

By: Senator(s) Hill

To: Judiciary, Division B

SENATE BILL NO. 2284

1 AN ACT TO PROHIBIT THE ILLEGAL ENTRY INTO OR ILLEGAL PRESENCE  
 2 IN THIS STATE BY A PERSON WHO IS AN ALIEN; TO PROVIDE FOR THE  
 3 ENFORCEMENT OF THE PROHIBITIONS AND CERTAIN RELATED ORDERS; TO  
 4 PROVIDE IMMUNITY FROM LIABILITY AND INDEMNIFICATION FOR  
 5 ENFORCEMENT ACTIONS; TO AUTHORIZE, UNDER CERTAIN CIRCUMSTANCES,  
 6 THE REMOVAL OF PERSONS WHO VIOLATE THOSE PROHIBITIONS; TO CREATE  
 7 CRIMINAL OFFENSES; TO AMEND SECTION 45-27-9, MISSISSIPPI CODE OF  
 8 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** As used in this act, the following words have the  
 11 meanings ascribed herein unless the context clearly requires  
 12 otherwise:

13 (a) "Alien" has the meaning assigned by 8 USC Section  
 14 1101, as that provision existed on January 1, 2023.

15 (b) "Damages" includes any and all damages, fines,  
 16 fees, penalties, court costs, attorney's fees or other  
 17 assessments.

18 (2) "Port of entry" means a port of entry in the United  
 19 States as designated by 19 C.F.R. Part 101.

20 **SECTION 2.** Notwithstanding any other law, a law enforcement  
 21 officer may not arrest or detain a person for purposes of



22 enforcing a provision of this act, if the person is on the  
23 premises or grounds of:

24 (a) A public or private primary or secondary school for  
25 educational purposes;

26 (b) A church, synagogue, or other established place of  
27 religious worship; or

28 (c) A health care facility, including a facility a  
29 state agency maintains or operates to provide health care, or the  
30 office of a health care provider, provided that the person is on  
31 the premises or grounds of the facility or office for the purpose  
32 of receiving medical treatment.

33 **SECTION 3.** (1) A judge during a person's preliminary  
34 hearing may, after making a determination that probable cause  
35 exists for arrest for an offense under Section 5 or 6 of this act,  
36 order the person released from custody and issue a written order  
37 in accordance with subsection (3) of this section.

38 (2) A judge in a person's case at any time after the  
39 preliminary hearing may dismiss the charge pending against the  
40 person and issue a written order in accordance with subsection (3)  
41 of this section, in lieu of continuing the prosecution of or  
42 entering an adjudication regarding an offense under Section 5 or 6  
43 of this act.

44 (3) A written order authorized by subsection (1) or (2) of  
45 this section must discharge the person and require the person to



46 return to the foreign nation from which the person entered or  
47 attempted to enter, and may be issued only if:

48 (a) The person agrees to the order;

49 (b) The person has not previously been convicted of an  
50 offense under this act, or previously obtained a discharge under  
51 an order described by subsection (1) or (2) of this section;

52 (c) The person is not charged with another offense that  
53 is a misdemeanor punishable by up to one (1) year in jail or a  
54 fine of up to Four Thousand Dollars (\$4,000.00) or by both jail  
55 time and a fine or any higher category of offense; and

56 (d) Before the issuance of the order, the arresting law  
57 enforcement agency:

58 (i) Collects all available identifying information  
59 of the person, which must include taking fingerprints from the  
60 person and using other applicable photographic and biometric  
61 measures to identify the person; and

62 (ii) Cross-references the collected information  
63 with:

64 1. All relevant local, state, and federal  
65 criminal databases; and

66 2. Federal lists or classifications used to  
67 identify a person as a threat or potential threat to national  
68 security.

69 (4) On a person's conviction of an offense under this act,  
70 the judge shall enter in the judgment in the case an order



71 requiring the person to return to the foreign nation from which  
72 the person entered or attempted to enter. An order issued under  
73 this subsection takes effect on completion of the term of  
74 confinement or imprisonment imposed by the judgment.

75 (5) An order issued under this article must include:

76 (a) The manner of transportation of the person to a  
77 port of entry, as defined by Section 1 of this act; and

78 (b) The law enforcement officer or state agency  
79 responsible for monitoring compliance with the order.

80 (6) An order issued under this section must be filed:

81 (a) With the county clerk of the county in which the  
82 person was arrested, for an order described by subsection (1) of  
83 this section; or

84 (b) With the clerk of the court exercising jurisdiction  
85 in the case, for an order described by subsection (2) or (4) of  
86 this section.

