

By: Representative Nelson

To: Judiciary B

HOUSE BILL NO. 1529

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE AUTOMATIC EXPUNGEMENT OF MISDEMEANORS; TO AMEND
 3 SECTIONS 9-11-15 AND 21-23-7, MISSISSIPPI CODE OF 1972, TO CONFORM
 4 TO THE PRECEDING SECTION; TO AMEND SECTIONS 99-15-26 AND 99-15-59,
 5 MISSISSIPPI CODE OF 1972, TO REQUIRE THE APPROPRIATE COURT TO
 6 AUTOMATICALLY EXPUNGE THE RECORD OF ANY CASES IN WHICH AN ARREST
 7 WAS MADE, THE PERSON ARRESTED WAS RELEASED AND THE CASE WAS
 8 DISMISSED OR THE CHARGES WERE DROPPED, THERE WAS NO DISPOSITION OF
 9 SUCH CASE, OR THE PERSON WAS FOUND NOT GUILTY AT TRIAL; TO AMEND
 10 SECTION 45-27-9, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL LAW
 11 ENFORCEMENT AGENCIES TO REPORT SUCH EXPUNGEMENTS TO THE
 12 MISSISSIPPI JUSTICE INFORMATION CENTER; TO BRING FORWARD SECTIONS
 13 45-27-5 AND 45-27-21, MISSISSIPPI CODE OF 1972, WHICH REGULATE
 14 DUTIES OF THE MISSISSIPPI JUSTICE INFORMATION CENTER, FOR PURPOSES
 15 OF AMENDMENT; TO BRING FORWARD SECTION 99-19-72, MISSISSIPPI CODE
 16 OF 1972, WHICH PROVIDES A FEE SCHEDULE FOR EXPUNGEMENT PETITIONS,
 17 FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 99-19-71, Mississippi Code of 1972, is
 20 amended as follows:

21 99-19-71. (1) Any person who has been convicted of a
 22 misdemeanor that is not a traffic violation, * * *, * * * shall
 23 the violation expunged from his or her record by the justice,
 24 county, circuit or municipal court in which the conviction was
 25 had * * *.



26 (2) (a) Except as otherwise provided in this subsection, a
27 person who has been convicted of a felony and who has paid all
28 criminal fines and costs of court imposed in the sentence of
29 conviction may petition the court in which the conviction was had
30 for an order to expunge one (1) conviction from all public records
31 five (5) years after the successful completion of all terms and
32 conditions of the sentence for the conviction upon a hearing as
33 determined in the discretion of the court; however, a person is
34 not eligible to expunge a felony classified as:

- 35 (i) A crime of violence as provided in Section
36 97-3-2;
- 37 (ii) Arson, first degree as provided in Sections
38 97-17-1 and 97-17-3;
- 39 (iii) Trafficking in controlled substances as
40 provided in Section 41-29-139;
- 41 (iv) A third, fourth or subsequent offense DUI as
42 provided in Section 63-11-30(2)(c) and (2)(d);
- 43 (v) Felon in possession of a firearm as provided
44 in Section 97-37-5;
- 45 (vi) Failure to register as a sex offender as
46 provided in Section 45-33-33;
- 47 (vii) Voyeurism as provided in Section 97-29-61;
- 48 (viii) Witness intimidation as provided in Section
49 97-9-113;



50 (ix) Abuse, neglect or exploitation of a
51 vulnerable person as provided in Section 43-47-19; or

52 (x) Embezzlement as provided in Sections 97-11-25
53 and 97-23-19.

54 A person is eligible for only one (1) felony expunction under
55 this paragraph. For the purposes of this section, the terms "one
56 (1) conviction" and "one (1) felony expunction" mean and include
57 all convictions that arose from a common nucleus of operative
58 facts as determined in the discretion of the court.

59 (b) The petitioner shall give ten (10) days' written
60 notice to the district attorney before any hearing on the
61 petition. In all cases, the court wherein the petition is filed
62 may grant the petition if the court determines, on the record or
63 in writing, that the applicant is rehabilitated from the offense
64 which is the subject of the petition. In those cases where the
65 court denies the petition, the findings of the court in this
66 respect shall be identified specifically and not generally.

