

By: Representatives Gunn, Fleming

To: Judiciary A

HOUSE BILL NO. 465

1 AN ACT TO AMEND SECTION 45-27-3, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF CRIMINAL HISTORY RECORD INFORMATION; TO  
3 AMEND SECTION 45-27-7, MISSISSIPPI CODE OF 1972, TO MAKE CRIMINAL  
4 INFORMATION IMMEDIATELY ACCESSIBLE BY LOCAL AND STATE CRIMINAL  
5 JUSTICE AGENCIES; TO AMEND SECTIONS 45-27-8 AND 45-27-9,  
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
7 ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 45-27-3, Mississippi Code of 1972, is  
10 amended as follows:

11 45-27-3. For the purposes of this chapter, the following  
12 words shall have the meanings ascribed to them in this section  
13 unless the context requires otherwise:

14 (a) "Criminal justice agencies" means public agencies  
15 at all levels of government which perform as their principal  
16 function activities relating to the apprehension, prosecution,  
17 adjudication or rehabilitation of criminal offenders.

18 (b) "Offense" means an act which is a felony or a  
19 misdemeanor.

20 (c) "Justice information system" means those agencies,  
21 procedures, mechanisms, media and forms, as well as the  
22 information itself, which are or become involved in the  
23 origination, transmittal, storage, retrieval and dissemination of  
24 information related to reported offenses and offenders, and the  
25 subsequent actions related to such events or persons.

26 (d) "Criminal justice information" means the following  
27 classes of information:

28 (i) "Secret data" which includes information  
29 dealing with those elements of the operation and programming of

30 the Mississippi Justice Information Center computer system and the  
31 communications network and satellite computer systems handling  
32 criminal justice information which prevents unlawful intrusion  
33 into the system.

34 (ii) "Criminal history record information," which  
35 means information collected by criminal justice agencies on  
36 individuals consisting of identifiable descriptions and notations  
37 of arrests, detentions, releases on bond, indictments, affidavits,  
38 information or other formal charges and any disposition arising  
39 therefrom, sentencing, correctional supervision and release. The  
40 term does not include identification information such as  
41 fingerprint records or images to the extent that such information  
42 does not indicate involvement of the individual in the criminal  
43 justice system.

44 (iii) "Sensitive data," which contains statistical  
45 information in the form of reports, lists and documentation which  
46 may identify a group characteristic, such as "white" males or  
47 "stolen" guns.

48 (iv) "Restricted data," which contains information  
49 relating to data-gathering techniques, distribution methods,  
50 manuals and forms.

51 (v) "Law enforcement agency" or "originating  
52 agency" or "agency" which includes a governmental unit or agency  
53 composed of one or more persons employed full time or part time by  
54 the state as a political subdivision thereof for the following  
55 purposes: (A) the administration of criminal justice, which  
56 includes the prevention and detection of crime; the apprehension,  
57 pretrial release, post-trial release, prosecution, adjudication,  
58 correctional supervision or rehabilitation of accused persons or  
59 criminal offenders; or the collection, storage and dissemination  
60 of criminal history record information; or (B) the enforcement of  
61 state laws or local ordinances, which includes making arrests for  
62 crimes while acting within the scope of their authority. The

63 agency must perform one or more of the above-described criminal  
64 justice duties and allocate a substantial part of its annual  
65 budget to the administration of criminal justice.

66 (e) "Center" means the Mississippi Justice Information  
67 Center or the Mississippi Criminal Information Center.

68 (f) "Department" means the Mississippi Department of  
69 Public Safety.

70 (g) "Conviction information" means criminal history  
71 record information disclosing that a person was found guilty of,  
72 or has pleaded guilty or nolo contendere to, a criminal offense in  
73 a court of law, together with any sentencing information. This  
74 includes a conviction in a federal or military tribunal, including  
75 a court martial conducted by the Armed Forces of the United  
76 States, or a conviction for an offense committed on an Indian  
77 Reservation or other federal property, or any court of a state of  
78 the United States.

79 (h) "Nonconviction information" means arrest without  
80 disposition information if an interval of one (1) year has elapsed  
81 from the date of arrest and no active prosecution for the charge  
82 is pending, as well as, all acquittals and all dismissals.

83 **SECTION 2.** Section 45-27-7, Mississippi Code of 1972, is  
84 amended as follows:

85 45-27-7. (1) The Mississippi Justice Information Center  
86 shall:

87 (a) Develop, operate and maintain an information system  
88 which will support the collection, storage, retrieval and  
89 dissemination of all crime and offender data described in this  
90 chapter, consistent with those principles of scope, security and  
91 responsiveness prescribed by this chapter.

92 (b) Cooperate with all criminal justice agencies within  
93 the state in providing those forms, procedures, standards and  
94 related training assistance necessary for the uniform operation of  
95 the statewide center.

