

By: Senator(s) Carlton

To: Judiciary

SENATE BILL NO. 2313

1 AN ACT TO AMEND SECTIONS 45-27-7 AND 45-27-9, MISSISSIPPI  
2 CODE OF 1972, TO CLARIFY THE RESPONSIBILITY OF THE MISSISSIPPI  
3 CRIMINAL INFORMATION CENTER TO EXPUNGE A RECORD OR RECORDS UPON  
4 RECEIPT OF AN ORDER OF EXPUNCTION; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 45-27-7, Mississippi Code of 1972, is  
7 amended as follows:

8 45-27-7. (1) The Mississippi Justice Information Center  
9 shall:

10 (a) Develop, operate and maintain an information system  
11 which will support the collection, storage, retrieval and  
12 dissemination of all crime and offender data described in this  
13 chapter, consistent with those principles of scope, security and  
14 responsiveness prescribed by this chapter.

15 (b) Cooperate with all criminal justice agencies within  
16 the state in providing those forms, procedures, standards and  
17 related training assistance necessary for the uniform operation of  
18 the statewide center.

19 (c) Offer assistance and, when practicable, instruction  
20 to all local law enforcement agencies in establishing efficient  
21 local records systems.

22 (d) Make available, upon request, to all local and  
23 state criminal justice agencies, to all federal criminal justice  
24 agencies and to criminal justice agencies in other states any  
25 information in the files of the center which will aid such  
26 agencies in the performance of their official duties. For this  
27 purpose the center shall operate on a twenty-four-hour basis,  
28 seven (7) days a week. Such information, when authorized by the



29 director of the center, may also be made available to any other  
30 agency of this state or any political subdivision thereof and to  
31 any federal agency, upon assurance by the agency concerned that  
32 the information is to be used for official purposes only in the  
33 prevention or detection of crime or the apprehension of criminal  
34 offenders.

35 (e) Cooperate with other agencies of this state, the  
36 crime information agencies of other states, and the national crime  
37 information center systems of the Federal Bureau of Investigation  
38 in developing and conducting an interstate, national and  
39 international system of criminal identification and records.

40 (f) Make available, upon request, to nongovernmental  
41 entities or employers certain information for noncriminal justice  
42 purposes as specified in Section 45-27-12.

43 (g) Institute necessary measures in the design,  
44 implementation and continued operation of the justice information  
45 system to ensure the privacy and security of the system. Such  
46 measures shall include establishing complete control over use of  
47 and access to the system and restricting its integral resources  
48 and facilities and those either possessed or procured and  
49 controlled by criminal justice agencies. Such security measures  
50 must meet standards developed by the center as well as those set  
51 by the nationally operated systems for interstate sharing of  
52 information.

53 (h) Provide data processing for files listing motor  
54 vehicle drivers' license numbers, motor vehicle registration  
55 numbers, wanted and stolen motor vehicles, outstanding warrants,  
56 identifiable stolen property and such other files as may be of  
57 general assistance to law enforcement agencies; provided, however,  
58 that the purchase, lease, rental or acquisition in any manner of  
59 "computer equipment or services," as defined in Section 25-53-3,  
60 Mississippi Code of 1972, shall be subject to the approval of the  
61 Mississippi Information Technology Services.



62 (i) Maintain a field coordination and support unit  
63 which shall have all the power conferred by law upon any peace  
64 officer of this state.

65 (2) The department, including the investigative division or  
66 the center, shall:

67 (a) Obtain and store fingerprints, descriptions,  
68 photographs and any other pertinent identifying data on persons  
69 who:

70 (i) Have been or are hereafter arrested or taken  
71 into custody in this state:

72 (A) For an offense which is a felony;

73 (B) For an offense which is a misdemeanor;

74 (C) As a fugitive from justice; or

75 (ii) Are or become habitual offenders; or

76 (iii) Are currently or become confined to any  
77 prison, penitentiary or other penal institution; or

78 (iv) Are unidentified human corpses found in the  
79 state.

80 (b) Compare all fingerprint and other identifying data  
81 received with that already on file \* \* \* and at once inform the  
82 requesting agency or arresting officer of those facts that may be  
83 disseminated consistent with applicable security and privacy laws  
84 and regulations. A record shall be maintained for a minimum of  
85 one (1) year of the dissemination of each individual criminal  
86 history, including at least the date and recipient of such  
87 information.

88 (c) Establish procedures to respond to those  
89 individuals who file requests to review their own records,  
90 pursuant to Sections 45-27-11 and 45-27-12, and to cooperate in  
91 the correction of the central center records and those of  
92 contributing agencies when their accuracy has been successfully  
93 challenged either through the related contributing agencies or by  
94 court order issued on behalf of an individual.



95           **SECTION 2.** Section 45-27-9, Mississippi Code of 1972, is  
96 amended as follows:

97           45-27-9. (1) All criminal justice agencies within the state  
98 shall submit to the center fingerprints, descriptions, photographs  
99 (when specifically requested), and other identifying data on  
100 persons who have been lawfully arrested or taken into custody in  
101 this state for all felonies and misdemeanors \* \* \*. It shall be  
102 the duty of all chiefs of police, sheriffs, district attorneys,  
103 courts, court clerks, judges, parole and probation officers,  
104 wardens or other persons in charge of correctional institutions in  
105 this state to furnish the center with any other data deemed  
106 necessary by the center to carry out its responsibilities under  
107 this chapter.

