

By: Carlton

To: Judiciary

SENATE BILL NO. 2797
(As Passed the Senate)

1 AN ACT TO CREATE NEW SECTION 45-33-21, MISSISSIPPI CODE OF
2 1972, TO ENACT LEGISLATIVE FINDINGS AND MAKE A STATEMENT OF INTENT
3 AND PURPOSE; TO CREATE NEW SECTION 45-33-23, MISSISSIPPI CODE OF
4 1972, TO ENACT DEFINITIONS; TO CREATE NEW SECTION 45-33-25,
5 MISSISSIPPI CODE OF 1972, TO REQUIRE REGISTRATION WITH THE
6 MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY OF ALL CONVICTED SEX
7 OFFENDERS, AND TO PROVIDE WHAT INFORMATION IS REQUIRED FOR
8 REGISTRATION; TO CREATE NEW SECTION 45-33-27, MISSISSIPPI CODE OF
9 1972, TO ENACT DEADLINES FOR REGISTRATION; TO CREATE NEW SECTION
10 45-33-29, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT REGISTRANTS
11 PROVIDE NOTICE OF ANY CHANGE OF ADDRESS; TO CREATE NEW SECTION
12 45-33-31, MISSISSIPPI CODE OF 1972, TO REQUIRE PERIODIC
13 RE-REGISTRATION; TO CREATE NEW SECTION 45-33-33, MISSISSIPPI CODE
14 OF 1972, TO ENACT PENALTIES FOR FAILURE TO REGISTER; TO CREATE NEW
15 SECTION 45-33-35, MISSISSIPPI CODE OF 1972, TO CREATE A CENTRAL
16 SEX OFFENDER REGISTRY AND TO REQUIRE CERTAIN PERSONS TO PERFORM
17 REGISTRATION DUTIES; TO CREATE NEW SECTION 45-33-37, MISSISSIPPI
18 CODE OF 1972, TO REQUIRE A CONVICTED SEX OFFENDER TO PROVIDE A
19 BLOOD SAMPLE FOR PURPOSES OF DNA IDENTIFICATION ANALYSIS; TO
20 CREATE NEW SECTION 45-33-39, MISSISSIPPI CODE OF 1972, TO REQUIRE
21 NOTICE TO THOSE REQUIRED TO REGISTER; TO CREATE NEW SECTION
22 45-33-41, MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICE TO
23 INCARCERATED PERSONS REQUIRED TO REGISTER; TO CREATE NEW SECTION
24 45-33-43, MISSISSIPPI CODE OF 1972, TO REQUIRE WRITTEN NOTICE BE
25 GIVEN TO DRIVER'S LICENSE APPLICANTS; TO CREATE NEW SECTION
26 45-33-45, MISSISSIPPI CODE OF 1972, TO ENACT A DEFINITION OF
27 "SEXUAL PREDATOR"; TO CREATE NEW SECTION 45-33-47, MISSISSIPPI
28 CODE OF 1972, TO PROVIDE FOR A PETITION FOR RELIEF FROM THE DUTY
29 TO REGISTER; TO CREATE NEW SECTION 45-33-49, MISSISSIPPI CODE OF
30 1972, TO PROVIDE FOR DISCLOSURE TO THE PUBLIC, SCHOOL AND DAY CARE
31 CENTERS; TO CREATE NEW SECTION 45-33-51, MISSISSIPPI CODE OF 1972,
32 TO ENACT PENALTIES FOR THE MISUSE OF REGISTRATION INFORMATION; TO
33 CREATE NEW SECTION 45-33-53, MISSISSIPPI CODE OF 1972, TO PROVIDE
34 IMMUNITY FROM CIVIL LIABILITY AND IN THE EXERCISE OF DISCRETION
35 UNDER THE ACT; TO CREATE NEW SECTION 45-33-55, MISSISSIPPI CODE OF
36 1972, TO PROVIDE EXEMPTIONS FOR EXPUNCTION; TO CREATE NEW SECTION
37 45-33-57, MISSISSIPPI CODE OF 1972, TO ALLOW THE DEPARTMENT OF
38 PUBLIC SAFETY TO ESTABLISH FEES TO BE CHARGED FOR REQUESTS FOR
39 INFORMATION; TO REPEAL SECTIONS 45-33-1 THROUGH 45-33-19,
40 MISSISSIPPI CODE OF 1972, WHICH DEAL WITH THE REGISTRATION OF
41 CONVICTED SEX OFFENDERS; TO REPEAL SECTIONS 45-31-1 THROUGH
42 45-31-19, WHICH COMPRISE THE SEX OFFENSE CRIMINAL HISTORY RECORD
43 INFORMATION ACT; AND FOR RELATED PURPOSES.

