

By: Representative Nelson

To: Judiciary B

HOUSE BILL NO. 1530

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

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

16 **SECTION 1.** Section 99-15-26, Mississippi Code of 1972, is  
 17 amended as follows:

18 99-15-26. (1) (a) In all criminal cases, felony and  
 19 misdemeanor, other than crimes against the person, a crime of  
 20 violence as defined in Section 97-3-2, a violation of Section  
 21 97-11-31, or crimes in which a person unlawfully takes, obtains or  
 22 misappropriates funds received by or entrusted to the person by  
 23 virtue of his or her public office or employment, the circuit or  
 24 county court shall be empowered, upon the entry of a plea of



25 guilty by a criminal defendant made on or after July 1, 2014, to  
26 withhold acceptance of the plea and sentence thereon pending  
27 successful completion of such conditions as may be imposed by the  
28 court pursuant to subsection (2) of this section.

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

35 (c) Notwithstanding paragraph (a) of this subsection  
36 (1), in all criminal cases charging a misdemeanor of domestic  
37 violence as defined in Section 99-3-7(5), a circuit, county,  
38 justice or municipal court shall be empowered, upon the entry of a  
39 plea of guilty by the criminal defendant, to withhold acceptance  
40 of the plea and sentence thereon pending successful completion of  
41 such conditions as may be imposed by the court pursuant to  
42 subsection (2) of this section.

43 (d) No person having previously qualified under the  
44 provisions of this section shall be eligible to qualify for  
45 release in accordance with this section for a repeat offense. A  
46 person shall not be eligible to qualify for release in accordance  
47 with this section if charged with the offense of trafficking of a  
48 controlled substance as provided in Section 41-29-139(f) or if  
49 charged with an offense under the Mississippi Implied Consent Law.



50 Violations under the Mississippi Implied Consent Law can only be  
51 nonadjudicated under the provisions of Section 63-11-30.

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

55 (i) Reasonable restitution to the victim of the  
56 crime.

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

59 (iii) Payment of a fine not to exceed the  
60 statutory limit.

61 (iv) Successful completion of drug, alcohol,  
62 psychological or psychiatric treatment, successful completion of a  
63 program designed to bring about the cessation of domestic abuse,  
64 or any combination thereof, if the court deems treatment  
65 necessary.

66 (v) The circuit or county court, in its  
67 discretion, may require the defendant to remain in the program  
68 subject to good behavior for a period of time not to exceed five  
69 (5) years. The justice or municipal court, in its discretion, may  
70 require the defendant to remain in the program subject to good  
71 behavior for a period of time not to exceed two (2) years.

72 (b) Conditions which the circuit or county court may  
73 impose under subsection (1) of this section also include  
74 successful completion of an effective evidence-based program or a



75 properly controlled pilot study designed to contribute to the  
76 evidence-based research literature on programs targeted at  
77 reducing recidivism. Such program or pilot study may be community  
78 based or institutionally based and should address risk factors  
79 identified in a formal assessment of the offender's risks and  
80 needs.

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

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

87 (5) \* \* \* The court shall immediately expunge the record of  
88 any case in which an arrest was made, the person arrested was  
89 released and the case was dismissed or the charges were dropped,  
90 there was no disposition of such case, or the person was found not  
91 guilty at trial.

92 **SECTION 2.** Section 99-15-59, Mississippi Code of 1972, is  
93 amended as follows:

94 99-15-59. The court shall automatically expunge the record  
95 of any person who is arrested, issued a citation, or held for any  
96 misdemeanor and not formally charged or prosecuted with an offense  
97 within twelve (12) months of arrest, or upon dismissal of the  
98 charge \* \* \*.



99           **SECTION 3.** Section 45-27-9, Mississippi Code of 1972, is  
100 amended as follows:

101           45-27-9. (1) All criminal justice agencies within the state  
102 shall submit to the center an arrest card that will transmit  
103 fingerprints, descriptions, photographs (when specifically  
104 requested), and other identifying data on persons who have been  
105 lawfully arrested or taken into custody in this state for all  
106 felonies and misdemeanors as described in Section 45-27-7(2)(a).  
107 It shall be the duty of all chiefs of police, sheriffs, district  
108 attorneys, courts, court clerks, judges, parole and probation  
109 officers, wardens or other persons in charge of correctional  
110 institutions in this state to furnish the center with all data  
111 required by the rules duly promulgated under the Administrative  
112 Procedures Act to carry out its responsibilities under this  
113 chapter, and the duty of courts and court clerks to submit a  
114 disposition form for every disposition. It shall be the duty of  
115 all criminal justice agencies within the state to supply the  
116 prosecutor and the proper court with the disposition form that is  
117 attached to the physical arrest card if fingerprints were taken  
118 manually or, if fingerprints were captured digitally, the  
119 disposition form generated by the electronic fingerprint device at  
120 the time of the arrest. The PEER committee may conduct random  
121 review of the records of any agency or clerks referenced in this  
122 subsection (1) to determine whether the duties of such agencies  
123 and clerks are being fulfilled in a timely manner. The PEER



124 committee, based on its findings, if any, shall recommend measures  
125 to ensure that the duties are more effectively carried out in a  
126 timely manner.

