

PUBLIC RECORDS LAW AS REVISED 2008 AFFECTING LAW ENFORCEMENT

SECTION 1. Section 25-61-3, Mississippi Code of 1972, is amended as follows:

25-61-3. The following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Public body" shall mean any department, bureau, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or a political subdivision thereof, and any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. Within the meaning of this chapter, the term "entity" shall not be construed to include individuals employed by a public body or any appointed or elected public official.

(b) "Public records" shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.

(c) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications and computer networking programs.

(d) "Proprietary software" means data processing software that is obtained under a licensing agreement and is protected by copyright or trade secret laws.

(e) **"Incident report" means a narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.**

(f) "Investigative report" means records of a law enforcement agency containing information beyond the scope of the matters contained in an incident report, and

generally will include, but not be limited to, the following matters if beyond the scope of the matters contained in an incident report:

- (i) Records that are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation which may include crime scene reports and demonstrative evidence;
- (ii) Records that would reveal the identity of informants and/or witnesses;
- (iii) Records that would prematurely release information that would impede the public body's enforcement, investigative or detection efforts;
- (iv) Records that would disclose investigatory techniques and/or results of investigative techniques;
- (v) Records that would deprive a person of a right to a fair trial or an impartial adjudication;
- (vi) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;
- (vii) Records pertaining to quality control or PEER review activities; or
- (viii) Records that would impede or jeopardize a prosecutor's ability to prosecute the alleged offense.

(g) "Law enforcement agency" means a public body that performs as one of its principal functions activities pertaining to the enforcement of criminal laws, the apprehension and investigation of criminal offenders, or the investigation of criminal activities.

SECTION 2. Section 25-61-5, Mississippi Code of 1972, is amended as follows:

25-61-5. (1) Except as otherwise provided by Sections 25-61-9 and 25-61-11, all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body, or, in the event

that a public body has not adopted such **written procedures, the right to inspect, copy or mechanically reproduce or obtain a reproduction of a public record of the public body shall be provided within one (1) working day after a written request for a public record is made.** No public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than fourteen (14) working days from the date of request for the production of such record.

(2) **If any public record contains material which is not exempted under this chapter, the public agency shall redact the exempted and make the nonexempted material available for examination.** Such public agency shall be entitled to charge a reasonable fee for the redaction of any exempted material, not to exceed the agency's actual cost.

(3) **Denial by a public body of a request for access to or copies of public records under this chapter shall be in writing and shall contain a statement of the specific reasons for the denial. Each public body shall maintain a file of all denials of requests for public records. Public bodies shall be required to preserve such denials on file for not less than three (3) years from the date such denials are made.** This file shall be made available for inspection and/or copying during regular office hours to any person upon written request.

SECTION 3. Section 25-61-12, Mississippi Code of 1972, is amended as follows:

25-61-12. (1) The home address, any telephone number of a privately paid account or other private information of any law enforcement officer, criminal investigator, judge or district attorney or the spouse or child of such law enforcement officer, criminal investigator, judge or district attorney shall be exempt from the Mississippi Public Records Act of 1983. This exemption does not apply to any court transcript or recording if given under oath and not otherwise excluded by law.

(2) (a) When in the possession of a law enforcement agency, investigative reports shall be exempt from the provisions of this chapter; however, a law enforcement agency, in its discretion, may choose to make public all or any part of any investigative report.

(b) Nothing in this chapter shall be construed to prevent any and all public bodies from having among themselves a free flow of information for the purpose of achieving a coordinated and effective detection and investigation of unlawful activity. Where the confidentiality of records covered by this section is being determined in

a private hearing before a judge under Section 25-61-13, the public body may redact or separate from such records the identity of confidential informants or the identity of the person or persons under investigation or other information other than the nature of the incident, time, date and location.

(c) Nothing in this chapter shall be construed to exempt from public disclosure a law enforcement incident report. An incident report shall be a public record. A law enforcement agency may release information in addition to the information contained in the incident report.

(d) Nothing in this chapter shall be construed to require the disclosure of information that would reveal the identity of the victim.

(3) Personal information of victims, including victim impact statements and letters of support on behalf of victims that are contained in records on file with the Mississippi Department of Corrections and State Parole Board shall be exempt from the provisions of this chapter.

SECTION 4. Section 45-29-1, Mississippi Code of 1972, which provides that certain investigative and criminal justice records are exempt from public access requirements, and Section 45-29-3, Mississippi Code of 1972, which provides for exemption from the public records law of certain law enforcement records and personal information of victims, are repealed.

SECTION 5. This act shall take effect and be in force from and after July 1, 2008.