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

45 SECTION 1. Section 45-33-21, Mississippi Code of 1972, is
46 codified as follows:

47 45-33-21. **Legislative findings and declaration of purpose.**

48 The Legislature finds that the danger of recidivism posed by
49 criminal sex offenders and the protection of the public from these
50 offenders is of paramount concern and interest to government. The
51 Legislature further finds that law enforcement agencies' efforts
52 to protect their communities, conduct investigations, and quickly
53 apprehend criminal sex offenders are impaired by the lack of
54 information shared with the public, which lack of information may
55 result in the failure of the criminal justice system to identify,
56 investigate, apprehend, and prosecute criminal sex offenders.

57 The Legislature further finds that the system of registering
58 criminal sex offenders is a proper exercise of the state's police
59 power regulating present and ongoing conduct. Comprehensive
60 registration and periodic address verification will provide law
61 enforcement with additional information critical to preventing
62 sexual victimization and to resolving promptly incidents involving
63 sexual abuse and exploitation. It will allow law enforcement
64 agencies to alert the public when necessary for the continued
65 protection of the community.

66 Persons found to have committed a sex offense have a reduced
67 expectation of privacy because of the public's interest in safety
68 and in the effective operation of government. In balancing
69 offenders' due process and other rights, and the interests of
70 public security, the Legislature finds that releasing such
71 information about criminal sex offenders to the general public
72 will further the primary governmental interest of protecting
73 vulnerable populations and, in some instances the public, from
74 potential harm.

75 Therefore, the state's policy is to assist local law
76 enforcement agencies' efforts to protect their communities by
77 requiring criminal sex offenders to register, to record their
78 addresses of residence, to be photographed and fingerprinted, and
79 to authorize the release of necessary and relevant information

80 about criminal sex offenders to the public as provided in this
81 act, which may be referred to as the Mississippi Sex Offenders
82 Registration Law.

83 SECTION 2. Section 45-33-23, Mississippi Code of 1972, is
84 codified as follows:

85 45-33-23. **Definitions.**

86 For the purposes of this chapter, the following words shall
87 have the meanings ascribed herein unless the context clearly
88 requires otherwise:

89 (a) "Conviction" shall mean that, regarding the
90 person's offense, there has been a determination or judgment of
91 guilt as a result of a trial or the entry of a plea of guilty or
92 nolo contendere, regardless of whether adjudication is withheld.
93 "Conviction of similar offenses" includes, but is not limited to,
94 a conviction by a federal or military tribunal, including a court
95 martial conducted by the Armed Forces of the United States, a
96 conviction for an offense committed on an Indian Reservation or
97 other federal property, and a conviction in any state of the
98 United States.

99 (b) "Jurisdiction" shall mean any state court, federal
100 court, military court or Indian tribunal.

101 (c) "Permanent residence" is defined as a place where
102 the person abides, lodges, or resides for a period of fourteen
103 (14) or more consecutive days.

104 (d) "Registration duties" means obtaining the
105 registration information required on the form specified by the
106 department as well as the photograph, fingerprints, and blood
107 sample of the registrant. Blood samples are to be forwarded to
108 the State Crime Laboratory pursuant to Section 45-33-37; the
109 photograph, fingerprints and other registration information are to
110 be forwarded to the Department of Public Safety within three (3)
111 days.

112 (e) "Responsible agency" is defined as the person or

113 government entity whose duty it is to obtain information from a
114 criminal sex offender upon conviction and to transmit that
115 information to the Mississippi Department of Public Safety.