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



127 exoneration from criminal liability within twenty-four (24) hours  
128 of such release or exoneration.

129 (3) Fingerprints and other identifying data required to be  
130 taken under subsection (2) shall be forwarded within twenty-four  
131 (24) hours after taking for filing and classification, but the  
132 period of twenty-four (24) hours may be extended to cover any  
133 intervening holiday or weekend. Photographs taken shall be  
134 forwarded at the discretion of the agency concerned, but, if not  
135 forwarded, the fingerprint record shall be marked "Photo  
136 Available" and the photographs shall be forwarded subsequently if  
137 the center so requests.

138 (4) All persons in charge of law enforcement agencies shall  
139 submit to the center detailed descriptions of arrest warrants and  
140 related identifying data immediately upon determination of the  
141 fact that the warrant cannot be served for the reasons stated. If  
142 the warrant is subsequently served or withdrawn, the law  
143 enforcement agency concerned must immediately notify the center of  
144 such service or withdrawal. Also, the agency concerned must  
145 annually, no later than January 31 of each year and at other times  
146 if requested by the center, confirm all such arrest warrants which  
147 continue to be outstanding. Upon receipt of a lawful expunction  
148 order, the center shall purge and destroy files of all data  
149 relating to an offense when an individual is subsequently  
150 exonerated from criminal liability of that offense. The center  
151 shall not be liable for the failure to purge, destroy or expunge  
152 any records if an agency or court fails to forward to the center  
153 proper documentation ordering such action.

154 (5) All persons in charge of state correctional institutions  
155 shall obtain fingerprints, according to the fingerprint system of  
156 identification established by the Director of the Federal Bureau  
157 of Investigation or as otherwise directed by the center, and full  
158 face and profile photographs of all persons received on commitment  
159 to such institutions. The prints so taken shall be forwarded to



160 the center, together with any other identifying data requested,  
161 within ten (10) days after the arrival at the institution of the  
162 person committed. At the time of release, the institution will  
163 again obtain fingerprints, as before, and forward them to the  
164 center within ten (10) days, along with any other related  
165 information requested by the center. The institution shall notify  
166 the center immediately upon the release of such person.

167 (6) All persons in charge of law enforcement agencies, all  
168 court clerks, all municipal justices where they have no clerks,  
169 all justice court judges and all persons in charge of state and  
170 county probation and parole offices, shall supply the center with  
171 the information described in subsections (4) and (10) of this  
172 section on the basis of the forms and instructions to be supplied  
173 by the center.

174 (7) All persons in charge of law enforcement agencies in  
175 this state shall furnish the center with any other identifying  
176 data required in accordance with guidelines established by the  
177 center. All law enforcement agencies and correctional  
178 institutions in this state having criminal identification files  
179 shall cooperate in providing the center with copies of such items  
180 in such files which will aid in establishing the nucleus of the  
181 state criminal identification file.

182 (8) All law enforcement agencies within the state shall  
183 report to the center, in a manner prescribed by the center, all  
184 persons wanted by and all vehicles and identifiable property  
185 stolen from their jurisdictions. The report shall be made as soon  
186 as is practical after the investigating department or agency  
187 either ascertains that a vehicle or identifiable property has been  
188 stolen or obtains a warrant for an individual's arrest or  
189 determines that there are reasonable grounds to believe that the  
190 individual has committed a crime. The report shall be made within  
191 a reasonable time period following the reporting department's or  
192 agency's determination that it has grounds to believe that a



193 vehicle or property was stolen or that the wanted person should be  
194 arrested.

195 (9) All law enforcement agencies in the state shall  
196 immediately notify the center if at any time after making a report  
197 as required by subsection (8) of this section it is determined by  
198 the reporting department or agency that a person is no longer  
199 wanted or that a vehicle or property stolen has been recovered.  
200 Furthermore, if the agency making such apprehension or recovery is  
201 not the one which made the original report, then it shall  
202 immediately notify the originating agency of the full particulars  
203 relating to such apprehension or recovery using methods prescribed  
204 by the center.

205 (10) All law enforcement agencies in the state and clerks of  
206 the various courts shall promptly report to the center all  
207 instances where records of convictions of criminals are ordered  
208 expunged by courts of this state as now provided by law. The  
209 center shall promptly expunge from the files of the center and  
210 destroy all records pertaining to any convictions that are ordered  
211 expunged by the courts of this state as provided by law, if such  
212 records are located within the files of the center.

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

216 (12) The center is not required to act on an order of  
217 expunction entered by any court when the order does not comply  
218 with law or the rules and regulations promulgated by the center.  
219 Upon receipt of such an order, the center, by written  
220 notification, must inform the issuing court, the appropriate  
221 prosecutor, the petitioner or the petitioner's attorney, if known,  
222 and the arresting agency, if known, of the reason for  
223 noncompliance. The appropriate prosecutor, within sixty (60) days  
224 of the date of such notification, shall petition the court to  
225 vacate the order.



226 If the records which are ordered expunged by the court are  
227 not located within the files of the center, the center is not  
228 required to act on such order; however, the center must notify the  
229 issuing court of the reason for noncompliance.

230 No cause of action, including contempt of court, shall arise  
231 against the center or any criminal justice agency for failure to  
232 comply with an order to expunge when: (a) such order does not  
233 comply with law or the rules and regulations promulgated by the  
234 center; or (b) the records ordered expunged by the court are not  
235 located within the files of the center.

236 **SECTION 3.** This act shall take effect and be in force from  
237 and after its passage.

