3/19/14 13:49 a.m.

Chapter No. 403
14/SS26/R751CS
CRL /[illegible]

SENATE BILL NO. 2658

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2658

AN ACT TO AMEND SECTION 45-27-3, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 45-27-9, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONSIBILITY OF LAW ENFORCEMENT AGENCIES AND COURTS TO SUBMIT THE DISPOSITION FORM TO THE JUSTICE INFORMATION CENTER; AND FOR RELATED PURPOSES.

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

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

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

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

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

(c) "Justice information system" means those agencies, procedures, mechanisms, media and forms, as well as the

information itself, which are or become involved in the origination, transmittal, storage, retrieval and dissemination of information related to reported offenses and offenders, and the subsequent actions related to * * * the events or persons.

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

(i) "Secret data," which includes information dealing with those elements of the operation and programming of the Mississippi Justice Information Center computer system and the communications network and satellite computer systems handling criminal justice information which prevents unlawful intrusion into the system.

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

(iii) "Sensitive data," which contains statistical information in the form of reports, lists and documentation which

may identify a group characteristic, such as "white" males or "stolen" guns.

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

(v) "Law enforcement agency" or "originating agency" or "agency" which includes a governmental unit or agency composed of one or more persons employed full time or part time by the state as a political subdivision thereof for the following purposes: (A) the administration of criminal justice, which includes the prevention and detection of crime; the apprehension, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders; or the collection, storage and dissemination of criminal history record information; or (B) the enforcement of state laws or local ordinances, which includes making arrests for crimes while acting within the scope of their authority. The agency must perform one or more of the above-described criminal justice duties and allocate a substantial part of its annual budget to the administration of criminal justice.

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

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

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

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

(i) "Arrest card" means the initial law enforcement agency documentation of an arrest, whether in physical or digital form, including fingerprint information.

(j) "Disposition form" means the form prescribed by rule of the Justice Information Center for a court or law enforcement agency to report the disposition of the case of a person who has been arrested.

(k) "Disposition" means the outcome of the case of a person who was arrested and includes, without limitation:

(i) Nonadjudication;

(ii) A verdict or plea of guilt;

(iii) A plea of nolo contendere;

(iv) A verdict of not guilty;

(v) Dismissal;

(vi) Nolle prosequi;

(vii) Remand to the file;

(viii) Expunction; or

(ix) An appeal.

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

45-27-9. (1) All criminal justice agencies within the state shall submit to the center an arrest card that will transmit fingerprints, descriptions, photographs (when specifically requested), and other identifying data on persons who have been lawfully arrested or taken into custody in this state for all felonies and misdemeanors as described in Section 45-27-7(2)(a). It shall be the duty of all chiefs of police, sheriffs, district attorneys, courts, court clerks, judges, parole and probation officers, wardens or other persons in charge of correctional institutions in this state to furnish the center with * * * all data * * * required by the * * * rules duly promulgated under the Administrative Procedures Act to carry out its responsibilities under this chapter, and the duty of courts and court clerks to submit a disposition form for every disposition. It shall be the duty of all criminal justice agencies within the state to supply the prosecutor and the proper court with the disposition form that is attached to the physical arrest card if fingerprints were taken

manually or, if fingerprints were captured digitally, the disposition form generated by the electronic fingerprint device at the time of the arrest.

(2) 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.

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

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

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

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

(7) All persons in charge of law enforcement agencies in this state shall furnish the center with any other identifying data required in accordance with guidelines established by the center. All law enforcement agencies and correctional institutions in this state having criminal identification files

shall cooperate in providing the center with copies of * * * the items in * * * the files which will aid in establishing the nucleus of the state criminal identification file.

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

(9) All law enforcement agencies in the state shall 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) 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.

(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.

SECTION 3. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE
February 6, 2014

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 11, 2014

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

3/19/2014 10:49 Am