116 (i) For a criminal sex offender being released
117 from the custody of the Department of Corrections, the responsible
118 agency is the Department of Corrections.

119 (ii) For a criminal sex offender being released
120 from a county jail, the responsible agency is the sheriff of that
121 county.

122 (iii) For a criminal sex offender being released
123 from a municipal jail, the responsible agency is the police
124 department of that municipality.

125 (iv) For a sex offender in the custody of youth
126 court, the responsible agency is the youth court.

127 (v) For a criminal sex offender who is being
128 placed on probation, including conditional discharge or
129 unconditional discharge, without any sentence of incarceration,
130 the responsible agency is the sentencing court.

131 (vi) For an offender who has been committed to a
132 mental institution following an acquittal by reason of insanity,
133 the responsible agency is the facility from which the offender is
134 released. Specifically, the director of said facility shall
135 notify the Department of Public Safety prior to the offender's
136 release.

137 (vii) For a criminal sex offender who is being
138 released from a jurisdiction outside this state or who has a prior
139 conviction in another state and who is to reside in this state,
140 the responsible agency is the Department of Public Safety.

141 (f) "Sex offense" means any of the following offenses:

142 (i) Section 97-3-53 relating to kidnapping, if the
143 victim was below the age of eighteen (18);

144 (ii) Section 97-3-65 relating to rape;

145 (iii) Section 97-3-71 relating to rape and assault

146 with intent to ravish;

147 (iv) Section 97-3-95 relating to sexual battery;

148 (v) Section 97-5-23 relating to the touching of a
149 child for lustful purposes;

150 (vi) Section 97-5-27 relating to the dissemination
151 of sexually oriented material to children;

152 (vii) Section 97-5-33 relating to the exploitation
153 of children;

154 (viii) Section 97-5-41 relating to the carnal
155 knowledge of a stepchild, adopted child or child of a cohabiting
156 partner;

157 (ix) Section 97-29-59 relating to unnatural
158 intercourse;

159 (x) Any other offense committed in another
160 jurisdiction, which, if committed in this state, would be deemed
161 to be such a crime without regard to its designation elsewhere; or

162 (xi) Any offense committed in another state for
163 which registration is required in that state.

164 (g) "Sexual predator" means a person who has been
165 convicted of a sex offense or offenses as described in Section
166 45-33-45 and who has been designated as a sexual predator
167 according to the terms of that section.

168 (h) "Temporary residence" is defined as a place where
169 the person abides, lodges, or resides for a period of fourteen
170 (14) or more days in the aggregate during any calendar year and
171 which is not the person's permanent address; for a person whose
172 permanent residence is not in this state, the place where the
173 person is employed, practices a vocation, or is enrolled as a
174 student for any period of time in the state; or a place where a
175 person routinely abides, lodges, or resides for a period of four
176 (4) or more consecutive or nonconsecutive days in any month and
177 which is not the person's permanent residence.

178 (i) "Department" unless otherwise specified is defined

179 as the Mississippi Department of Public Safety.

180 SECTION 3. Section 45-33-25, Mississippi Code of 1972, is
181 codified as follows:

182 45-33-25. **Registration with Mississippi Department of Public**
183 **Safety of all Convicted Sex Offenders; Registration Information.**

184 (1) Any person residing in this state who has been convicted
185 of any sex offense or attempted sex offense or who has been
186 acquitted by reason of insanity for any sex offense or attempted
187 sex offense or twice adjudicated delinquent for any sex offense or
188 attempted sex offense shall register with the Mississippi
189 Department of Public Safety. The department shall provide the
190 initial registration information as well as every change of
191 address to the sheriff of the county of the residence address of
192 the registrant through either written notice, electronic or
193 telephone transmissions, or online access to registration
194 information. Further, the department shall provide this
195 information to the Federal Bureau of Investigation. Additionally,
196 upon notification by the registrant that he intends to reside
197 outside the State of Mississippi, the department shall notify the
198 appropriate state law enforcement agency of any state to which a
199 registrant is moving or has moved.

