

By: Senator(s) Carlton

To: Judiciary

SENATE BILL NO. 2986

1 AN ACT TO REVISE SEX OFFENDER REGISTRATION; TO AMEND SECTION
2 45-33-23, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO
3 AMEND SECTION 45-33-25, MISSISSIPPI CODE OF 1972, TO REVISE THE
4 REGISTRATION INFORMATION REQUIRED; TO AMEND SECTION 45-33-27,
5 MISSISSIPPI CODE OF 1972, TO REVISE THE TIME FRAME FOR
6 REGISTRATION; TO AMEND SECTION 45-33-29, MISSISSIPPI CODE OF 1972,
7 TO REVISE AN OFFENDER'S DUTY TO NOTIFY THE DEPARTMENT OF CHANGES;
8 TO AMEND SECTION 45-33-31, MISSISSIPPI CODE OF 1972, TO REVISE
9 RE-REGISTRATION; TO AMEND SECTION 45-33-33, MISSISSIPPI CODE OF
10 1972, TO REVISE PENALTIES FOR FAILURE TO REGISTER; TO AMEND
11 SECTION 45-33-35, MISSISSIPPI CODE OF 1972, TO REVISE THE CENTRAL
12 REGISTRY OF OFFENDERS; TO AMEND SECTION 45-33-45, MISSISSIPPI CODE
13 OF 1972, TO REVISE THE DESIGNATION OF SEXUAL PREDATORS; TO AMEND
14 SECTION 45-33-47, MISSISSIPPI CODE OF 1972, TO REVISE THE RELIEF
15 FROM THE DUTY TO REGISTER; TO AMEND SECTION 45-33-49, MISSISSIPPI
16 CODE OF 1972, TO REVISE PUBLIC NOTIFICATION; TO AMEND SECTION
17 37-9-17, MISSISSIPPI CODE OF 1972, TO REVISE THE CENTRAL REGISTRY
18 OF OFFENDERS; AND FOR RELATED PURPOSES.

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

20 SECTION 1. Section 45-33-23, Mississippi Code of 1972, is
21 amended as follows:

22 45-33-23. For the purposes of this chapter, the following
23 words shall have the meanings ascribed herein unless the context
24 clearly requires otherwise:

25 (a) "Conviction" shall mean that, regarding the
26 person's offense, there has been a determination or judgment of
27 guilt as a result of a trial or the entry of a plea of guilty or
28 nolo contendere regardless of whether adjudication is withheld.
29 "Conviction of similar offenses" includes, but is not limited to,
30 a conviction by a federal or military tribunal, including a court
31 martial conducted by the Armed Forces of the United States, a
32 conviction for an offense committed on an Indian Reservation or

33 other federal property, and a conviction in any state of the
34 United States.

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

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

40 (d) "Registration" means providing required information
41 to the appropriate agency within the required timeframe as
42 required by Sections 45-33-25, 45-33-27, 45-33-29 and 45-33-31.

43 (e) "Registration duties" means obtaining the
44 registration information required on the form specified by the
45 department as well as the photograph, fingerprints, and blood
46 sample of the registrant. Blood samples are to be forwarded to
47 the State Crime Laboratory pursuant to Section 45-33-37; the
48 photograph, fingerprints and other registration information are to
49 be forwarded to the Department of Public Safety within three (3)
50 days of registration.

51 (f) "Responsible agency" is defined as the person or
52 government entity whose duty it is to obtain information from a
53 criminal sex offender upon conviction and to transmit that
54 information to the Mississippi Department of Public Safety.

55 (i) For a criminal sex offender being released
56 from the custody of the Department of Corrections, the responsible
57 agency is the Department of Corrections.

58 (ii) For a criminal sex offender being released
59 from a county jail, the responsible agency is the sheriff of that
60 county.

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

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

66 (v) For a criminal sex offender who is being
67 placed on probation, including conditional discharge or
68 unconditional discharge, without any sentence of incarceration,
69 the responsible agency is the sentencing court.

70 (vi) For an offender who has been committed to a
71 mental institution following an acquittal by reason of insanity,
72 the responsible agency is the facility from which the offender is
73 released. Specifically, the director of said facility shall
74 notify the Department of Public Safety prior to the offender's
75 release.