87 (7) Not later than the seventh day after the date an order  
88 is issued under this article, the law enforcement officer or state  
89 agency required to monitor compliance with the order shall report  
90 the issuance of the order to the Department of Public Safety for  
91 inclusion in the appropriate database maintained by the Criminal  
92 Information Center.

93 **SECTION 4.** A court may not abate the prosecution of an  
94 offense under this act on the basis that a federal determination



95 regarding the immigration status of the defendant is pending or  
96 will be initiated.

97 **SECTION 5.** (1) A person who is an alien commits an offense  
98 if the person enters or attempts to enter this state directly from  
99 a foreign nation at any location other than a lawful port of  
100 entry.

101 (2) (a) An offense under this section is a misdemeanor,  
102 except that the offense is a felony if it is shown on the trial of  
103 the offense that the defendant has been previously convicted of an  
104 offense under this section.

105 (b) A misdemeanor under this section shall be  
106 punishable by imprisonment in the county jail for not more than  
107 one hundred eighty (180) days, or a fine of not more than Two  
108 Thousand Dollars (\$2,000.00), or both.

109 (c) A felony under this section shall be punishable by  
110 imprisonment in the custody of the Department of Corrections for  
111 not more than two (2) years, or a fine of not more than Ten  
112 Thousand Dollars (\$10,000.00), or both.

113 (3) It is an affirmative defense to prosecution under this  
114 section that:

115 (a) The federal government has granted the defendant:

116 (i) Lawful presence in the United States; or

117 (ii) Asylum under 8 USC Section 1158;

118 (b) The defendant's conduct does not constitute a  
119 violation of 8 USC Section 1325(a); or



120 (c) The defendant was approved for benefits under the  
121 federal Deferred Action for Childhood Arrivals program between  
122 June 15, 2012, and July 16, 2021.

123 (4) The following federal programs do not provide an  
124 affirmative defense for purposes of subsection (3)(a) of this  
125 section:

126 (a) The Deferred Action for Parents of Americans and  
127 Lawful Permanent Residents program; and

128 (b) Any program not enacted by the United States  
129 Congress that is a successor to or materially similar to the  
130 program described by subsection (3)(c) of this section or  
131 paragraph (a) of this subsection.

132 **SECTION 6.** (1) A person who is an alien commits an offense  
133 if the person enters, attempts to enter, or is at any time found  
134 in this state after the person:

135 (a) Has been denied admission to or excluded, deported  
136 or removed from the United States; or

137 (b) Has departed from the United States while an order  
138 of exclusion, deportation, or removal is outstanding.

139 (2) (a) An offense under this section is a Class A  
140 misdemeanor, except that the offense is a felony if:

141 (i) The defendant's removal was subsequent to a  
142 conviction for commission of two (2) or more misdemeanors  
143 involving drugs, crimes against a person, or both;



144 (ii) The defendant was excluded pursuant to 8 USC  
145 Section 1225(c) because the defendant was excludable under 8 USC  
146 Section 1182(a)(3)(B);

147 (iii) The defendant was removed pursuant to the  
148 provisions of 8 USC Chapter 12, Subchapter V; or

149 (iv) The defendant was removed pursuant to 8 USC  
150 Section 1231(a)(4)(B).

151 (b) A misdemeanor under this section shall be  
152 punishable by imprisonment in the county jail for up to one (1)  
153 year, or a fine of not more than Four Thousand Dollars  
154 (\$4,000.00), or both.

155 (c) A felony under this section shall be punishable by  
156 imprisonment in the custody of the Department of Corrections for  
157 not less than two (2) years but not more than ten (10) years, or a  
158 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

159 (d) Where a defendant has previously been convicted of  
160 a felony under this section, a second felony conviction shall be  
161 punishable by imprisonment in the custody of the Department of  
162 Corrections for not less than two (2) years not more than twenty  
163 (20) years, or a fine of not more than Ten Thousand Dollars  
164 (\$10,000.00), or both.

165 (3) For purposes of this section, "removal" includes an  
166 order issued under Section 3 of this act, or any other agreement  
167 in which an alien stipulates to removal pursuant to a criminal  
168 proceeding under either federal or state law.



169           **SECTION 7.** (1) A person who is an alien commits an offense  
170 if:

171                   (a) The person has been charged with or convicted of an  
172 offense under this act;

173                   (b) A magistrate or judge, as applicable, has issued an  
174 order under Section 3 of this act for the person to return to the  
175 foreign nation from which the person entered or attempted to  
176 enter; and

177                   (c) The person refuses to comply with the order.