67 (3) Upon entering an order of expunction under this section,
68 a nonpublic record thereof shall be retained by the Mississippi
69 Criminal Information Center solely for the purpose of determining
70 whether, in subsequent proceedings, the person is a first
71 offender. The order of expunction shall not preclude a district
72 attorney's office from retaining a nonpublic record thereof for
73 law enforcement purposes only. The existence of an order of
74 expunction shall not preclude an employer from asking a



75 prospective employee if the employee has had an order of
76 expunction entered on his behalf. The effect of the expunction
77 order shall be to restore the person, in the contemplation of the
78 law, to the status he occupied before any arrest or indictment for
79 which convicted. No person as to whom an expunction order has
80 been entered shall be held thereafter under any provision of law
81 to be guilty of perjury or to have otherwise given a false
82 statement by reason of his failure to recite or acknowledge such
83 arrest, indictment or conviction in response to any inquiry made
84 of him for any purpose other than the purpose of determining, in
85 any subsequent proceedings under this section, whether the person
86 is a first offender. A person as to whom an order has been
87 entered, upon request, shall be required to advise the court, in
88 camera, of the previous conviction and expunction in any legal
89 proceeding wherein the person has been called as a prospective
90 juror. The court shall thereafter and before the selection of the
91 jury advise the attorneys representing the parties of the previous
92 conviction and expunction.

93 (4) Upon petition therefor, a justice, county, circuit or
94 municipal court shall expunge the record of any case in which an
95 arrest was made, the person arrested was released and the case was
96 dismissed or the charges were dropped or there was no disposition
97 of such case, or the person was found not guilty at trial.

98 (5) No public official is eligible for expunction under this
99 section for any conviction related to his official duties.



100 **SECTION 2.** Section 9-11-15, Mississippi Code of 1972, is
101 amended as follows:

102 9-11-15. (1) Justice court judges shall hold regular terms
103 of their courts, at such times as they may appoint, not exceeding
104 two (2) and not less than one (1) in every month, at the
105 appropriate justice court courtroom established by the board of
106 supervisors; and they may continue to hold their courts from day
107 to day so long as business may require; and all process shall be
108 returnable, and all trials shall take place at such regular terms,
109 except where it is otherwise provided; but where the defendant is
110 a nonresident or transient person, and it shall be shown by the
111 oath of either party that a delay of the trial until the regular
112 term will be of material injury to him, it shall be lawful for the
113 judge to have the parties brought before him at any reasonable
114 time and hear the evidence and give judgment or where the
115 defendant is a nonresident or transient person and the judge and
116 all parties agree, it shall be lawful for the judge to have the
117 parties brought before him on the day a citation is made and hear
118 the evidence and give judgment. Such court shall be a court of
119 record, with all the power incident to a court of record,
120 including power to fine in the amount of fine and length of
121 imprisonment as is authorized for a municipal court in Section
122 21-23-7(11) for contempt of court.

123 (2) (a) In counties with a population of less than one
124 hundred fifty thousand (150,000), each justice court shall



125 designate at least one-half (1/2) day each month as a traffic
126 court day, sufficient to handle the traffic violations docket of
127 that court, and shall notify all appropriate law enforcement
128 agencies of the date or dates. On the day or days so designated,
129 the justice court shall give priority to all cases involving
130 traffic violations.

131 (b) In counties with a population of one hundred fifty
132 thousand (150,000) or more, each justice court shall designate at
133 least one (1) day each month as a traffic court day, sufficient to
134 handle the traffic violations of that court, and shall notify all
135 appropriate law enforcement agencies of the date or dates. On the
136 day or days so designated, the justice court shall give priority
137 to all cases involving traffic violations. The one (1) day may be
138 one (1) whole day or it may be divided into half days as long as
139 one-half (1/2) day is held in the morning and one-half (1/2) day
140 is held in the afternoon, in the discretion of the court.

141 (3) The justice court may, in its discretion, upon prior
142 notice to the county prosecutor and upon a showing in open court
143 of rehabilitation, good conduct for a period of two (2) years
144 since the last conviction in any court and that the best interest
145 of society would be served, order the record of conviction of a
146 person of any or all misdemeanors in that court expunged, and upon
147 so doing, such person thereafter legally stands as though he or
148 she had never been convicted of the misdemeanor(s) and may
149 lawfully so respond to any query of prior convictions. This order



150 of expunction does not apply to the confidential records of law
151 enforcement agencies and has no effect on the driving record of a
152 person maintained under Title 63, Mississippi Code of 1972, or any
153 other provision of said Title 63.