200 (2) The following information shall be required for
201 registration:

- 202 (a) Name;
- 203 (b) Address;
- 204 (c) Place of employment;
- 205 (d) Crime for which convicted;
- 206 (e) Date and place of conviction, adjudication or
207 acquittal by reason of insanity;
- 208 (f) Aliases used;
- 209 (g) Social security number;
- 210 (h) Date of birth;
- 211 (i) Age, race, sex, height, weight, and hair and eye

212 colors;

213 (j) A brief description of the offense or offenses for
214 which the registration is required;

215 (k) Identifying factors;

216 (l) Anticipated future residence;

217 (m) Offense history;

218 (n) Photograph;

219 (o) Fingerprints;

220 (p) For sexual predators, documentation of any
221 treatment received for any mental abnormality or personality
222 disorder of the person;

223 (q) Blood sample; and

224 (r) Any other information deemed necessary.

225 (3) For purposes of this chapter, a person is considered to
226 be residing in this state if he maintains a permanent or temporary
227 residence as defined in Section 45-33-23, including students,
228 temporary employees and military personnel on assignment.

229 SECTION 4. Section 45-33-27, Mississippi Code of 1972, is
230 codified as follows:

231 45-33-27. Time Frame for Registration of Offenders.

232 (1) A person required to register on the basis of a
233 conviction, adjudication of delinquency or acquittal by reason of
234 insanity entered shall register within three (3) days of the date
235 of judgment unless the person is immediately confined or
236 committed, in which case the person shall register when released
237 in accordance with the procedures established by the department.
238 The court shall inform the person of the duty to register and
239 obtain the information required for registration and forward the
240 registration information to the department within three (3) days.

241 (2) If a person who is required to register under this
242 section is released from prison or placed on parole or supervised
243 release, the Department of Corrections shall perform the
244 registration duties at the time of release and forward the

245 registration information to the Department of Public Safety within
246 three (3) days.

247 (3) If a person required to register under this section is
248 placed on probation, the court, at the time of entering the order,
249 shall obtain the registration information and forward the
250 registration information to the Department of Public Safety within
251 three (3) days.

252 (4) Any person required to register who is neither
253 incarcerated, detained nor committed at the time the requirement
254 to register shall attach shall present himself to the county
255 sheriff who shall perform the registration duties and forward the
256 registration information to the Department of Public Safety within
257 three (3) days.

258 (5) An offender moving to or returning to this state from
259 another jurisdiction shall notify the Department of Public Safety
260 ten (10) days before the person first resides in or returns to a
261 county in this state and shall register with the department within
262 ten (10) days of first residing in or returning to a county of
263 this state. The offender must then present himself to the sheriff
264 of the county in which he intends to reside to provide the
265 required registration information.

266 (6) A person, other than a person confined in a correctional
267 or juvenile detention facility or involuntarily committed on the
268 basis of mental illness, who is required to register on the basis
269 of a sex offense for which a conviction, adjudication of
270 delinquency or acquittal by reason of insanity was entered prior
271 to July 1, 1995, shall register with the sheriff of the county in
272 which he resides no later than August 15, 2000.

273 SECTION 5. Section 45-33-29, Mississippi Code of 1972, is
274 codified as follows:

275 45-33-29. **Address Change Notification.**

276 Upon any change of address, an offender under this chapter
277 must notify the department in writing no less than ten (10) days

278 before he intends to first reside at the new address.

279 SECTION 6. Section 45-33-31, Mississippi Code of 1972, is
280 codified as follows:

281 45-33-31. **Re-registration.**

282 A registrant shall re-register every ninety (90) days by
283 submitting current information to the department verifying his
284 registration information, including address, telephone number,
285 place of employment, address of employment, and any other
286 registration information that may need to be verified.

287 (a) The Department of Public Safety shall mail a
288 nonforwardable verification form to the last reported address of
289 the person every ninety (90) days.

290 (b) The person shall mail the verification form to the
291 department within ten (10) days after receipt of the form
292 verifying that the person resides at the address last reported.

293 (c) If the person fails to mail the verification form
294 to the department within ten (10) days after receipt of the form,
295 the person shall be in violation of this section.

