

TITL: Compendium of State Privacy and Security Legislation: 1997
Overview - MISSISSIPPI ; _____ Revised Statutes Annotated

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privacy and security of criminal justice information.

MISSISSIPPI

TITLE 45. PUBLIC SAFETY AND GOOD ORDER Chapter 27. Mississippi Justice Information Center

§ 45-27-7 Duties and function of the justice information center.

(1) The Mississippi Justice Information Center shall:

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

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

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

(d) Make available, upon request, to all local and state criminal justice agencies, to all federal criminal justice agencies and to criminal justice agencies in other states any information in the files of the center which will aid such agencies in the performance of their official duties. For this purpose the center shall operate on a twenty-four (24) hour basis, seven (7) days a week. Such information, when authorized by the director of the center, may also be made available to any other agency of this state or any political subdivision thereof and to any federal agency, upon assurance by the agency concerned that the information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders.

(e) Cooperate with other agencies of this state, the crime information agencies of other states, and the national crime information center systems of the federal bureau of investigation in developing and conducting an interstate, national and international system of criminal identification and records.

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

(g) Provide data processing for files listing motor vehicle drivers' license numbers, motor vehicle registration numbers, wanted and stolen motor vehicles, outstanding warrants, identifiable stolen property and such other files as may be of general assistance to law enforcement agencies; provided, however, that the purchase, lease, rental or acquisition in any manner of "computer equipment or services," as defined in section 25-53-3, Mississippi Code of 1972, shall be subject to the approval of the state central data processing authority.

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

(2) The investigative division shall:

MISSISSIPPI

(a) Obtain and file fingerprints, descriptions, photographs and any other pertinent identifying data on persons who:

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

(A) For an offense which is a felony;

(B) For an offense which is a misdemeanor involving burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, dangerous drugs, marijuana, narcotics, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, fraud or false pretenses;

(C) As a fugitive from justice; or

(ii) Are or become habitual offenders; or

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

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

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

facts that may be disseminated consistent with applicable security and privacy laws and regulations. A record shall be maintained of the dissemination of each individual criminal history, including at least the date and recipient of such information.

(c) Provide the administrative mechanisms and procedures necessary to respond to those individuals who file requests to view their own records and cooperate in the correction of the central center records and those of contributing agencies when their accuracy has been successfully challenged either through the related contributing agencies or by court order issued on behalf of an individual.

§ 45-27-9. Submission of data to center by criminal justice agencies.

(1) All criminal justice agencies within the state shall submit to the center 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 certain misdemeanors described in section 45-27-7(2)(a). It shall be the duty of all chiefs of police, sheriffs, district attorneys, courts, judges, parole and probation officers, wardens or other persons in charge of correctional institutions in this state to furnish the center with any other data deemed necessary by the center to carry out its

MISSISSIPPI

responsibilities under this chapter.

(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. 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 such 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 such 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 such arrest warrants which continue to be outstanding. 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.

(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 such institutions. The prints so taken shall be forwarded to the center, together with any other identifying data requested, within ten (10)

MISSISSIPPI

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 such 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 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 such items in such 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. In no event shall this time exceed twelve (12) hours after the reporting department or agency determines 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 such 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 such apprehension or recovery.

(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.

MISSISSIPPI

§ 45-27-11. Inspection of criminal offender records; correction of errors in records.

The center shall make a person's criminal records available for inspection by him or his attorney upon written application. Should such person or his attorney contest the accuracy of any portion of such records, the center shall make available to such person or his attorney a copy of the contested record upon written application identifying the portion of the record contested and showing the reason for the contest of accuracy. Forms, procedures, identification and other related aspects pertinent to such access may be prescribed by the center in making access available.

If an individual believes such information to be inaccurate or incomplete, he may request the original agency having custody or control of the records to purge, modify or supplement them and to so notify the center of such changes. Should the agency decline to so act or should the individual believe the agency's decision to be otherwise unsatisfactory, the individual or his attorney may within thirty (30) days of such decision enter an appeal to the county or circuit court of the county of his residence or to such court in the county where such agency exists. The court in each such case shall conduct a de novo hearing and may order such relief as it finds to be required by law. Such appeals shall be entered in the same manner as other appeals are entered.

Should the record in question be found to be inaccurate, incomplete or misleading, the court shall order it to be appropriately expunged, modified or supplemented by an explanatory notation. Each agency or individual in the state with custody, possession or control of any such record shall promptly cause each and every copy thereof in his custody, possession or control to be altered in accordance with the court's order. Notification of each such deletion, amendment and supplementary notation shall be promptly disseminated to any individuals or agencies to which the records in question have been communicated as well as to the individual whose records have been ordered so altered.

Agencies, including the center, at which criminal offender records are sought to be inspected may prescribe reasonable hours and places of inspection and may impose such additional procedures, fees or restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security, to verify the identities of those who seek to inspect them and to maintain an orderly and efficient mechanism for such access.