154 (4) Notwithstanding the provisions of subsection (3) of this
155 section, a person who was convicted in justice court of a
156 misdemeanor * * *, excluding conviction for a traffic
157 violation, * * * shall automatically have the misdemeanor
158 conviction expunged.

159 **SECTION 3.** Section 21-23-7, Mississippi Code of 1972, is
160 amended as follows:

161 21-23-7. (1) The municipal judge shall hold court in a
162 public building designated by the governing authorities of the
163 municipality, or may hold court in an adult detention center as
164 provided under this subsection, and may hold court every day
165 except Sundays and legal holidays if the business of the
166 municipality so requires; provided, however, the municipal judge
167 may hold court outside the boundaries of the municipality but not
168 more than within a sixty-mile radius of the municipality to handle
169 preliminary matters and criminal matters such as initial
170 appearances and felony preliminary hearings. The municipal judge
171 may hold court outside the boundaries of the municipality but not
172 more than within a one-mile radius of the municipality for any
173 purpose; however, a municipal judge may hold court outside the
174 boundaries of the municipality more than within a one-mile radius



175 of the municipality when accepting a plea of a defendant at an
176 adult detention center within the county. The municipal judge
177 shall have the jurisdiction to hear and determine, without a jury
178 and without a record of the testimony, all cases charging
179 violations of the municipal ordinances and state misdemeanor laws
180 made offenses against the municipality and to punish offenders
181 therefor as may be prescribed by law. Except as otherwise
182 provided by law, criminal proceedings shall be brought by sworn
183 complaint filed in the municipal court. Such complaint shall
184 state the essential elements of the offense charged and the
185 statute or ordinance relied upon. Such complaint shall not be
186 required to conclude with a general averment that the offense is
187 against the peace and dignity of the state or in violation of the
188 ordinances of the municipality. He may sit as a committing court
189 in all felonies committed within the municipality, and he shall
190 have the power to bind over the accused to the grand jury or to
191 appear before the proper court having jurisdiction to try the
192 same, and to set the amount of bail or refuse bail and commit the
193 accused to jail in cases not bailable. The municipal judge is a
194 conservator of the peace within his municipality. He may conduct
195 preliminary hearings in all violations of the criminal laws of
196 this state occurring within the municipality, and any person
197 arrested for a violation of law within the municipality may be
198 brought before him for initial appearance. The municipal court
199 shall have jurisdiction of any case remanded to it by a circuit



200 court grand jury. The municipal court shall have civil
201 jurisdiction over actions filed pursuant to and as provided in
202 Chapter 21, Title 93, * * * Mississippi Code of 1972, the
203 Protection from Domestic Abuse Act.

204 (2) In the discretion of the court, where the objects of
205 justice would be more likely met, as an alternative to imposition
206 or payment of fine and/or incarceration, the municipal judge shall
207 have the power to sentence convicted offenders to work on a public
208 service project where the court has established such a program of
209 public service by written guidelines filed with the clerk for
210 public record. Such programs shall provide for reasonable
211 supervision of the offender and the work shall be commensurate
212 with the fine and/or incarceration that would have ordinarily been
213 imposed. Such program of public service may be utilized in the
214 implementation of the provisions of Section 99-19-20, and public
215 service work thereunder may be supervised by persons other than
216 the sheriff.

217 (3) The municipal judge may solemnize marriages, take oaths,
218 affidavits and acknowledgments, and issue orders, subpoenas,
219 summonses, citations, warrants for search and arrest upon a
220 finding of probable cause, and other such process under seal of
221 the court to any county or municipality, in a criminal case, to be
222 executed by the lawful authority of the county or the municipality
223 of the respondent, and enforce obedience thereto. The absence of
224 a seal shall not invalidate the process.



225 (4) When a person shall be charged with an offense in
226 municipal court punishable by confinement, the municipal judge,
227 being satisfied that such person is an indigent person and is
228 unable to employ counsel, may, in the discretion of the court,
229 appoint counsel from the membership of The Mississippi Bar
230 residing in his county who shall represent him. Compensation for
231 appointed counsel in criminal cases shall be approved and allowed
232 by the municipal judge and shall be paid by the municipality. The
233 maximum compensation shall not exceed Two Hundred Dollars
234 (\$200.00) for any one (1) case. The governing authorities of a
235 municipality may, in their discretion, appoint a public
236 defender(s) who must be a licensed attorney and who shall receive
237 a salary to be fixed by the governing authorities.