296 SECTION 7. Section 45-33-33, Mississippi Code of 1972, is
297 codified as follows:

298 45-33-33. **Failure to Register; Penalties and Enforcement.**

299 (1) The failure of an offender to provide any registration
300 or other information, including, but not limited to, initial
301 registration, re-registration or change of address information, as
302 required by this chapter, is a violation of the law.
303 Additionally, forgery of information or submission of information
304 under false pretenses is also a violation of the law.

305 (2) Unless otherwise specified, a violation of this chapter
306 shall be considered a felony and shall be punishable by a fine not
307 more than Five Thousand Dollars (\$5,000.00) or imprisonment in the
308 State Penitentiary for not more than five (5) years, or both fine
309 and imprisonment.

310 (3) Whenever it appears that an offender has failed to

311 comply with the duty to register or re-register, the department
312 shall promptly notify the sheriff of the county of the last known
313 address of the offender. Upon notification, the sheriff shall
314 attempt to locate the offender at his last known address.

315 (a) If the sheriff locates the offender he shall
316 enforce the provisions of this chapter. The sheriff shall then
317 notify the department with the current information regarding the
318 offender.

319 (b) If the sheriff is unable to locate the offender,
320 the sheriff shall promptly notify the department and initiate a
321 criminal prosecution against the offender for the failure to
322 register or re-register. The sheriff shall make the appropriate
323 transactions into the Federal Bureau of Investigation's
324 wanted-person database.

325 (4) A first violation of this chapter may result in the
326 arrest of the offender. Upon any second or subsequent violation
327 of this chapter, the offender shall be arrested for such
328 violation.

329 SECTION 8. Section 45-33-35, Mississippi Code of 1972, is
330 codified as follows:

331 **45-33-35. Central Registry of Offenders; Duties of Agencies**
332 **to Provide Information.**

333 (1) The Mississippi Department of Public Safety shall
334 maintain a central registry of sex offender information as defined
335 in Section 45-33-25 and shall adopt rules and regulations
336 necessary to carry out this section. The responsible agencies
337 shall provide the information required in Section 45-33-25 on a
338 form developed by the department to ensure accurate information is
339 maintained.

340 (2) Upon conviction, adjudication or acquittal by reason of
341 insanity of any sex offender, if the sex offender is not
342 immediately confined or not sentenced to a term of imprisonment,
343 the clerk of the court which convicted and sentenced the sex

344 offender shall inform the person of the duty to register and shall
345 perform the registration duties as described in Section 45-33-23
346 and forward the information to the department.

347 (3) Upon release from prison, placement on parole or
348 supervised release, the Department of Corrections shall inform the
349 person of the duty to register and shall perform the registration
350 duties as described in Section 45-33-23 and forward the
351 information to the Department of Public Safety.

352 (4) Upon release from confinement in a mental institution
353 following an acquittal by reason of insanity, the director of the
354 facility shall inform the offender of the duty to register and
355 shall notify the Department of Public Safety of the offender's
356 release.

357 (5) Upon release from a youthful offender facility, the
358 director of the facility shall inform the person of the duty to
359 register and shall perform the registration duties as described in
360 Section 45-33-23 and forward the information to the Department of
361 Public Safety.

362 (6) In addition to performing the registration duties, the
363 responsible agency shall:

364 (a) Inform the person having a duty to register that:

365 (i) The person shall report in writing any change
366 of address to the department ten (10) days before changing
367 address.

368 (ii) Any change of address to another state shall
369 be reported to the department in writing no less than ten (10)
370 days before the change of address. The offender shall comply with
371 any registration requirement in the new state.

372 (iii) The person must register in any state where
373 the person is employed, carries on a vocation, is stationed in the
374 military or is a student.

375 (iv) All address verifications must be returned to
376 the department within the required time period.

377 (b) Require the person to read and sign a form stating
378 that the duty of the person to register under this chapter has
379 been explained.

380 (c) Obtain or facilitate the obtaining of a blood
381 sample from every registrant as required by this chapter if such
382 blood sample has not already been provided to the Mississippi
383 Crime Lab.

