

By: Senator(s) Carlton

To: Judiciary

COMMITTEE SUBSTITUTE
FOR
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) (a) If the center believes an order of expunction
217 entered by any court does not comply with law, the center, within
218 thirty (30) days of receipt of such an order, may petition the
219 issuing court to vacate the order. The center shall cause a copy
220 of the petition to be served on the appropriate prosecutor, the
221 petitioner for expunction or the petitioner's attorney, if known,
222 and the arresting agency, if known. Any party aggrieved by the
223 order of the court either to vacate the order of expunction or
224 upholding the order of expunction shall have the right of appeal
225 as provided by law for appeal from a decision of that court. If



226 the center files a petition as provided in this paragraph (a), the
227 center shall not be required to act on the expunction order
228 pending final disposition of the petition.

229 (b) The center is not required to act on an order of
230 expunction if the records which are ordered expunged by the court
231 are not located within the files of the center, in which case the
232 center must notify the issuing court of the reason for
233 noncompliance.

234 (c) No cause of action, including contempt of court,
235 shall arise against the center or any criminal justice agency for
236 failure to comply with an order to expunge when the order is the
237 subject of a petition to vacate or an appeal from the court's
238 refusal to vacate its order, or if the records ordered expunged by
239 the court are not located within the files of the center.

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

