

By: Representatives Nelson, James-Jones

To: Judiciary B

## HOUSE BILL NO. 1116

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.



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

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

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

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

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

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

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

(b) Conditions which the circuit or county court may impose under subsection (1) of this section also include 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



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

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



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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

99-19-72. (1) A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby levied on each petition to expunge an offense under Section 99-19-71 to be collected by the circuit clerk and 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, 2025.

