that are within the scope of his or her
23 employment as a law enforcement officer.

24 (d) "Law enforcement agency" means any agency or unit
25 of government or any municipality of the state or any political
26 subdivision thereof, or any agent thereof which has constitutional
27 or statutory authority to employ or appoint persons as officers,
28 whether such agency or unit has an internal investigation division
29 or not. The term also includes any private entity which has
30 contracted with the state or county for the operation and
31 maintenance of a nonjuvenile detention facility.

32 (e) "Law enforcement officer" means a law enforcement
33 officer as defined in Section 45-6-3.

34 (2) Except as provided herein, when an officer is involved
35 in a fatality, the law enforcement agency that employs such
36 officer shall not release the name of the officer, the name of any
37 immediate member of the law enforcement officer's family or other
38 identifying information that could be reasonably used to determine
39 the identity of the law enforcement officer.

40 (3) When a law enforcement officer is involved in a
41 fatality, the law enforcement agency that employs the officer
42 shall provide written notice of the fatality to the Director of
43 the Mississippi Bureau of Investigation within forty-eight (48)
44 hours of the fatality. Upon providing written notice to the
45 Bureau, the law enforcement agency shall: (a) designate an
46 employee from the law enforcement agency to exchange information



47 with the Bureau, (b) provide all information in its possession
48 and/or under its control related to the fatality to the Bureau,
49 (c) continuously provide additional resources or information
50 related to the fatality as requested by the investigators for the
51 Bureau and (d) make available to the investigators for the Bureau
52 any relevant personnel of the agency, including the law
53 enforcement officers involved in the fatality.

54 (4) The Mississippi Bureau of Investigation shall begin the
55 investigation of a fatality within forty-eight (48) hours of
56 receiving written notice of the fatality from a law enforcement
57 agency. The Bureau shall complete the investigation and provide
58 its findings to the District Attorney of the judicial district in
59 which the fatality occurred no more than ninety (90) days from the
60 date of such notice, unless the senior circuit judge of the
61 judicial district where the fatality occurred grants an extension
62 of time to provide such.

63 (5) Except as provided herein, any person found to have
64 released information described in this act or participated in the
65 release of the information, shall be guilty of a misdemeanor,
66 punishable by a fine not to exceed One Thousand Dollars
67 (\$1,000.00), or six (6) months in jail, or both.

68 (6) The senior circuit judge of the judicial district where
69 the fatality occurred shall have jurisdiction to compel compliance
70 with the provisions of this act, and to enter such orders
71 effectuating the purposes of this section.



72 (7) (a) No provision in this act is to be construed to
73 prevent a District Attorney of the judicial district in which the
74 fatality occurred from presenting matters to the grand jury or
75 otherwise performing an investigation of the circumstances of the
76 fatality. However, the District Attorney and any person assisting
77 the District Attorney shall maintain the confidentiality of the
78 names and other identifying information of any law enforcement
79 officer involved in the fatality until the public release of the
80 same is authorized as provided herein.

81 (b) The names of the law enforcement officers involved
82 in the fatality may be released: (i) at such time as existence of
83 an indictment of the law enforcement officer related to the
84 fatality is made public as provided in the Mississippi Rules of
85 Criminal Procedure; (ii) the report of the grand jury determining
86 not to indict the law enforcement officer related to the fatality
87 is made public as provided in the Mississippi Rules of Criminal
88 Procedure; or (iii) the District Attorney determines not to
89 present the matter to the grand jury.

90 **SECTION 2.** Section 45-1-6, Mississippi Code of 1972, is
91 amended as follows:

92 45-1-6. (1) The Director of the Mississippi Bureau of
93 Investigation is authorized to retain on a contractual basis such
94 persons as he shall deem necessary to detect and apprehend
95 violators of the criminal statutes of this state.



96 (2) Those persons contracting with the Director of the
97 Mississippi Bureau of Investigation pursuant to subsection (1)
98 shall be known and hereinafter referred to as "special contract
99 agents."

100 (3) The investigative services provided for in this section
101 shall be designed to support local law enforcement efforts and
102 investigate fatalities in which law enforcement officers are
103 involved as provided in Section 1 of this act.

104 (4) Special contract investigators shall have all powers
105 necessary and incidental to the fulfillment of their contractual
106 obligations, including the power of arrest when authorized by the
107 Director of the Mississippi Bureau of Investigation.

108 (5) No person shall be a special contract investigator
109 unless he is at least twenty-one (21) years of age.

110 (6) The Director of the Mississippi Bureau of Investigation
111 shall conduct a background investigation of all potential special
112 contract investigators. All contract agents must meet the minimum
113 standard requirements established by the Board on Law Enforcement
114 Officer Standards and Training.

115 (7) Any contract pursuant to subsection (1) shall be:

116 (a) Reduced to writing; and

117 (b) Terminable upon written notice by either party, and
118 shall in any event terminate one (1) year from the date of
119 signing; and

120 (c) Approved as to form by the Attorney General.



121 Such contracts shall not be public records and shall not be
122 available for inspection under the provisions of a law providing
123 for the inspection of public records as now or hereafter amended.

124 (8) Special contract investigators shall not be considered
125 employees of the Mississippi Bureau of Investigation for any
126 purpose.

127 (9) The Director of the Mississippi Bureau of Investigation
128 shall have all powers necessary and incidental to the effective
129 operation of this section.

130 (10) Notwithstanding any other provisions contained in this
131 section, all contracts authorized under this section and related
132 matters shall be made available to the Legislative Budget Office
133 and the Department of Finance and Administration.

134 **SECTION 3.** This act shall take effect and be in force from
135 and after July 1, 2019.