127         (2) (a) All persons in charge of law enforcement agencies  
128 shall obtain, or cause to be obtained, fingerprints according to  
129 the fingerprint system of identification established by the  
130 Director of the Federal Bureau of Investigation, full face and  
131 profile photographs (if equipment is available) and other  
132 available identifying data, of each person arrested or taken into  
133 custody for an offense of a type designated in subsection (1) of  
134 this section, of all persons arrested or taken into custody as  
135 fugitives from justice and of all unidentified human corpses in  
136 their jurisdictions, but photographs need not be taken if it is  
137 known that photographs of the type listed, taken within the  
138 previous year, are on file. Any record taken in connection with  
139 any person arrested or taken into custody and subsequently  
140 released without charge or cleared of the offense through court  
141 proceedings shall be purged from the files of the center and  
142 destroyed upon receipt by the center of a lawful expunction order.  
143 All persons in charge of law enforcement agencies shall submit to  
144 the center detailed descriptions of arrests or takings into  
145 custody which result in release without charge or subsequent  
146 exoneration from criminal liability within twenty-four (24) hours  
147 of the release or exoneration.



148           (b) The center will work to secure grant funds to  
149 purchase live scan equipment to be utilized throughout the state.  
150 All law enforcement agencies shall utilize any live scan equipment  
151 provided by the center to ensure the most accurate collection of  
152 fingerprints. The center shall coordinate the use of the  
153 equipment with federal, state, county and municipal law  
154 enforcement agencies.

155           (3) Fingerprints and other identifying data required to be  
156 taken under subsection (2) shall be forwarded within twenty-four  
157 (24) hours after taking for filing and classification, but the  
158 period of twenty-four (24) hours may be extended to cover any  
159 intervening holiday or weekend. Photographs taken shall be  
160 forwarded at the discretion of the agency concerned, but, if not  
161 forwarded, the fingerprint record shall be marked "Photo  
162 Available" and the photographs shall be forwarded subsequently if  
163 the center so requests.

164           (4) All persons in charge of law enforcement agencies shall  
165 submit to the center detailed descriptions of arrest warrants and  
166 related identifying data immediately upon determination of the  
167 fact that the warrant cannot be served for the reasons stated. If  
168 the warrant is subsequently served or withdrawn, the law  
169 enforcement agency concerned must immediately notify the center of  
170 the service or withdrawal. Also, the agency concerned must  
171 annually, no later than January 31 of each year and at other times  
172 if requested by the center, confirm all arrest warrants which



173 continue to be outstanding. Upon receipt of a lawful expunction  
174 order, the center shall purge and destroy files of all data  
175 relating to an offense when an individual is subsequently  
176 exonerated from criminal liability of that offense. The center  
177 shall not be liable for the failure to purge, destroy or expunge  
178 any records if an agency or court fails to forward to the center  
179 proper documentation ordering the action.

180 (5) All persons in charge of state correctional institutions  
181 shall obtain fingerprints, according to the fingerprint system of  
182 identification established by the Director of the Federal Bureau  
183 of Investigation or as otherwise directed by the center, and full  
184 face and profile photographs of all persons received on commitment  
185 to the institutions. The prints so taken shall be forwarded to  
186 the center, together with any other identifying data requested,  
187 within ten (10) days after the arrival at the institution of the  
188 person committed. At the time of release, the institution will  
189 again obtain fingerprints, as before, and forward them to the  
190 center within ten (10) days, along with any other related  
191 information requested by the center. The institution shall notify  
192 the center immediately upon the release of the person.

193 (6) All persons in charge of law enforcement agencies, all  
194 court clerks, all municipal justices where they have no clerks,  
195 all justice court judges and all persons in charge of state and  
196 county probation and parole offices, shall supply the center with  
197 the information described in subsections (4) and (10) of this





198 section on the basis of the forms and instructions for the  
199 disposition form to be supplied by the center.

200 (7) All persons in charge of law enforcement agencies in  
201 this state shall furnish the center with any other identifying  
202 data required in accordance with guidelines established by the  
203 center. All law enforcement agencies and correctional  
204 institutions in this state having criminal identification files  
205 shall cooperate in providing the center with copies of the items  
206 in the files which will aid in establishing the nucleus of the  
207 state criminal identification file.

208 (8) All law enforcement agencies within the state shall  
209 report to the center, in a manner prescribed by the center, all  
210 persons wanted by and all vehicles and identifiable property  
211 stolen from their jurisdictions. The report shall be made as soon  
212 as is practical after the investigating department or agency  
213 either ascertains that a vehicle or identifiable property has been  
214 stolen or obtains a warrant for an individual's arrest or  
215 determines that there are reasonable grounds to believe that the  
216 individual has committed a crime. The report shall be made within  
217 a reasonable time period following the reporting department's or  
218 agency's determination that it has grounds to believe that a  
219 vehicle or property was stolen or that the wanted person should be  
220 arrested.