238 (5) The municipal judge of any municipality is hereby
239 authorized to suspend the sentence and to suspend the execution of
240 the sentence, or any part thereof, on such terms as may be imposed
241 by the municipal judge. However, the suspension of imposition or
242 execution of a sentence hereunder may not be revoked after a
243 period of two (2) years. The municipal judge shall have the power
244 to establish and operate a probation program, dispute resolution
245 program and other practices or procedures appropriate to the
246 judiciary and designed to aid in the administration of justice.
247 Any such program shall be established by the court with written
248 policies and procedures filed with the clerk of the court for
249 public record. Subsequent to original sentencing, the municipal



250 judge, in misdemeanor cases, is hereby authorized to suspend
251 sentence and to suspend the execution of a sentence, or any part
252 thereof, on such terms as may be imposed by the municipal judge,
253 if (a) the judge or his or her predecessor was authorized to order
254 such suspension when the sentence was originally imposed; and (b)
255 such conviction (i) has not been appealed; or (ii) has been
256 appealed and the appeal has been voluntarily dismissed.

257 (6) * * * The court * * * shall automatically order the
258 record of conviction of a person of any or all misdemeanors in
259 that court expunged, and upon so doing the said person thereafter
260 legally stands as though he had never been convicted of the said
261 misdemeanor(s) and may lawfully so respond to any query of prior
262 convictions. This order of expunction does not apply to the
263 confidential records of law enforcement agencies and has no effect
264 on the driving record of a person maintained under Title 63,
265 Mississippi Code of 1972, or any other provision of said Title 63.

266 (7) Notwithstanding the provisions of subsection (6) of this
267 section, a person who was convicted in municipal court of a
268 misdemeanor before reaching his twenty-third birthday, excluding
269 conviction for a traffic violation, and who is a first offender,
270 may utilize the provisions of Section 99-19-71, to expunge such
271 misdemeanor conviction.

272 (8) In the discretion of the court, a plea of nolo
273 contendere may be entered to any charge in municipal court. Upon
274 the entry of a plea of nolo contendere the court shall convict the



275 defendant of the offense charged and shall proceed to sentence the
276 defendant according to law. The judgment of the court shall
277 reflect that the conviction was on a plea of nolo contendere. An
278 appeal may be made from a conviction on a plea of nolo contendere
279 as in other cases.

280 (9) Upon execution of a sworn complaint charging a
281 misdemeanor, the municipal court may, in its discretion and in
282 lieu of an arrest warrant, issue a citation requiring the
283 appearance of the defendant to answer the charge made against him.
284 On default of appearance, an arrest warrant may be issued for the
285 defendant. The clerk of the court or deputy clerk may issue such
286 citations.

287 (10) The municipal court shall have the power to make rules
288 for the administration of the court's business, which rules, if
289 any, shall be in writing filed with the clerk of the court and
290 shall include the enactment of rules related to the court's
291 authority to issue domestic abuse protection orders pursuant to
292 Section 93-21-1 et seq.

293 (11) The municipal court shall have the power to impose
294 punishment of a fine of not more than One Thousand Dollars
295 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
296 of court. The municipal court may have the power to impose
297 reasonable costs of court, not in excess of the following:

298 Dismissal of any affidavit, complaint or charge
299 in municipal court.....\$ 50.00



300 Suspension of a minor's driver's license in lieu of
301 conviction.....\$ 50.00
302 Service of scire facias or return "not found".....\$ 20.00
303 Causing search warrant to issue or causing
304 prosecution without reasonable cause or refusing to
305 cooperate after initiating action.....\$ 100.00
306 Certified copy of the court record.....\$ 5.00
307 Service of arrest warrant for failure to answer
308 citation or traffic summons.....\$ 25.00
309 Jail cost per day - actual jail cost paid by the municipality
310 but not to exceed..... \$ 35.00
311 Service of court documents related to the filing
312 of a petition or issuance of a protection from domestic
313 abuse order under Chapter 21, Title 93, * * * Mississippi Code of
314 1972\$ 25.00
315 Any other item of court cost.....\$ 50.00
316 No filing fee or such cost shall be imposed for the bringing
317 of an action in municipal court.