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

80 (g) "Sex offense" means any of the following offenses:

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

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

84 (iii) Section 97-3-71 relating to rape and assault
85 with intent to ravish;

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

87 (v) Section 97-5-5 relating to enticing child for
88 concealment, prostitution or marriage;

89 (vi) Section 97-5-23 relating to the touching of a
90 child for lustful purposes;

91 (vii) Section 97-5-27 relating to the
92 dissemination of sexually oriented material to children;

93 (viii) Section 97-5-33 relating to the
94 exploitation of children;

95 (ix) Section 97-5-41 relating to the carnal
96 knowledge of a stepchild, adopted child or child of a cohabiting
97 partner;

98 (x) Section 97-29-59 relating to unnatural
99 intercourse;

100 (xi) Section 97-1-7 relating to attempt to commit
101 any of the above-referenced offenses;

102 (xii) Section 97-29-3 relating to adultery or
103 fornication between teacher and pupil;

104 (xiii) Any other offense resulting in a conviction
105 in another jurisdiction, whether state, federal or military,
106 which, if committed in this state, would be deemed to be such a
107 crime without regard to its designation elsewhere; * * *

108 (xiv) Any offense resulting in a conviction in
109 another jurisdiction, whether state, federal or military, for
110 which registration is required * * *;

111 (h) "Sexual predator" means a person * * * designated
112 as a sexual predator under Section 45-33-45.

113 (i) "Temporary residence" is defined as a place where
114 the person abides, lodges, or resides for a period of fourteen
115 (14) or more days in the aggregate during any calendar year and
116 which is not the person's permanent address; for a person whose
117 permanent residence is not in this state, the place where the
118 person is employed, practices a vocation, or is enrolled as a
119 student for any period of time in the state; or a place where a
120 person routinely abides, lodges or resides for a period of four
121 (4) or more consecutive or nonconsecutive days in any month and
122 which is not the person's permanent residence.

123 (j) "Department" unless otherwise specified is defined
124 as the Mississippi Department of Public Safety.

125 SECTION 2. Section 45-33-25, Mississippi Code of 1972, is
126 amended as follows:

127 45-33-25. (1) Any person residing in this state who has
128 been convicted of any sex offense or attempted sex offense or who
129 has been acquitted by reason of insanity for any sex offense or
130 attempted sex offense or twice adjudicated delinquent for any sex

131 offense or attempted sex offense shall register with the
132 Mississippi Department of Public Safety. The department shall
133 provide the initial registration information as well as every
134 change of address to the sheriff of the county of the residence
135 address of the registrant through either written notice,
136 electronic or telephone transmissions, or online access to
137 registration information. Further, the department shall provide
138 this information to the Federal Bureau of Investigation.
139 Additionally, upon notification by the registrant that he intends
140 to reside outside the State of Mississippi, the department shall
141 notify the appropriate state law enforcement agency of any state
142 to which a registrant is moving or has moved.

143 (2) Any person required to register under this chapter shall
144 submit the following information at the time of registration:

145 (a) Name, including a former name which has been
146 legally changed;

147 (b) Address;

148 (c) Place of employment;

149 (d) Crime for which convicted;

150 (e) Date and place of conviction, adjudication or
151 acquittal by reason of insanity;

152 (f) Aliases used;

153 (g) Social security number;

154 (h) Date and place of birth;

155 (i) Age, race, sex, height, weight, and hair and eye
156 colors;

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

159 (k) Identifying factors;

160 (l) Anticipated future residence;

161 (m) Offense history;

162 (n) Photograph;

163 (o) Fingerprints;

164 (p) For sexual predators, documentation of any
165 treatment received for any mental abnormality or personality
166 disorder of the person;

167 (q) Blood sample; * * *

168 (r) Name of any institution of higher learning at which
169 the offender is employed, carries on a vocation (with or without
170 compensation) or is enrolled as a student; and

171 (s) Any other information deemed necessary.

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

176 SECTION 3. Section 45-33-27, Mississippi Code of 1972, is
177 amended as follows:

178 45-33-27. (1) A person required to register on the basis of
179 a conviction, adjudication of delinquency or acquittal by reason
180 of insanity entered shall register within three (3) days of the
181 date of judgment unless the person is immediately confined or
182 committed, in which case the person shall register when released
183 in accordance with the procedures established by the
184 department. * * *

185 (2) If a person who is required to register under this
186 section is released from prison or placed on parole or supervised
187 release, the Department of Corrections shall perform the
188 registration duties at the time of release and forward the
189 registration information to the Department of Public Safety within
190 three (3) days.

191 (3) If a person required to register under this section is
192 placed on probation, the court, at the time of entering the order,
193 shall inform the person of the duty to register, obtain the
194 registration information and forward the registration information
195 to the Department of Public Safety within three (3) days.

