

By: Representative Baker (74th)

To: Judiciary A

HOUSE BILL NO. 1373

1 AN ACT TO AMEND SECTION 45-27-9, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE DATA SHARING BY ALL PUBLIC AGENCIES AT ALL LEVELS OF
3 GOVERNMENT WHICH PERFORM ACTIVITIES RELATING TO THE APPREHENSION,
4 PROSECUTION, ADJUDICATION OR REHABILITATION OF CRIMINAL OFFENDERS;
5 AND FOR RELATED PURPOSES.

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

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

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

20 (2) All persons in charge of law enforcement agencies shall
21 obtain, or cause to be obtained, fingerprints according to the
22 fingerprint system of identification established by the Director
23 of the Federal Bureau of Investigation, full face and profile
24 photographs (if equipment is available) and other available
25 identifying data, of each person arrested or taken into custody
26 for an offense of a type designated in subsection (1) of this
27 section, of all persons arrested or taken into custody as
28 fugitives from justice and of all unidentified human corpses in

29 their jurisdictions, but photographs need not be taken if it is
30 known that photographs of the type listed, taken within the
31 previous year, are on file. Any record taken in connection with
32 any person arrested or taken into custody and subsequently
33 released without charge or cleared of the offense through court
34 proceedings shall be purged from the files of the center and
35 destroyed upon receipt by the center of a lawful expunction order.
36 All persons in charge of law enforcement agencies shall submit to
37 the center detailed descriptions of arrests or takings into
38 custody which result in release without charge or subsequent
39 exoneration from criminal liability within twenty-four (24) hours
40 of such release or exoneration.

41 (3) Fingerprints and other identifying data required to be
42 taken under subsection (2) shall be forwarded within twenty-four
43 (24) hours after taking for filing and classification, but the
44 period of twenty-four (24) hours may be extended to cover any
45 intervening holiday or weekend. Photographs taken shall be
46 forwarded at the discretion of the agency concerned, but, if not
47 forwarded, the fingerprint record shall be marked "Photo
48 Available" and the photographs shall be forwarded subsequently if
49 the center so requests.

50 (4) All persons in charge of law enforcement agencies shall
51 submit to the center detailed descriptions of arrest warrants and
52 related identifying data immediately upon determination of the
53 fact that the warrant cannot be served for the reasons stated. If
54 the warrant is subsequently served or withdrawn, the law
55 enforcement agency concerned must immediately notify the center of
56 such service or withdrawal. Also, the agency concerned must
57 annually, no later than January 31 of each year and at other times
58 if requested by the center, confirm all such arrest warrants which
59 continue to be outstanding. Upon receipt of a lawful expunction
60 order, the center shall purge and destroy files of all data
61 relating to an offense when an individual is subsequently

62 exonerated from criminal liability of that offense. The center
63 shall not be liable for the failure to purge, destroy or expunge
64 any records if an agency or court fails to forward to the center
65 proper documentation ordering such action.

66 (5) All persons in charge of state correctional institutions
67 shall obtain fingerprints, according to the fingerprint system of
68 identification established by the Director of the Federal Bureau
69 of Investigation or as otherwise directed by the center, and full
70 face and profile photographs of all persons received on commitment
71 to such institutions. The prints so taken shall be forwarded to
72 the center, together with any other identifying data requested,
73 within ten (10) days after the arrival at the institution of the
74 person committed. At the time of release, the institution will
75 again obtain fingerprints, as before, and forward them to the
76 center within ten (10) days, along with any other related
77 information requested by the center. The institution shall notify
78 the center immediately upon the release of such person.

79 (6) All persons in charge of law enforcement agencies, all
80 court clerks, all municipal justices where they have no clerks,
81 all justice court judges and all persons in charge of state and
82 county probation and parole offices, shall supply the center with
83 the information described in subsections (4) and (10) of this
84 section on the basis of the forms and instructions to be supplied
85 by the center.

86 (7) All persons in charge of law enforcement agencies in
87 this state shall furnish the center with any other identifying
88 data required in accordance with guidelines established by the
89 center. All law enforcement agencies and correctional
90 institutions in this state having criminal identification files
91 shall cooperate in providing the center with copies of such items
92 in such files which will aid in establishing the nucleus of the
93 state criminal identification file.

94 (8) All law enforcement agencies within the state shall
95 report to the center, in a manner prescribed by the center, all
96 persons wanted by and all vehicles and identifiable property
97 stolen from their jurisdictions. The report shall be made as soon
98 as is practical after the investigating department or agency
99 either ascertains that a vehicle or identifiable property has been
100 stolen or obtains a warrant for an individual's arrest or
101 determines that there are reasonable grounds to believe that the
102 individual has committed a crime. The report shall be made within
103 a reasonable time period following the reporting department's or
104 agency's determination that it has grounds to believe that a
105 vehicle or property was stolen or that the wanted person should be
106 arrested.

107 (9) All law enforcement agencies in the state shall
108 immediately notify the center if at any time after making a report
109 as required by subsection (8) of this section it is determined by
110 the reporting department or agency that a person is no longer
111 wanted or that a vehicle or property stolen has been recovered.
112 Furthermore, if the agency making such apprehension or recovery is
113 not the one which made the original report, then it shall
114 immediately notify the originating agency of the full particulars
115 relating to such apprehension or recovery using methods prescribed
116 by the center.

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

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

127 (12) Any criminal justice department or agency maintaining a
128 criminal database who upgrades its software by spending more than
129 Five Thousand Dollars (\$5,000.00) on programming must ensure that
130 the new system is formatted to Department of Justice approved XML
131 format and that no impediments to data sharing with other agencies
132 or departments exists in the software programming.

133 **SECTION 2.** This act shall take effect and be in force from
134 and after January 1, 2008.