96 (c) Offer assistance and, when practicable, instruction  
97 to all local law enforcement agencies in establishing efficient  
98 local records systems.

99 (d) Make available, through electronic and any other  
100 means which insures immediate access, to all local and state  
101 criminal justice agencies, to all federal criminal justice  
102 agencies and to criminal justice agencies in other states any  
103 information in the files of the center which will aid such  
104 agencies in the performance of their official duties. For this  
105 purpose the center shall operate on a twenty-four-hour basis,  
106 seven (7) days a week. Such information, when authorized by the  
107 director of the center, may also be made available to any other  
108 agency of this state or any political subdivision thereof and to  
109 any federal agency, upon assurance by the agency concerned that  
110 the information is to be used for official purposes only in the  
111 prevention or detection of crime or the apprehension of criminal  
112 offenders.

113 (e) Cooperate with other agencies of this state, the  
114 crime information agencies of other states, and the national crime  
115 information center systems of the Federal Bureau of Investigation  
116 in developing and conducting an interstate, national and  
117 international system of criminal identification and records.

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

121 (g) Institute necessary measures in the design,  
122 implementation and continued operation of the justice information  
123 system to ensure the privacy and security of the system. Such  
124 measures shall include establishing complete control over use of  
125 and access to the system and restricting its integral resources  
126 and facilities and those either possessed or procured and  
127 controlled by criminal justice agencies. Such security measures  
128 must meet standards developed by the center as well as those set

129 by the nationally operated systems for interstate sharing of  
130 information.

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

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

143 (2) The department, including the investigative division or  
144 the center, shall:

145 (a) Obtain and store fingerprints, descriptions,  
146 photographs and any other pertinent identifying data on persons  
147 who:

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

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

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

152 (C) As a fugitive from justice; or

153 (ii) Are or become habitual offenders; or

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

156 (iv) Are unidentified human corpses found in the  
157 state.

158 (b) Compare all fingerprint and other identifying data  
159 received with that already on file and determine whether or not a  
160 criminal record is found for such person, and at once inform the  
161 requesting agency or arresting officer of those facts that may be

162 disseminated consistent with applicable security and privacy laws  
163 and regulations. A record shall be maintained for a minimum of  
164 one (1) year of the dissemination of each individual criminal  
165 history, including at least the date and recipient of such  
166 information.

167 (c) Establish procedures to respond to those  
168 individuals who file requests to review their own records,  
169 pursuant to Sections 45-27-11 and 45-27-12, and to cooperate in  
170 the correction of the central center records and those of  
171 contributing agencies when their accuracy has been successfully  
172 challenged either through the related contributing agencies or by  
173 court order issued on behalf of an individual.

174 **SECTION 3.** Section 45-27-8, Mississippi Code of 1972, is  
175 amended as follows:

176 45-27-8. The center, by direction of the Commissioner of the  
177 Department of Public Safety, shall establish and collect fees  
178 reasonably calculated to reimburse the center for the actual cost  
179 of searching, reviewing, duplicating, making available  
180 electronically and mailing records or information of any kind  
181 maintained by the center and authorized for release by this  
182 chapter.

183 No records shall be furnished by the center which are  
184 classified as confidential by law.

185 All fees collected by the center pursuant to this chapter  
186 shall be deposited into the Criminal Information Center Special  
187 Fund hereby created in the State Treasury. Monies deposited in  
188 such fund shall be expended by the center, as authorized and  
189 appropriated by the Legislature, to defray the expenses of the  
190 center. Any revenue in the fund which is not encumbered at the  
191 end of the fiscal year shall not lapse to the State General Fund  
192 but shall remain in the special fund.

193 **SECTION 4.** Section 45-27-9, Mississippi Code of 1972, is  
194 amended as follows:

195           45-27-9. (1) All criminal justice agencies within the state  
196 shall submit to the center fingerprints, descriptions, photographs  
197 (when specifically requested), and other identifying data on  
198 persons who have been lawfully arrested or taken into custody in  
199 this state for all felonies and misdemeanors as described in  
200 Section 45-27-7(2)(a). It shall be the duty of all chiefs of  
201 police, sheriffs, district attorneys, courts, court clerks,  
202 judges, parole and probation officers, wardens or other persons in  
203 charge of correctional institutions in this state to furnish the  
204 center with any other data deemed necessary by the center to carry  
205 out its responsibilities under this chapter.