178           (2) An offense under this section is a felony which shall be  
179 punishable by imprisonment in the custody of the Department of  
180 Corrections for not less than two (2) years not more than twenty  
181 (20) years, or a fine of not more than Ten Thousand Dollars  
182 (\$10,000.00), or both.

183           **SECTION 8.** (1) Except as provided by subsection (4) of this  
184 section, a local government official, employee, or contractor is  
185 immune from liability for damages arising from a cause of action  
186 under state law resulting from an action taken by the official,  
187 employee, or contractor to enforce this act or an order issued  
188 under Section 3 of this act during the course and scope of the  
189 official's, employee's, or contractor's office, employment, or  
190 contractual performance for or service on behalf of the local  
191 government.

192           (2) Subject to subsection (3) of this section and except as  
193 provided by subsection (4) of this section, a local government





194 shall indemnify an official, employee, or contractor of the local  
195 government for damages arising from a cause of action under  
196 federal law resulting from an action taken by the official,  
197 employee, or contractor to enforce this act or an order issued  
198 under Section 3 of this act during the course and scope of the  
199 official's, employee's or contractor's office, employment, or  
200 contractual performance for or service on behalf of the local  
201 government.

202 (3) Indemnification payments made under subsection (2) of  
203 this section by a local government may not exceed:

204 (a) One Hundred Thousand Dollars (\$100,000.00) to any  
205 one person or Three Hundred Thousand Dollars (\$300,000.00) for any  
206 single occurrence in the case of personal injury or death; or

207 (b) Ten Thousand Dollars (\$10,000.00) for a single  
208 occurrence of property damage.

209 (4) Subsections (1) and (2) of this section do not apply if  
210 the court or jury determines that the local government official,  
211 employee, or contractor acted in bad faith, with conscious  
212 indifference, or with recklessness.

213 (5) A local government shall indemnify an official, employee  
214 or contractor of the local government for reasonable attorney's  
215 fees incurred in defense of a criminal prosecution against the  
216 official, employee, or contractor for an action taken by the  
217 official, employee or contractor to enforce this act, or an order  
218 issued under Section 3 of this act during the course and scope of



219 the official's, employee's or contractor's office, employment or  
220 contractual performance for or service on behalf of the local  
221 government.

222 (6) This section may not be construed to waive any statutory  
223 limits on damages under state law.

224 **SECTION 9.** (1) Except as provided by subsection (4) of this  
225 section, an elected or appointed state official or a state  
226 employee or contractor is immune from liability for damages  
227 arising from a cause of action under state law resulting from an  
228 action taken by the official, employee, or contractor to enforce  
229 this act or an order issued under Section 3 of this act during the  
230 course and scope of the official's, employee's, or contractor's  
231 office, employment, or contractual performance for or service on  
232 behalf of the state.

233 (2) Except as provided by subsection (4) of this section,  
234 the state shall indemnify an elected or appointed state official  
235 or a state employee or contractor for damages arising from a cause  
236 of action under federal law resulting from an action taken by the  
237 official, employee, or contractor to enforce this act or an order  
238 issued under Section 3 of this act during the course and scope of  
239 the official's, employee's, or contractor's office, employment, or  
240 contractual performance for or service on behalf of the state.

241 (3) Notwithstanding any other law, an indemnification  
242 payment made under subsection (2) of this section is not subject  
243 to an indemnification limit under the laws of this state.



244 (4) Subsections (1) and (2) of this section do not apply if  
245 the court or jury determines that the state official, employee or  
246 contractor acted in bad faith, with conscious indifference, or  
247 with recklessness.

248 (5) The state shall indemnify a state official, employee or  
249 contractor for reasonable attorney's fees incurred in defense of a  
250 criminal prosecution against the official, employee or contractor  
251 for an action taken by the official, employee or contractor to  
252 enforce Chapter 51, Penal Code, or an order issued under Article  
253 5B.002, Code of Criminal Procedure, during the course and scope of  
254 the official's, employee's or contractor's office, employment or  
255 contractual performance for or service on behalf of the state.

256 (6) This section may not be construed to waive any statutory  
257 limits on damages under state law.

258 **SECTION 10.** For a civil action brought against a person who  
259 may be entitled to immunity or indemnification under Section 8 or  
260 9 of this act, an appeal must be taken directly to the Mississippi  
261 Supreme Court and retained by the Mississippi Supreme Court.

262 **SECTION 11.** This act does not affect a defense, immunity, or  
263 jurisdictional bar available to the state or a local government or  
264 an official, employee, or contractor of the state or a local  
265 government.