384 SECTION 9. Section 45-33-37, Mississippi Code of 1972, is
385 codified as follows:

386 **45-33-37. DNA Identification System; Convicted Sex Offender**
387 **to Provide Blood Sample for Purposes of DNA Identification**
388 **Analysis.**

389 (1) The Mississippi Crime Laboratory shall develop a plan
390 for and establish a deoxyribonucleic acid (DNA) identification
391 system. In implementing the plan, the Mississippi Crime
392 Laboratory shall purchase the appropriate equipment. The DNA
393 identification system as established herein shall be compatible
394 with that utilized by the Federal Bureau of Investigation.

395 (2) From and after January 1, 1996, every individual
396 convicted of a sex offense or in the custody of the Mississippi
397 Department of Corrections for a sex offense as defined in Section
398 45-33-23 shall have a blood sample drawn for purposes of DNA
399 identification analysis before release from or transfer to a state
400 correctional facility or county jail or other detention facility.

401 (4) From and after January 1, 1996, any person having a duty
402 to register under Section 45-33-25 for whom a DNA analysis is not
403 already on file shall have a blood sample drawn for purposes of
404 DNA identification analysis within five (5) working days after
405 registration.

406 SECTION 10. Section 45-33-39, Mississippi Code of 1972, is
407 codified as follows:

408 **45-33-39. Notification to Defendant Charged with Sex**
409 **Offense; Notice Included on any Guilty Plea Form and Judgement and**

410 **Sentence Forms.**

411 (1) The court shall provide written notification to any
412 defendant charged with a sex offense as defined by this chapter of
413 the registration requirements of Sections 45-33-25 and 45-33-31.
414 Such notice shall be included on any guilty plea forms and
415 judgment and sentence forms provided to the defendant. The court
416 shall obtain a written acknowledgment of receipt on each occasion.

417 (2) A court imposing a sentence, disposition or order of
418 commitment following acquittal by reason of insanity shall notify
419 the offender of the registration requirements of Sections 45-33-25
420 and 45-23-31. The court shall obtain a written acknowledgment of
421 receipt on each occasion.

422 SECTION 11. Section 45-33-41, Mississippi Code of 1972, is
423 codified as follows:

424 **45-33-41. Notification to Inmates and Offenders by**
425 **Department of Corrections, County or Municipal Jails, and Juvenile**
426 **Detention Facilities; Victim Notification.**

427 (1) The Department of Corrections or any person having
428 charge of a county or municipal jail or any juvenile detention
429 facility shall provide written notification to an inmate or
430 offender in the custody of the jail or other facility due to a
431 conviction of or adjudication for a sex offense of the
432 registration requirements of Sections 45-33-25 and 45-33-31 at the
433 time of the inmate's or offender's confinement and release from
434 confinement and shall receive a signed acknowledgment of receipt
435 on both occasions.

436 (2) At least ten (10) days prior to the inmate's release
437 from confinement, the Department of Corrections shall notify the
438 victim of the offense or a designee of the immediate family of the
439 victim regarding the date when the offender's release shall occur,
440 provided a current address of the victim or designated family
441 member has been furnished in writing to the Director of Records
442 for such purpose.

443 SECTION 12. Section 45-33-43, Mississippi Code of 1972, is
444 codified as follows:

445 45-33-43. **Written Notification to Certain Applicants for a**
446 **Driver's License.**

447 At the time a person surrenders a driver's license from
448 another jurisdiction and makes an application for a driver's
449 license, the department shall provide the applicant with written
450 information on the registration requirements of this chapter.

451 SECTION 13. Section 45-33-45, Mississippi Code of 1972, is
452 codified as follows:

453 45-33-45. **Sexual Predator Designation.**

454 (1) The designation of a person as a sexual predator is
455 neither a sentence nor a punishment, but is simply a status
456 resulting from the conviction of certain crimes.

457 (2) An offender shall be designated a sexual predator in the
458 State of Mississippi if:

459 (a) The offender is convicted of any of the following
460 crimes on or after July 1, 1995.

