

By: Senator(s) Wiggins

To: Judiciary, Division B

SENATE BILL NO. 2231

1 AN ACT TO AMEND SECTION 45-47-1, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT DNA SAMPLES SHALL BE COLLECTED FROM PERSONS ARRESTED
3 FOR ANY FELONY AND TO PROVIDE THAT THE DNA SAMPLE SHALL BE
4 DESTROYED ONLY UPON RECEIPT OF AN EXPUNGEMENT REQUEST FROM THE
5 PERSON WHOSE DNA HAS BEEN INCLUDED IN THE STATE DATABASE; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 45-47-1, Mississippi Code of 1972, is
9 amended as follows:

10 45-47-1. (1) Every person who is arrested for the
11 commission or attempted commission of a * * * felony shall provide
12 a biological sample for DNA testing to jail or detention center
13 personnel upon booking. The analysis shall be performed by the
14 Mississippi Forensics * * * Laboratory or other entity designated
15 by the Department of Public Safety, and the results shall be
16 maintained by the Forensics * * * Laboratory according to standard
17 protocols adopted for maintenance of DNA records in conformity to
18 federal guidelines for the maintenance of such records.



19 (2) (a) A DNA sample shall be collected by an individual
20 who is trained in the collection procedures that the Forensics
21 Laboratory uses.

22 (b) Upon * * * receipt of an expungement request from a
23 person whose DNA has been included in the state database in
24 accordance with this section, the Forensics * * * Laboratory shall
25 destroy the sample and delete from the database all records
26 thereof if there is no other pending qualifying warrant or capias
27 for an arrest or felony conviction that would require that the
28 sample remain in the DNA data bank * * * and:

29 (i) The charge for which the sample was taken is
30 dismissed;

31 (ii) The defendant is acquitted at trial or
32 convicted of a lesser-included misdemeanor offense that is not an
33 offense listed in this section;

34 (iii) No charge was filed within the statute of
35 limitations, if any; or

36 (iv) No conviction has occurred, at least three
37 (3) years have passed since the date of arrest, and there is no
38 active prosecution.

39 (3) (a) Any person who, without authority, disseminates
40 information contained in the DNA data bank shall be guilty of a
41 misdemeanor.

42 (b) Any person who disseminates, receives, or otherwise
43 uses or attempts to use information in the DNA data bank, knowing



44 that the dissemination, receipt or use is for a purpose other than
45 as authorized by law, shall be guilty of a misdemeanor.

46 (c) Except as authorized by law, any person who obtains
47 or attempts to obtain any sample for purposes of having DNA
48 analysis performed shall be guilty of a felony.

49 (4) (a) Any person convicted under subsection (3)(a) shall
50 be sentenced to a fine not to exceed Five Hundred Dollars
51 (\$500.00) or confinement in the county jail not to exceed thirty
52 (30) days, or both.

53 (b) Any person convicted under subsection (3)(b) shall
54 be sentenced to a fine not to exceed One Thousand Dollars
55 (\$1,000.00) or confinement in the county jail not to exceed six
56 (6) months, or both.

57 (c) Any person convicted under subsection (3)(c) shall
58 be sentenced to a fine not to exceed One Thousand Dollars
59 (\$1,000.00) or commitment to the custody of the Department of
60 Corrections not to exceed two (2) years, or both.

61 (5) A defendant may file a motion with the court to seek
62 destruction of the DNA sample and deletion of such information
63 from the record under this section.

64 **SECTION 2.** This act shall take effect and be in force from
65 and after July 1, 2022.