318 (12) A municipal court judge shall not dismiss a criminal
319 case but may transfer the case to the justice court of the county
320 if the municipal court judge is prohibited from presiding over the
321 case by the Canons of Judicial Conduct and provided that venue and
322 jurisdiction are proper in the justice court. Upon transfer of
323 any such case, the municipal court judge shall give the municipal
324 court clerk a written order to transmit the affidavit or complaint



325 and all other records and evidence in the court's possession to
326 the justice court by certified mail or to instruct the arresting
327 officer to deliver such documents and records to the justice
328 court. There shall be no court costs charged for the transfer of
329 the case to the justice court.

330 (13) A municipal court judge shall automatically expunge the
331 record of any case in which an arrest was made, the person
332 arrested was released and the case was dismissed or the charges
333 were dropped, there was no disposition of such case or the person
334 was found not guilty at trial.

335 (14) For violations of municipal ordinances related to real
336 property, the municipal judge shall have the power to order a
337 defendant to remedy violations within a reasonable time period as
338 set by the judge, and at the discretion of the judge, the judge
339 may simultaneously authorize the municipality, at its request, the
340 option to remedy the violation itself, through the use of its own
341 employees or its contractors, without further notice should the
342 defendant fail to fully do so within the time period set by the
343 judge. Subsequent to the municipality remedying the violation,
344 the municipality may petition the court to assess documented
345 cleanup costs to the defendant, and, if, following a hearing on
346 such petition, the judge determines (a) the violations were not
347 remedied by the defendant within the time required by the court,
348 (b) that the municipality remedied the violation itself after such
349 time period expired and (c) that the costs incurred by the



350 municipality were reasonable, the court may assess the costs to
351 the defendant as a judgement, which may be enrolled in the office
352 of the circuit clerk.

353 **SECTION 4.** Section 99-15-26, Mississippi Code of 1972, is
354 amended as follows:

355 99-15-26. (1) (a) In all criminal cases, felony and
356 misdemeanor, other than crimes against the person, a crime of
357 violence as defined in Section 97-3-2, a violation of Section
358 97-11-31, or crimes in which a person unlawfully takes, obtains or
359 misappropriates funds received by or entrusted to the person by
360 virtue of his or her public office or employment, the circuit or
361 county court shall be empowered, upon the entry of a plea of
362 guilty by a criminal defendant made on or after July 1, 2014, to
363 withhold acceptance of the plea and sentence thereon pending
364 successful completion of such conditions as may be imposed by the
365 court pursuant to subsection (2) of this section.

366 (b) In all misdemeanor criminal cases, other than
367 crimes against the person, the justice or municipal court shall be
368 empowered, upon the entry of a plea of guilty by a criminal
369 defendant, to withhold acceptance of the plea and sentence thereon
370 pending successful completion of such conditions as may be imposed
371 by the court pursuant to subsection (2) of this section.

372 (c) Notwithstanding paragraph (a) of this subsection
373 (1), in all criminal cases charging a misdemeanor of domestic
374 violence as defined in Section 99-3-7(5), a circuit, county,



375 justice or municipal court shall be empowered, upon the entry of a
376 plea of guilty by the criminal defendant, to withhold acceptance
377 of the plea and sentence thereon pending successful completion of
378 such conditions as may be imposed by the court pursuant to
379 subsection (2) of this section.

380 (d) No person having previously qualified under the
381 provisions of this section shall be eligible to qualify for
382 release in accordance with this section for a repeat offense. A
383 person shall not be eligible to qualify for release in accordance
384 with this section if charged with the offense of trafficking of a
385 controlled substance as provided in Section 41-29-139(f) or if
386 charged with an offense under the Mississippi Implied Consent Law.
387 Violations under the Mississippi Implied Consent Law can only be
388 nonadjudicated under the provisions of Section 63-11-30.

389 (2) (a) Conditions which the circuit, county, justice or
390 municipal court may impose under subsection (1) of this section
391 shall consist of:

392 (i) Reasonable restitution to the victim of the
393 crime.

394 (ii) Performance of not more than nine hundred
395 sixty (960) hours of public service work approved by the court.

396 (iii) Payment of a fine not to exceed the
397 statutory limit.

398 (iv) Successful completion of drug, alcohol,
399 psychological or psychiatric treatment, successful completion of a



400 program designed to bring about the cessation of domestic abuse,
401 or any combination thereof, if the court deems treatment
402 necessary.