206           (2) All persons in charge of law enforcement agencies shall  
207 obtain, or cause to be obtained, fingerprints according to the  
208 fingerprint system of identification established by the Director  
209 of the Federal Bureau of Investigation, full face and profile  
210 photographs (if equipment is available) and other available  
211 identifying data, of each person arrested or taken into custody  
212 for an offense of a type designated in subsection (1) of this  
213 section, of all persons arrested or taken into custody as  
214 fugitives from justice and of all unidentified human corpses in  
215 their jurisdictions, but photographs need not be taken if it is  
216 known that photographs of the type listed, taken within the  
217 previous year, are on file. Any record taken in connection with  
218 any person arrested or taken into custody and subsequently  
219 released without charge or cleared of the offense through court  
220 proceedings shall be purged from the files of the center and  
221 destroyed upon receipt by the center of a lawful expunction order.  
222 All persons in charge of law enforcement agencies shall submit to  
223 the center detailed descriptions of arrests or takings into  
224 custody which result in release without charge, release on bond or  
225 subsequent exoneration from criminal liability immediately after  
226 such release or exoneration.

227 (3) Fingerprints and other identifying data required to be  
228 taken under subsection (2) shall be forwarded within twenty-four  
229 (24) hours after taking for filing and classification, but the  
230 period of twenty-four (24) hours may be extended to cover any  
231 intervening holiday or weekend. Photographs taken shall be  
232 forwarded at the discretion of the agency concerned, but, if not  
233 forwarded, the fingerprint record shall be marked "Photo  
234 Available" and the photographs shall be forwarded subsequently if  
235 the center so requests.

236 (4) All persons in charge of law enforcement agencies shall  
237 submit to the center detailed descriptions of arrest warrants and  
238 related identifying data immediately upon determination of the  
239 fact that the warrant cannot be served for the reasons stated. If  
240 the warrant is subsequently served or withdrawn, the law  
241 enforcement agency concerned must immediately notify the center of  
242 such service or withdrawal. Also, the agency concerned must  
243 annually, no later than January 31 of each year and at other times  
244 if requested by the center, confirm all such arrest warrants which  
245 continue to be outstanding. Upon receipt of a lawful expunction  
246 order, the center shall purge and destroy files of all data  
247 relating to an offense when an individual is subsequently  
248 exonerated from criminal liability of that offense. The center  
249 shall not be liable for the failure to purge, destroy or expunge  
250 any records if an agency or court fails to forward to the center  
251 proper documentation ordering such action.

252 (5) All persons in charge of state correctional institutions  
253 shall obtain fingerprints, according to the fingerprint system of  
254 identification established by the Director of the Federal Bureau  
255 of Investigation or as otherwise directed by the center, and full  
256 face and profile photographs of all persons received on commitment  
257 to such institutions. The prints so taken shall be forwarded to  
258 the center, together with any other identifying data requested,  
259 within ten (10) days after the arrival at the institution of the



260 person committed. At the time of release, the institution will  
261 again obtain fingerprints, as before, and forward them to the  
262 center within ten (10) days, along with any other related  
263 information requested by the center. The institution shall notify  
264 the center immediately upon the release of such person.

265 (6) All persons in charge of law enforcement agencies, all  
266 court clerks, all municipal justices where they have no clerks,  
267 all justice court judges and all persons in charge of state and  
268 county probation and parole offices, shall supply the center with  
269 the information described in subsections (4) and (10) of this  
270 section on the basis of the forms and instructions to be supplied  
271 by the center.

272 (7) All persons in charge of law enforcement agencies in  
273 this state shall furnish the center with any other identifying  
274 data required in accordance with guidelines established by the  
275 center. All law enforcement agencies and correctional  
276 institutions in this state having criminal identification files  
277 shall cooperate in providing the center with copies of such items  
278 in such files which will aid in establishing the nucleus of the  
279 state criminal identification file.

280 (8) All law enforcement agencies within the state shall  
281 report to the center, in a manner prescribed by the center, all  
282 persons wanted by and all vehicles and identifiable property  
283 stolen from their jurisdictions. The report shall be made as soon  
284 as is practical after the investigating department or agency  
285 either ascertains that a vehicle or identifiable property has been  
286 stolen or obtains a warrant for an individual's arrest or  
287 determines that there are reasonable grounds to believe that the  
288 individual has committed a crime. The report shall be made within  
289 a reasonable time period following the reporting department's or  
290 agency's determination that it has grounds to believe that a  
291 vehicle or property was stolen or that the wanted person should be  
292 arrested.

293           (9) All law enforcement agencies in the state shall  
294 immediately notify the center if at any time after making a report  
295 as required by subsection (8) of this section it is determined by  
296 the reporting department or agency that a person is no longer  
297 wanted or that a vehicle or property stolen has been recovered.  
298 Furthermore, if the agency making such apprehension or recovery is  
299 not the one which made the original report, then it shall  
300 immediately notify the originating agency of the full particulars  
301 relating to such apprehension or recovery using methods prescribed  
302 by the center.

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

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

313           **SECTION 5.** This act shall take effect and be in force from  
314 and after July 1, 2006.