196 (4) Any person required to register who is neither
197 incarcerated, detained nor committed at the time the requirement
198 to register shall attach shall present himself to the county
199 sheriff who shall perform the registration duties and forward the
200 registration information to the Department of Public Safety within
201 three (3) days.

202 (5) An offender moving to or returning to this state from
203 another jurisdiction shall notify the Department of Public Safety
204 ten (10) days before the person first resides in or returns to a
205 county in this state and shall register with the department within
206 ten (10) days of first residing in or returning to a county of
207 this state. The offender must then present himself to the sheriff
208 of the county in which he intends to reside to provide the
209 required registration information.

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

217 SECTION 4. Section 45-33-29, Mississippi Code of 1972, is
218 amended as follows:

219 45-33-29. **Change notification.** (1) Upon any change of
220 address, an offender under this chapter must notify the department
221 in writing no less than ten (10) days before he intends to first
222 reside at the new address.

223 (2) Upon any change in the status of a registrant,
224 employment or vocation at any institution of higher learning, the
225 offender must notify the department in writing within ten (10)
226 days of the change.

227 SECTION 5. Section 45-33-31, Mississippi Code of 1972, is
228 amended as follows:

229 45-33-31. A registrant not designated a sexual predator
230 shall reregister annually. A registrar designated a sexual
231 predator, as defined in Section 45-33-45, shall reregister every
232 ninety (90) days. Reregistration includes the submission of
233 current information to the department and the verification of
234 registration information, including address, telephone number,
235 place of employment, address of employment, to the department and
236 any other registration information that may need to be verified.

237 (a) The Department of Public Safety shall send a
238 nonforwardable verification form to the last reported address of
239 the person * * *.

240 (b) The person shall return the verification form to
241 the department within ten (10) days after receipt of the form
242 verifying that the person resides at the address last reported.

243 (c) If the person fails to submit the verification form
244 to the department within ten (10) days after receipt of the form,
245 the person shall be in violation of this section.

246 SECTION 6. Section 45-33-33, Mississippi Code of 1972, is
247 amended as follows:

248 45-33-33. (1) The failure of an offender to provide any
249 registration or other information, including, but not limited to,
250 initial registration, reregistration or change of address
251 information, as required by this chapter, is a violation of the
252 law. Additionally, forgery of information or submission of
253 information under false pretenses is also a violation of the law.

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

259 (3) Whenever it appears that an offender has failed to
260 comply with the duty to register or reregister, the department
261 shall promptly notify the sheriff of the county of the last known

262 address of the offender. Upon notification, the sheriff shall
263 attempt to locate the offender at his last known address.

264 (a) If the sheriff locates the offender he shall
265 enforce the provisions of this chapter. The sheriff shall then
266 notify the department with the current information regarding the
267 offender.

268 (b) If the sheriff is unable to locate the offender,
269 the sheriff shall promptly notify the department and initiate a
270 criminal prosecution against the offender for the failure to
271 register or reregister. The sheriff shall make the appropriate
272 transactions into the Federal Bureau of Investigation's
273 wanted-person database.

274 (4) A first violation of this chapter may result in the
275 arrest of the offender. Upon any second or subsequent violation
276 of this chapter, the offender shall be arrested for such
277 violation.

278 (5) Any prosecution for a violation of this section shall be
279 brought by a prosecutor in the county of such violation.

280 SECTION 7. Section 45-33-35, Mississippi Code of 1972, is
281 amended as follows:

282 45-33-35. (1) The Mississippi Department of Public Safety
283 shall maintain a central registry of sex offender information as
284 defined in Section 45-33-25 and shall adopt rules and regulations
285 necessary to carry out this section. The responsible agencies
286 shall provide the information required in Section 45-33-25 on a
287 form developed by the department to ensure accurate information is
288 maintained.

289 (2) Upon conviction, adjudication or acquittal by reason of
290 insanity of any sex offender, if the sex offender is not
291 immediately confined or not sentenced to a term of imprisonment,
292 the clerk of the court which convicted and sentenced the sex
293 offender shall inform the person of the duty to register and shall

294 perform the registration duties as described in Section 45-33-23
295 and forward the information to the department.

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

301 (4) Upon release from confinement in a mental institution
302 following an acquittal by reason of insanity, the director of the
303 facility shall inform the offender of the duty to register and
304 shall notify the Department of Public Safety of the offender's
305 release.

306 (5) Upon release from a youthful offender facility, the
307 director of the facility shall inform the person of the duty to
308 register and shall perform the registration duties as described in
309 Section 45-33-23 and forward the information to the Department of
310 Public Safety.

311 (6) In addition to performing the registration duties, the
312 responsible agency shall:

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

314 (i) The person shall report in writing any change
315 of address to the department ten (10) days before changing
316 address.