403 (v) The circuit or county court, in its
404 discretion, may require the defendant to remain in the program
405 subject to good behavior for a period of time not to exceed five
406 (5) years. The justice or municipal court, in its discretion, may
407 require the defendant to remain in the program subject to good
408 behavior for a period of time not to exceed two (2) years.

409 (b) Conditions which the circuit or county court may
410 impose under subsection (1) of this section also include
411 successful completion of an effective evidence-based program or a
412 properly controlled pilot study designed to contribute to the
413 evidence-based research literature on programs targeted at
414 reducing recidivism. Such program or pilot study may be community
415 based or institutionally based and should address risk factors
416 identified in a formal assessment of the offender's risks and
417 needs.

418 (3) When the court has imposed upon the defendant the
419 conditions set out in this section, the court shall release the
420 bail bond, if any.

421 (4) Upon successful completion of the court-imposed
422 conditions permitted by subsection (2) of this section, the court
423 shall direct that the cause be dismissed and the case be closed.



424 (5) * * * The court shall immediately expunge the record of
425 any case in which an arrest was made, the person arrested was
426 released and the case was dismissed or the charges were dropped,
427 there was no disposition of such case, or the person was found not
428 guilty at trial.

429 **SECTION 5.** Section 99-15-59, Mississippi Code of 1972, is
430 amended as follows:

431 99-15-59. The court shall automatically expunge the record
432 of any person who is arrested, issued a citation, or held for any
433 misdemeanor and not formally charged or prosecuted with an offense
434 within twelve (12) months of arrest, or upon dismissal of the
435 charge * * *.

436 **SECTION 6.** Section 45-27-9, Mississippi Code of 1972, is
437 amended as follows:

438 45-27-9. (1) All criminal justice agencies within the state
439 shall submit to the center an arrest card that will transmit
440 fingerprints, descriptions, photographs (when specifically
441 requested), and other identifying data on persons who have been
442 lawfully arrested or taken into custody in this state for all
443 felonies and misdemeanors as described in Section 45-27-7(2)(a).
444 It shall be the duty of all chiefs of police, sheriffs, district
445 attorneys, courts, court clerks, judges, parole and probation
446 officers, wardens or other persons in charge of correctional
447 institutions in this state to furnish the center with all data
448 required by the rules duly promulgated under the Administrative



449 Procedures Act to carry out its responsibilities under this
450 chapter, and the duty of courts and court clerks to submit a
451 disposition form for every disposition. It shall be the duty of
452 all criminal justice agencies within the state to supply the
453 prosecutor and the proper court with the disposition form that is
454 attached to the physical arrest card if fingerprints were taken
455 manually or, if fingerprints were captured digitally, the
456 disposition form generated by the electronic fingerprint device at
457 the time of the arrest. The PEER committee may conduct random
458 review of the records of any agency or clerks referenced in this
459 subsection (1) to determine whether the duties of such agencies
460 and clerks are being fulfilled in a timely manner. The PEER
461 committee, based on its findings, if any, shall recommend measures
462 to ensure that the duties are more effectively carried out in a
463 timely manner.

464 (2) (a) All persons in charge of law enforcement agencies
465 shall obtain, or cause to be obtained, fingerprints according to
466 the fingerprint system of identification established by the
467 Director of the Federal Bureau of Investigation, full face and
468 profile photographs (if equipment is available) and other
469 available identifying data, of each person arrested or taken into
470 custody for an offense of a type designated in subsection (1) of
471 this section, of all persons arrested or taken into custody as
472 fugitives from justice and of all unidentified human corpses in
473 their jurisdictions, but photographs need not be taken if it is



474 known that photographs of the type listed, taken within the
475 previous year, are on file. Any record taken in connection with
476 any person arrested or taken into custody and subsequently
477 released without charge or cleared of the offense through court
478 proceedings shall be purged from the files of the center and
479 destroyed upon receipt by the center of a lawful expunction order.
480 All persons in charge of law enforcement agencies shall submit to
481 the center detailed descriptions of arrests or takings into
482 custody which result in release without charge or subsequent
483 exoneration from criminal liability within twenty-four (24) hours
484 of the release or exoneration.

485 (b) The center will work to secure grant funds to
486 purchase live scan equipment to be utilized throughout the state.
487 All law enforcement agencies shall utilize any live scan equipment
488 provided by the center to ensure the most accurate collection of
489 fingerprints. The center shall coordinate the use of the
490 equipment with federal, state, county and municipal law
491 enforcement agencies.