461 (i) Section 97-3-65 relating to rape and carnal
462 knowledge of a child under fourteen (14) years of age;

463 (ii) Section 97-3-71 relating to rape and assault
464 with intent to ravish;

465 (iii) Section 97-3-95 relating to sexual battery;

466 (iv) Section 97-5-21 relating to seduction of a
467 child under age eighteen (18);

468 (v) Section 97-5-33 relating to the exploitation
469 of children;

470 (vi) Section 97-5-41 relating to the carnal
471 knowledge of a stepchild, adopted child or child of a cohabiting
472 partner; or

473 (vii) Any violation of a similar law of another
474 jurisdiction.

475 (b) The offender receives two (2) separate convictions

476 of any of the qualifying offenses as described in Section 45-33-23
477 as long as one (1) of the convictions was entered on or after July
478 1, 1995.

479 (c) The offender is twice adjudicated delinquent in a
480 youth court for the crime of rape pursuant to Section 97-3-65 or
481 sexual battery pursuant to Section 97-3-95.

482 (3) When an offender is before the court for sentencing for
483 one of the above qualifying offenses, the sentencing court shall
484 make a written finding at the time of sentencing that the offender
485 is a sexual predator based on a first conviction for the crimes
486 described in subsection (2)(a) above or a second conviction for
487 any of the qualifying offenses in this chapter. The court shall
488 submit a copy of the court order containing the written finding to
489 the department and also to the Department of Corrections, if the
490 offender is incarcerated.

491 (4) If the department, the Department of Corrections, or any
492 other law enforcement agency obtains information suggesting an
493 offender meets the "sexual predator" designation criteria, but has
494 not been designated as a sexual predator in writing by the court,
495 that agency shall notify the district attorney of the district in
496 which the offender resides. The district attorney shall then seek
497 a court order to obtain the designation.

498 (5) Any offender convicted as described in subsection (2) of
499 this section shall be required to maintain lifetime registration
500 without the opportunity to petition for removal from the sex
501 offender registry.

502 (6) The offender will be considered a sexual predator for
503 such convictions unless the conviction was set aside in any
504 post-conviction proceeding or the offender received a pardon or
505 similar relief. An offender who resides in Mississippi and who
506 has been designated a sexual predator, a sexually violent predator
507 or a similar designation in another state will be designated a
508 sexual predator in the Mississippi sex offender registry.

509 SECTION 14. Section 45-33-47, Mississippi Code of 1972, is
510 codified as follows:

511 45-33-47. **Petition for Relief from Duty to Register;**

512 **Grounds.**

513 (1) A sex offender with a duty to register under Section
514 45-33-25 shall only be relieved of the duty under subsection (2)
515 of this section.

516 (2) A person having a duty to register under Section
517 45-33-25 may petition the circuit court to be relieved of that
518 duty under the following conditions:

519 (a) The offender has maintained his registration for
520 not less than ten (10) years from the date of occurrence of at
521 least one (1) of the following: release from prison, placement on
522 parole, supervised release or probation.

523 (b) The offender has not been designated a sexual
524 predator.

525 (3) In determining whether to release an offender from the
526 obligation to register, the court shall consider the nature of the
527 registerable offense committed and the criminal and relevant
528 noncriminal behavior of the petitioner both before and after
529 conviction. The court may relieve the offender of the duty to
530 register only if the petitioner shows, by clear and convincing
531 evidence, that future registration of the petitioner will not
532 serve the purposes of this chapter.

533 SECTION 15. Section 45-33-49, Mississippi Code of 1972, is
534 codified as follows:

535 45-33-49. **Disclosure to Public; Notification of Schools and**
536 **Day Care Centers; Guidelines for Sheriffs as to Notification;**
537 **Maintenance of Records.**

538 (1) Records maintained pursuant to this chapter shall be
539 open to law enforcement agencies which shall be authorized to
540 release relevant and necessary information regarding sex offenders
541 to the public.

542 (2) The identity of a victim of an offense that requires
543 registration under this chapter shall not be released.

544 (3) A sheriff shall maintain records for registrants of the
545 county and shall make available to any person upon request the
546 name, address, place of employment, crime for which convicted,
547 date and place of conviction of any registrant, and any other
548 information deemed necessary for the protection of the public.
549 The sheriffs shall be responsible for verifying their respective
550 registries annually against the department's records to ensure
551 current information is available at both levels.