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

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

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

326 (iv) Any change in status of a registrant's
327 enrollment, employment or vocation at any institution of higher
328 learning shall be reported to the department in writing within ten
329 (10) days of the change.

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

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

337 SECTION 8. Section 45-33-45, Mississippi Code of 1972, is
338 amended as follows:

339 45-33-45. (1) The designation of a person by the department
340 as a sexual predator is neither a sentence nor a punishment, but
341 is simply a status resulting from the conviction of certain
342 crimes.

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

345 (a) The offender is convicted of any of the following
346 crimes or attempt to commit any of the following crimes on or
347 after July 1, 1995.

348 (i) Section 97-3-65 relating to rape * * *;

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

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

352 (iv) Subsection (1) or (2) of Section 97-5-33
353 relating to the exploitation of children;

354 (v) Section 97-5-41 relating to the carnal
355 knowledge of a stepchild, adopted child or child of a cohabiting
356 partner; or

357 (vi) Any conviction for a similar law of another
358 jurisdiction.

359 (b) The offender receives two (2) separate convictions
360 of any of the qualifying offenses as described in Section 45-33-23
361 as long as one (1) of the convictions was entered on or after July
362 1, 1995.

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

366 * * *

367 (3) Any offender convicted as described in subsection (2) of
368 this section shall be required to maintain lifetime registration
369 without the opportunity to petition for removal from the sex
370 offender registry.

371 (4) The offender will be considered a sexual predator for
372 such convictions unless the conviction is set aside in any
373 post-conviction proceeding, * * * the offender receives a pardon,
374 or the charge is dismissed.

375 (5) An offender who resides in Mississippi and who has been
376 designated a sexual predator, a sexually violent predator or a
377 similar designation in another state will be designated a sexual
378 predator in the Mississippi sex offender registry.

379 SECTION 9. Section 45-33-47, Mississippi Code of 1972, is
380 amended as follows:

381 45-33-47. (1) A sex offender with a duty to register under
382 Section 45-33-25 shall only be relieved of the duty under
383 subsection (2) of this section.

384 (2) A person having a duty to register under Section
385 45-33-25 may petition the circuit court of the sentencing
386 jurisdiction to be relieved of that duty under the following
387 conditions:

388 (a) The offender has maintained his registration in
389 Mississippi for not less than ten (10) years from the most recent
390 date of occurrence of at least one (1) of the following: release
391 from prison, placement on parole, supervised release or probation.

392 Incarceration for any offense will restart the ten-year minimum
393 registration requirement. Registration in any other jurisdiction
394 or state does not reduce the ten-year time requirement for
395 maintaining registration in Mississippi.

396 (b) The offender has not been designated a sexual
397 predator.

398 (3) In determining whether to release an offender from the
399 obligation to register, the court shall consider the nature of the
400 registerable offense committed and the criminal and relevant
401 noncriminal behavior of the petitioner both before and after
402 conviction. The court may relieve the offender of the duty to
403 register only if the petitioner shows, by clear and convincing
404 evidence, that the registrant properly maintained his registration
405 as required by law and that future registration of the petitioner
406 will not serve the purposes of this chapter.

407 (4) The offender will be required to continue registration
408 for any sex offense conviction unless the conviction is set aside
409 in any post-conviction proceeding, the offender receives a pardon,
410 or the charge is dismissed. Upon submission of the appropriate
411 documentation to the department of one (1) of these occurrences,
412 registration duties will be discontinued.

413 SECTION 10. Section 45-33-49, Mississippi Code of 1972, is
414 amended as follows:

415 45-33-49. (1) Records maintained pursuant to this chapter
416 shall be open to law enforcement agencies which shall be
417 authorized to release relevant and necessary information regarding
418 sex offenders to the public.

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

421 (3) A sheriff shall maintain records for registrants of the
422 county and shall make available to any person upon request the
423 name, address, place of employment, crime for which convicted,
424 date and place of conviction of any registrant, and any other

425 information deemed necessary for the protection of the public.
426 The sheriffs shall be responsible for verifying their respective
427 registries annually against the department's records to ensure
428 current information is available at both levels.

429 (4) Upon written request, the department may also provide to
430 any person the name, address, photograph, if available, date of
431 photograph, place of employment, crime for which convicted, date
432 and place of conviction of any registrant, hair, eye color,
433 height, race, sex and date of birth of any registrant, and any
434 other information deemed necessary for the protection of the
435 public. Additionally, the department may utilize an internet
436 website or other electronic means to release the information.