492 (3) Fingerprints and other identifying data required to be
493 taken under subsection (2) shall be forwarded within twenty-four
494 (24) hours after taking for filing and classification, but the
495 period of twenty-four (24) hours may be extended to cover any
496 intervening holiday or weekend. Photographs taken shall be
497 forwarded at the discretion of the agency concerned, but, if not
498 forwarded, the fingerprint record shall be marked "Photo



499 Available" and the photographs shall be forwarded subsequently if
500 the center so requests.

501 (4) All persons in charge of law enforcement agencies shall
502 submit to the center detailed descriptions of arrest warrants and
503 related identifying data immediately upon determination of the
504 fact that the warrant cannot be served for the reasons stated. If
505 the warrant is subsequently served or withdrawn, the law
506 enforcement agency concerned must immediately notify the center of
507 the service or withdrawal. Also, the agency concerned must
508 annually, no later than January 31 of each year and at other times
509 if requested by the center, confirm all arrest warrants which
510 continue to be outstanding. Upon receipt of a lawful expunction
511 order, the center shall purge and destroy files of all data
512 relating to an offense when an individual is subsequently
513 exonerated from criminal liability of that offense. The center
514 shall not be liable for the failure to purge, destroy or expunge
515 any records if an agency or court fails to forward to the center
516 proper documentation ordering the action.

517 (5) All persons in charge of state correctional institutions
518 shall obtain fingerprints, according to the fingerprint system of
519 identification established by the Director of the Federal Bureau
520 of Investigation or as otherwise directed by the center, and full
521 face and profile photographs of all persons received on commitment
522 to the institutions. The prints so taken shall be forwarded to
523 the center, together with any other identifying data requested,



524 within ten (10) days after the arrival at the institution of the
525 person committed. At the time of release, the institution will
526 again obtain fingerprints, as before, and forward them to the
527 center within ten (10) days, along with any other related
528 information requested by the center. The institution shall notify
529 the center immediately upon the release of the person.

530 (6) All persons in charge of law enforcement agencies, all
531 court clerks, all municipal justices where they have no clerks,
532 all justice court judges and all persons in charge of state and
533 county probation and parole offices, shall supply the center with
534 the information described in subsections (4) and (10) of this
535 section on the basis of the forms and instructions for the
536 disposition form to be supplied by the center.

537 (7) All persons in charge of law enforcement agencies in
538 this state shall furnish the center with any other identifying
539 data required in accordance with guidelines established by the
540 center. All law enforcement agencies and correctional
541 institutions in this state having criminal identification files
542 shall cooperate in providing the center with copies of the items
543 in the files which will aid in establishing the nucleus of the
544 state criminal identification file.

545 (8) All law enforcement agencies within the state shall
546 report to the center, in a manner prescribed by the center, all
547 persons wanted by and all vehicles and identifiable property
548 stolen from their jurisdictions. The report shall be made as soon



549 as is practical after the investigating department or agency
550 either ascertains that a vehicle or identifiable property has been
551 stolen or obtains a warrant for an individual's arrest or
552 determines that there are reasonable grounds to believe that the
553 individual has committed a crime. The report shall be made within
554 a reasonable time period following the reporting department's or
555 agency's determination that it has grounds to believe that a
556 vehicle or property was stolen or that the wanted person should be
557 arrested.

558 (9) All law enforcement agencies in the state shall
559 immediately notify the center if at any time after making a report
560 as required by subsection (8) of this section it is determined by
561 the reporting department or agency that a person is no longer
562 wanted or that a vehicle or property stolen has been recovered.
563 Furthermore, if the agency making the apprehension or recovery is
564 not the one which made the original report, then it shall
565 immediately notify the originating agency of the full particulars
566 relating to the apprehension or recovery using methods prescribed
567 by the center.

568 (10) (a) All law enforcement agencies in the state and
569 clerks of the various courts shall promptly report to the center
570 all instances where records of convictions of criminals are
571 ordered expunged by courts of this state as now provided by law.
572 The center shall promptly expunge from the files of the center and



573 destroy all records pertaining to any convictions that are ordered
574 expunged by the courts of this state as provided by law.

575 (b) All law enforcement agencies in the state and
576 clerks of the various courts shall promptly report to the center
577 all expungements of misdemeanor crimes and instances in which an
578 arrest was made, the person arrested was released and the case was
579 dismissed or the charges were dropped, there was no disposition of
580 such case, or the person was found not guilty at trial. The
581 center shall promptly expunge from the files of the center and
582 destroy all records pertaining to any such instances.