221 (9) All law enforcement agencies in the state shall  
222 immediately notify the center if at any time after making a report



223 as required by subsection (8) of this section it is determined by  
224 the reporting department or agency that a person is no longer  
225 wanted or that a vehicle or property stolen has been recovered.  
226 Furthermore, if the agency making the apprehension or recovery is  
227 not the one which made the original report, then it shall  
228 immediately notify the originating agency of the full particulars  
229 relating to the apprehension or recovery using methods prescribed  
230 by the center.

231 (10) (a) All law enforcement agencies in the state and  
232 clerks of the various courts shall promptly report to the center  
233 all instances where records of convictions of criminals are  
234 ordered expunged by courts of this state as now provided by law.  
235 The center shall promptly expunge from the files of the center and  
236 destroy all records pertaining to any convictions that are ordered  
237 expunged by the courts of this state as provided by law.

238 (b) All law enforcement agencies in the state and  
239 clerks of the various courts shall promptly report to the center  
240 all expungements of instances in which an arrest was made, the  
241 person arrested was released and the case was dismissed or the  
242 charges were dropped, there was no disposition of such case, or  
243 the person was found not guilty at trial. The center shall  
244 promptly expunge from the files of the center and destroy all  
245 records pertaining to any such instances.



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

249 (12) Any criminal justice department or agency making an  
250 expenditure in excess of Five Thousand Dollars (\$5,000.00) in any  
251 calendar year on software or programming upgrades concerning a  
252 computerized records management system or jail management system  
253 shall ensure that the new or upgraded system is formatted to  
254 Department of Justice approved XML format and that no impediments  
255 to data sharing with other agencies or departments exist in the  
256 software programming.

257 (13) (a) All law enforcement agencies within the state  
258 shall:

259 (i) Implement an incident-based reporting system  
260 within the agency or department that meets the reporting  
261 requirements of the National Incident-Based Reporting System  
262 (NIBRS) of the Uniform Crime Reporting Program of the Federal  
263 Bureau of Investigation;

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

268 (iii) Report the information as soon as is  
269 practicable after the investigating agency or department



270 ascertains that a qualifying crime has been committed in its  
271 jurisdiction, once the state-level NIBRS Repository is available.

272 (b) No later than December 31, 2025, state and local  
273 law enforcement agencies shall be compliant with all regulations  
274 promulgated by the Department of Public Safety's Criminal  
275 Information Center (CIC), with consultation with the President of  
276 the Sheriffs Association and Mississippi Association of Chiefs of  
277 Police with regard to the National Incident-Based Reporting System  
278 (NIBRS) of the Uniform Crime Reporting Program of the Federal  
279 Bureau of Investigation.

280 **SECTION 4.** Section 45-27-5, Mississippi Code of 1972, is  
281 brought forward as follows:

282 45-27-5. (1) There is hereby established within the  
283 Mississippi Department of Public Safety a system for the  
284 communication of vital information relating to crimes, criminals  
285 and criminal activity to be known as the Mississippi Justice  
286 Information Center. Central responsibility for the development,  
287 maintenance and operation of the center shall be vested with the  
288 Director of the Mississippi Justice Information Center.

289 (2) The director of the center shall maintain the necessary  
290 staff to enable the effective and efficient performance of the  
291 duties and responsibilities ascribed to the center. Such staff  
292 shall include but not be limited to statistical analysis personnel  
293 and field monitoring personnel, along with the support services to  
294 be procured within state government.



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

299 **SECTION 5.** Section 45-27-21, Mississippi Code of 1972, is  
300 brought forward as follows:

301 45-27-21. A certified copy of every expunction and  
302 nonadjudication order shall be sent by the circuit clerk to the  
303 Mississippi Criminal Information Center where it shall be  
304 maintained in a separate confidential database accessible only  
305 upon written request by a district attorney, a county prosecuting  
306 attorney, a municipal court prosecuting attorney, the Attorney  
307 General of Mississippi and the Mississippi Law Enforcement  
308 Standards and Training Board. Any criminal conviction which has  
309 been expunged or nonadjudicated may be used for the purpose of  
310 determining habitual offender status and for the use of the  
311 Mississippi Law Enforcement Standards and Training Board in giving  
312 or retaining law enforcement certification, and to ensure that a  
313 person is only eligible for first-offender status one (1) time.

314 **SECTION 6.** Section 99-19-72, Mississippi Code of 1972, is  
315 brought forward as follows:

316 99-19-72. (1) A filing fee of One Hundred Fifty Dollars  
317 (\$150.00) is hereby levied on each petition to expunge an offense  
318 under Section 99-19-71 to be collected by the circuit clerk and  
319 distributed as follows:



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

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

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

326 (2) From and after July 1, 2016, the expenses of district  
327 attorneys shall be defrayed by appropriation from the State  
328 General Fund and all user charges and fees authorized by  
329 paragraphs (a) and (b) of subsection (1) of this section shall be  
330 deposited into the State General Fund as authorized by law and as  
331 determined by the State Fiscal Officer, and charges and fees  
332 authorized by paragraph (c) of subsection (1) of this section  
333 shall be retained by the circuit clerks for expenditures  
334 authorized by law.

335 **SECTION 7.** This act shall take effect and be in force from  
336 and after July 1, 2024.