552 (4) Upon written request, the department may also provide to
553 any person the name, address, photograph, if available, place of
554 employment, crime for which convicted, date and place of
555 conviction of any registrant, and any other information deemed
556 necessary for the protection of the public. Additionally, the
557 department may utilize an internet website or other electronic
558 means to release the information.

559 (5) The Department of Education, the Mississippi Private
560 School Association and the Department of Health shall notify all
561 schools and licensed day care centers annually regarding the
562 availability upon request of this information.

563 (6) Nothing in this section shall be construed to prevent
564 law enforcement officers from notifying members of the public
565 exposed to danger of any circumstances or individuals that pose a
566 danger under circumstances that are not enumerated in this
567 section.

568 (7) Nothing in this chapter shall be construed to prevent
569 law enforcement officers from providing community notification of
570 any circumstances or individuals that pose or could pose a danger
571 under circumstances that are not enumerated in this chapter.

572 SECTION 16. Section 45-33-51, Mississippi Code of 1972, is
573 codified as follows:

574 45-33-51. **Misuse of Information; Penalties.**

575 (1) Any person who willfully misuses or alters public record
576 information relating to a sex offender or sexual predator,
577 including information displayed by law enforcement agencies on web
578 sites, shall be guilty of a misdemeanor and shall be punished by a
579 fine of not more than One Thousand Dollars (\$1,000.00) or
580 imprisonment in the county jail not more than six (6) months, or
581 both.

582 (2) The sale or exchange of sex offender information for
583 profit is prohibited. Any violation of this subsection (2) is a
584 misdemeanor and shall be punished by a fine of not more than One
585 Thousand Dollars (\$1,000.00) or imprisonment in the county jail
586 not more than six (6) months, or both.

587 SECTION 17. Section 45-33-53, Mississippi Code of 1972, is
588 codified as follows:

589 45-33-53. **Immunity from Civil Liability; Immunity for**
590 **Exercise of Discretion Under Act.**

591 (1) An elected public official, public employee, or public
592 agency is immune from civil liability for damages for any
593 discretionary decision to release relevant and necessary
594 information unless it is shown that the official, employee, or
595 agency acted with gross negligence or in bad faith. The immunity
596 provided under this section applies to the release of relevant
597 information to other employees or officials or to the general
598 public.

599 (2) Nothing in this chapter shall be deemed to impose any
600 liability upon or to give rise to a cause of action against any
601 public official, public employee, or public agency for failing to
602 release information as authorized in this section.

603 (3) Notwithstanding any other provision of law to the
604 contrary, any person who provides or fails to provide information
605 relevant to the procedures set forth in this chapter shall not be
606 liable therefor in any civil or criminal action. Nothing herein
607 shall be deemed to grant any such immunity to any person for his

608 willful or wanton act of commission or omission.

609 SECTION 18. Section 45-33-55, Mississippi Code of 1972, is
610 codified as follows:

611 45-33-55. **Exemptions for Expunction.**

612 Except for juvenile criminal history information that has
613 been sealed by order of the court, this chapter exempts sex
614 offenses from laws of this state or court orders authorizing the
615 destroying, expunging, purging or sealing of criminal history
616 records to the extent such information is authorized for
617 dissemination under this chapter.

618 SECTION 19. Section 45-33-57, Mississippi Code of 1972, is
619 codified as follows:

620 45-33-57. **Fees.**

621 The Department of Public Safety may adopt regulations to
622 establish fees to be charged for information requests.

623 SECTION 20. Sections 45-33-1, 45-33-3, 45-33-5, 45-33-7,
624 45-33-9, 45-33-11, 45-33-13, 45-33-15, 45-33-17 and 45-33-19,
625 Mississippi Code of 1972, which deal with the registration of
626 convicted sex offenders, are repealed.

627 SECTION 21. Sections 45-31-1, 45-31-5, 45-31-3, 45-31-7,
628 45-31-9, 45-31-11, 45-31-12, 45-31-13, 45-31-15, 45-31-17, and
629 45-31-19, Mississippi Code of 1972, which comprise the Sex Offense
630 Criminal History Record Information Act, are repealed.

631 SECTION 22. This act shall take effect and be in force from
632 and after July 1, 2000.