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

586 (12) Any criminal justice department or agency making an
587 expenditure in excess of Five Thousand Dollars (\$5,000.00) in any
588 calendar year on software or programming upgrades concerning a
589 computerized records management system or jail management system
590 shall ensure that the new or upgraded system is formatted to
591 Department of Justice approved XML format and that no impediments
592 to data sharing with other agencies or departments exist in the
593 software programming.

594 (13) (a) All law enforcement agencies within the state
595 shall:

596 (i) Implement an incident-based reporting system
597 within the agency or department that meets the reporting



598 requirements of the National Incident-Based Reporting System
599 (NIBRS) of the Uniform Crime Reporting Program of the Federal
600 Bureau of Investigation;

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

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

609 (b) No later than December 31, 2025, state and local
610 law enforcement agencies shall be compliant with all regulations
611 promulgated by the Department of Public Safety's Criminal
612 Information Center (CIC), with consultation with the President of
613 the Sheriffs Association and Mississippi Association of Chiefs of
614 Police with regard to the National Incident-Based Reporting System
615 (NIBRS) of the Uniform Crime Reporting Program of the Federal
616 Bureau of Investigation.

617 **SECTION 7.** Section 45-27-5, Mississippi Code of 1972, is
618 brought forward as follows:

619 45-27-5. (1) There is hereby established within the
620 Mississippi Department of Public Safety a system for the
621 communication of vital information relating to crimes, criminals
622 and criminal activity to be known as the Mississippi Justice



623 Information Center. Central responsibility for the development,
624 maintenance and operation of the center shall be vested with the
625 Director of the Mississippi Justice Information Center.

626 (2) The director of the center shall maintain the necessary
627 staff to enable the effective and efficient performance of the
628 duties and responsibilities ascribed to the center. Such staff
629 shall include but not be limited to statistical analysis personnel
630 and field monitoring personnel, along with the support services to
631 be procured within state government.

632 (3) All personnel of the center shall be subject to approval
633 by the State Personnel Board, with due recognition to be given to
634 the special qualifications and availability of the types of
635 individuals required for such employment.

636 **SECTION 8.** Section 45-27-21, Mississippi Code of 1972, is
637 brought forward as follows:

638 45-27-21. A certified copy of every expunction and
639 nonadjudication order shall be sent by the circuit clerk to the
640 Mississippi Criminal Information Center where it shall be
641 maintained in a separate confidential database accessible only
642 upon written request by a district attorney, a county prosecuting
643 attorney, a municipal court prosecuting attorney, the Attorney
644 General of Mississippi and the Mississippi Law Enforcement
645 Standards and Training Board. Any criminal conviction which has
646 been expunged or nonadjudicated may be used for the purpose of
647 determining habitual offender status and for the use of the



648 Mississippi Law Enforcement Standards and Training Board in giving
649 or retaining law enforcement certification, and to ensure that a
650 person is only eligible for first-offender status one (1) time.

651 **SECTION 9.** Section 99-19-72, Mississippi Code of 1972, is
652 brought forward as follows:

653 99-19-72. (1) A filing fee of One Hundred Fifty Dollars
654 (\$150.00) is hereby levied on each petition to expunge an offense
655 under Section 99-19-71 to be collected by the circuit clerk and
656 distributed as follows:

657 (a) One Hundred Dollars (\$100.00) to be deposited into
658 the Judicial System Operation Fund;

659 (b) Forty Dollars (\$40.00) to be deposited into the
660 District Attorneys Operation Fund; and

661 (c) Ten Dollars (\$10.00) to be retained by the circuit
662 clerk collecting the fee for administration purposes.

663 (2) From and after July 1, 2016, the expenses of district
664 attorneys shall be defrayed by appropriation from the State
665 General Fund and all user charges and fees authorized by
666 paragraphs (a) and (b) of subsection (1) of this section shall be
667 deposited into the State General Fund as authorized by law and as
668 determined by the State Fiscal Officer, and charges and fees
669 authorized by paragraph (c) of subsection (1) of this section
670 shall be retained by the circuit clerks for expenditures
671 authorized by law.



672 **SECTION 10.** This act shall take effect and be in force from
673 and after July 1, 2024.