MISSISSIPPI

§ 45-27-13. Penalties

(1) Any person who knowingly requests, obtains or attempts to obtain criminal history record information under false pretenses or who knowingly communicates or attempts to communicate criminal history record information to any agency or person except in accordance with this chapter, or any member, officer, employee or agency of the investigative division of the Mississippi Justice Information Center, the council or any participating agency who knowingly falsifies criminal history record information, or any records relating thereto, shall for each such offense be fined not more than one thousand dollars (\$ 1,000.00) or be

imprisoned for not more than six (6) months, or both.

(2) Any person who knowingly discloses or attempts to disclose the techniques or methods employed to ensure the security and privacy of information or data contained in criminal justice information systems, except in accordance with this chapter, shall for each such offense be fined not more than five thousand dollars (\$ 5,000.00) or be imprisoned for not more than two (2) years, or both.

MISSISSIPPI

Title 25. Public Officers and Employees; Public Records CHAPTER 53. Central Data Processing Authority INFORMATION CONFIDENTIALITY OFFICERS

§ 25-53-51. Qualifications for Position.

To qualify for the position of information confidentiality officer a person must:

(a) Be an employee of a state agency or institution in a position such that his duties require him to handle or process or supervise the handling or processing of data in conjunction with the use of automated data processing equipment for an agency or institution other than that for whom he is regularly employed.

(b) Have been continuously employed for a period of at least one hundred eighty (180) days by such agency or institution or have successfully been cleared for employment through an investigation that shall consist of a determination as to good moral character and that the prospective employee has not been convicted of a felony. At the request of the executive director, the Mississippi Department of Public Safety shall be responsible for conducting background investigations of the prospective employee and expeditiously report the results of such investigation to the executive director. An employee may be provisionally employed based on a reference check by the employing agency pending final receipt of the results of the detailed background investigation conducted by the Mississippi Department of Public Safety for a period not to exceed sixty (60) days.

(c) Successfully complete a suitable instructional course on the subjects of information security, privacy and confidentiality and protection, to be developed and taught under the supervision of the executive director. An employee may work in a provisional capacity under the direct supervision of an information confidentiality officer as part of an on-the-job training program while completing instructional requirements, for a period not to exceed ninety (90) days.

(d) Be duly sworn to the following oath: "I, -----, do solemnly swear to protect and uphold the confidentiality of all information that may come to my knowledge that is designated as 'confidential information' by another state

agency or institution for which I may handle or process in the normal course of my duties. I swear to exercise reasonable care in the handling and processing of all such designated data and further that I will not reveal or otherwise divulge information from such data obtained. I understand that proven violation of this oath will subject me to forfeiture of my bond and dismissal from employment."

(e) Enter into bond in the amount of five thousand dollars (\$ 5,000.00) with a surety company authorized to do business in the state, and conditioned to pay the full amount thereof as liquidated damages to any person about whom confidential information is disclosed in violation of his oath.

(f) Be identified by a wallet-sized identification card with a picture of the person to be carried at all times while on duty.

MISSISSIPPI

§ 25-53-53. Handling and processing of information and data.

Information and data shall be considered public record information and data and receive normal handling and processing unless designated as "confidential information" by the agency and institution originating the data. Information and data designated as "confidential information" will receive special handling based on procedures agreed to by the executive director and the agency or institution head and shall be handled in accordance with the oath subscribed to by the confidentiality officer.

§ 25-35-55. Investigation of and hearing on complaints of allegedly improper disclosure of confidential information.

Upon written complaint of any person claiming to be adversely affected by disclosure of confidential information by any information confidentiality officer, the director shall give notice to the information confidentiality officer of the fact that such complaint has been filed and shall give such notice to the Chairman of the central data processing authority, who shall call a meeting of the members of the authority for the purpose of hearing such complaint. The authority shall then conduct an investigation into the matter and shall afford to the complaining party and the information confidentiality officer a hearing, of which reasonable notice shall be given. For purposes of such hearing, the authority, under signature of the secretary of the authority attested by the chairman, shall have the power to subpoena witnesses and documentary or other evidence. After such hearing, if the authority, based upon substantial evidence, shall find that the information confidentiality officer has disclosed confidential information in violation of his oath, the authority shall enter such finding of fact on its minutes and the information confidentiality officer shall be immediately discharged from employment. If the authority shall find that such oath has not been violated, it shall, likewise, enter such finding on its minutes and the complaint shall be dismissed. The finding of the authority shall be prima facie evidence of the truth thereof in any judicial procedure seeking forfeiture of the bond of such information confidentiality officer.

MISSISSIPPI

§ 25-53-59. Penalty for improper release or divulgence of confidential information.

Any information confidentiality officer who shall intentionally and wilfully violate his oath by releasing or divulging confidential information without proper authority shall be guilty of a misdemeanor and sentenced to not exceeding one (1) year in jail or a fine of not exceeding one thousand dollars (\$ 1,000.00), or both.

§ 25-59-19. Records to be public property.

All records created or received in the performance of public duty and paid for by public funds are deemed to be public property and shall constitute a record of public acts.