266 **SECTION 12.** Notwithstanding any other provision of law, a  
267 defendant is not eligible for expunction, an intensive supervision  
268 program, or nonadjudication and is not eligible for parole release



269 or for early release from the custody of the Department of  
270 Corrections under Section 47-7-3 if the defendant is charged with  
271 or convicted of an offense under this act.

272 **SECTION 13.** Section 45-27-9, Mississippi Code of 1972, is  
273 amended as follows:

274 45-27-9. (1) All criminal justice agencies within the state  
275 shall submit to the center an arrest card that will transmit  
276 fingerprints, descriptions, photographs (when specifically  
277 requested), and other identifying data on persons who have been  
278 lawfully arrested or taken into custody in this state for all  
279 felonies and misdemeanors as described in Section 45-27-7(2)(a).  
280 It shall be the duty of all chiefs of police, sheriffs, district  
281 attorneys, courts, court clerks, judges, parole and probation  
282 officers, wardens or other persons in charge of correctional  
283 institutions in this state to furnish the center with all data  
284 required by the rules duly promulgated under the Administrative  
285 Procedures Act to carry out its responsibilities under this  
286 chapter, and the duty of courts and court clerks to submit a  
287 disposition form for every disposition. It shall be the duty of  
288 all criminal justice agencies within the state to supply the  
289 prosecutor and the proper court with the disposition form that is  
290 attached to the physical arrest card if fingerprints were taken  
291 manually or, if fingerprints were captured digitally, the  
292 disposition form generated by the electronic fingerprint device at  
293 the time of the arrest. The PEER committee may conduct random



294 review of the records of any agency or clerks referenced in this  
295 subsection (1) to determine whether the duties of such agencies  
296 and clerks are being fulfilled in a timely manner. The PEER  
297 committee, based on its findings, if any, shall recommend measures  
298 to ensure that the duties are more effectively carried out in a  
299 timely manner.

300 (2) (a) All persons in charge of law enforcement agencies  
301 shall obtain, or cause to be obtained, fingerprints according to  
302 the fingerprint system of identification established by the  
303 Director of the Federal Bureau of Investigation, full face and  
304 profile photographs (if equipment is available) and other  
305 available identifying data, of each person arrested or taken into  
306 custody for an offense of a type designated in subsection (1) of  
307 this section, of all persons arrested or taken into custody as  
308 fugitives from justice and of all unidentified human corpses in  
309 their jurisdictions, but photographs need not be taken if it is  
310 known that photographs of the type listed, taken within the  
311 previous year, are on file. Any record taken in connection with  
312 any person arrested or taken into custody and subsequently  
313 released without charge or cleared of the offense through court  
314 proceedings shall be purged from the files of the center and  
315 destroyed upon receipt by the center of a lawful expunction order.  
316 All persons in charge of law enforcement agencies shall submit to  
317 the center detailed descriptions of arrests or takings into  
318 custody which result in release without charge or subsequent



319 exoneration from criminal liability within twenty-four (24) hours  
320 of the release or exoneration.

321 (b) The center will work to secure grant funds to  
322 purchase live scan equipment to be utilized throughout the state.  
323 All law enforcement agencies shall utilize any live scan equipment  
324 provided by the center to ensure the most accurate collection of  
325 fingerprints. The center shall coordinate the use of the  
326 equipment with federal, state, county and municipal law  
327 enforcement agencies.

328 (3) Fingerprints and other identifying data required to be  
329 taken under subsection (2) shall be forwarded within twenty-four  
330 (24) hours after taking for filing and classification, but the  
331 period of twenty-four (24) hours may be extended to cover any  
332 intervening holiday or weekend. Photographs taken shall be  
333 forwarded at the discretion of the agency concerned, but, if not  
334 forwarded, the fingerprint record shall be marked "Photo  
335 Available" and the photographs shall be forwarded subsequently if  
336 the center so requests.

337 (4) All persons in charge of law enforcement agencies shall  
338 submit to the center detailed descriptions of arrest warrants and  
339 related identifying data immediately upon determination of the  
340 fact that the warrant cannot be served for the reasons stated. If  
341 the warrant is subsequently served or withdrawn, the law  
342 enforcement agency concerned must immediately notify the center of  
343 the service or withdrawal. Also, the agency concerned must



344 annually, no later than January 31 of each year and at other times  
345 if requested by the center, confirm all arrest warrants which  
346 continue to be outstanding. Upon receipt of a lawful expunction  
347 order, the center shall purge and destroy files of all data  
348 relating to an offense when an individual is subsequently  
349 exonerated from criminal liability of that offense. The center  
350 shall not be liable for the failure to purge, destroy or expunge  
351 any records if an agency or court fails to forward to the center  
352 proper documentation ordering the action.

353 (5) All persons in charge of state correctional institutions  
354 shall obtain fingerprints, according to the fingerprint system of  
355 identification established by the Director of the Federal Bureau  
356 of Investigation or as otherwise directed by the center, and full  
357 face and profile photographs of all persons received on commitment  
358 to the institutions. The prints so taken shall be forwarded to  
359 the center, together with any other identifying data requested,  
360 within ten (10) days after the arrival at the institution of the  
361 person committed. At the time of release, the institution will  
362 again obtain fingerprints, as before, and forward them to the  
363 center within ten (10) days, along with any other related  
364 information requested by the center. The institution shall notify  
365 the center immediately upon the release of the person.

366 (6) All persons in charge of law enforcement agencies, all  
367 court clerks, all municipal justices where they have no clerks,  
368 all justice court judges and all persons in charge of state and



369 county probation and parole offices, shall supply the center with  
370 the information described in subsections (4) and (10) of this  
371 section on the basis of the forms and instructions for the  
372 disposition form to be supplied by the center.

373 (7) All persons in charge of law enforcement agencies in  
374 this state shall furnish the center with any other identifying  
375 data required in accordance with guidelines established by the  
376 center. All law enforcement agencies and correctional  
377 institutions in this state having criminal identification files  
378 shall cooperate in providing the center with copies of the items  
379 in the files which will aid in establishing the nucleus of the  
380 state criminal identification file.

381 (8) All law enforcement agencies within the state shall  
382 report to the center, in a manner prescribed by the center, all  
383 persons wanted by and all vehicles and identifiable property  
384 stolen from their jurisdictions. The report shall be made as soon  
385 as is practical after the investigating department or agency  
386 either ascertains that a vehicle or identifiable property has been  
387 stolen or obtains a warrant for an individual's arrest or  
388 determines that there are reasonable grounds to believe that the  
389 individual has committed a crime. The report shall be made within  
390 a reasonable time period following the reporting department's or  
391 agency's determination that it has grounds to believe that a  
392 vehicle or property was stolen or that the wanted person should be  
393 arrested.





394 (9) All law enforcement agencies in the state shall  
395 immediately notify the center if at any time after making a report  
396 as required by subsection (8) of this section it is determined by  
397 the reporting department or agency that a person is no longer  
398 wanted or that a vehicle or property stolen has been recovered.  
399 Furthermore, if the agency making the apprehension or recovery is  
400 not the one which made the original report, then it shall  
401 immediately notify the originating agency of the full particulars  
402 relating to the apprehension or recovery using methods prescribed  
403 by the center.

404 (10) All law enforcement agencies in the state and clerks of  
405 the various courts shall promptly report to the center all  
406 instances where records of convictions of criminals are ordered  
407 expunged by courts of this state as now provided by law. The  
408 center shall promptly expunge from the files of the center and  
409 destroy all records pertaining to any convictions that are ordered  
410 expunged by the courts of this state as provided by law.

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

414 (12) Any criminal justice department or agency making an  
415 expenditure in excess of Five Thousand Dollars (\$5,000.00) in any  
416 calendar year on software or programming upgrades concerning a  
417 computerized records management system or jail management system  
418 shall ensure that the new or upgraded system is formatted to



419 Department of Justice approved XML format and that no impediments  
420 to data sharing with other agencies or departments exist in the  
421 software programming.

422 (13) (a) All law enforcement agencies within the state  
423 shall:

424 (i) Implement an incident-based reporting system  
425 within the agency or department that meets the reporting  
426 requirements of the National Incident-Based Reporting System  
427 (NIBRS) of the Uniform Crime Reporting Program of the Federal  
428 Bureau of Investigation;

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

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

437 (b) No later than December 31, 2025, state and local  
438 law enforcement agencies shall be compliant with all regulations  
439 promulgated by the Department of Public Safety's Criminal  
440 Information Center (CIC), with consultation with the President of  
441 the Sheriffs Association and Mississippi Association of Chiefs of  
442 Police with regard to the National Incident-Based Reporting System



443 (NIBRS) of the Uniform Crime Reporting Program of the Federal  
444 Bureau of Investigation.

445 (14) The law enforcement agencies in the state and clerks of  
446 the various courts with jurisdiction over the defendant shall  
447 promptly report orders under Section 3 of this act to the Center  
448 to be included in the computerized criminal history system.

449 **SECTION 14.** This act shall take effect and be in force from  
450 and after July 1, 2024.