437 (5) The Department of Education, the Mississippi Private
438 School Association and the Department of Health shall notify all
439 schools and licensed day care centers annually regarding the
440 availability upon request of this information.

441 (6) Nothing in this section shall be construed to prevent
442 law enforcement officers from notifying members of the public
443 exposed to danger of any circumstances or individuals that pose a
444 danger under circumstances that are not enumerated in this
445 section.

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

450 SECTION 11. Section 37-9-17, Mississippi Code of 1972, is
451 amended as follows:

452 37-9-17. (1) On or before April 1 of each year, the
453 principal of each school shall recommend to the superintendent of
454 the school district the licensed employees or noninstructional
455 employees to be employed for the school involved except those
456 licensed employees or noninstructional employees who have been
457 previously employed and who have a contract valid for the ensuing

458 scholastic year. If such recommendations meet with the approval
459 of the superintendent, the superintendent shall recommend the
460 employment of such licensed employees or noninstructional
461 employees to the school board, and, unless good reason to the
462 contrary exists, the board shall elect the employees so
463 recommended. If, for any reason, the school board shall decline
464 to elect any employee so recommended, additional recommendations
465 for the places to be filled shall be made by the principal to the
466 superintendent and then by the superintendent to the school board
467 as provided above. The school board of any school district shall
468 be authorized to designate a personnel supervisor or another
469 principal employed by the school district to recommend to the
470 superintendent licensed employees or noninstructional employees;
471 however, this authorization shall be restricted to no more than
472 two (2) positions for each employment period for each school in
473 the school district. Any noninstructional employee employed upon
474 the recommendation of a personnel supervisor or another principal
475 employed by the school district must have been employed by the
476 school district at the time the superintendent was elected or
477 appointed to office; a noninstructional employee employed under
478 this authorization may not be paid compensation in excess of the
479 statewide average compensation for such noninstructional position
480 with comparable experience, as established by the State Department
481 of Education. The school board of any school district shall be
482 authorized to designate a personnel supervisor or another
483 principal employed by the school district to accept the
484 recommendations of principals or their designees for licensed
485 employees or noninstructional employees and to transmit approved
486 recommendations to the board; however, this authorization shall be
487 restricted to no more than two (2) positions for each employment
488 period for each school in the school district.

489 When the licensed employees have been elected as provided in
490 the preceding paragraph, the superintendent of the district shall

491 enter into a contract with such persons in the manner provided in
492 this chapter.

493 If, at the commencement of the scholastic year, any licensed
494 employee shall present to the superintendent a license of a higher
495 grade than that specified in such individual's contract, such
496 individual may, if funds are available from minimum education
497 program funds of the district, or from district funds, be paid
498 from such funds the amount to which such higher grade license
499 would have entitled the individual, had the license been held at
500 the time the contract was executed.

501 (2) The superintendent of the school district shall require
502 that current criminal records background checks and current child
503 abuse registry checks are obtained, and that such criminal record
504 information and registry checks are on file for any new hires
505 applying for employment as a licensed or nonlicensed employee at a
506 school not previously employed in such school district prior to
507 July 1, 2000. In order to determine the applicant's suitability
508 for employment, the applicant shall be fingerprinted. If no
509 disqualifying record is identified at the state level, the
510 fingerprints shall be forwarded by the Department of Public Safety
511 to the FBI for a national criminal history record check. The fee
512 for such fingerprinting and criminal history record check shall be
513 paid by the applicant, not to exceed Fifty Dollars (\$50.00);
514 however, the school board of the school district, in its
515 discretion, may elect to pay the fee for the fingerprinting and
516 criminal history record check on behalf of any applicant. Under
517 no circumstances shall a school district superintendent, school
518 board member or any individual other than the subject of the
519 criminal history record checks disseminate information received
520 through any such checks except insofar as required to fulfill the
521 purposes of this section.

522 (3) If such fingerprinting or criminal record checks
523 disclose a felony conviction, guilty plea or plea of nolo

524 contendere to a felony of possession or sale of drugs, murder,
525 manslaughter, armed robbery, rape, sexual battery, sex offense
526 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
527 burglary, gratification of lust or aggravated assault which has
528 not been reversed on appeal or for which a pardon has not been
529 granted, the new hire shall not be eligible to be employed at such
530 school. Any employment contract for a new hire executed by the
531 superintendent of the local school district shall be voidable if
532 the new hire receives a disqualifying criminal record check.
533 However, the school board may, in its discretion, allow any
534 applicant aggrieved by the employment decision under this section
535 to appear before the board, or before a hearing officer designated
536 for such purpose, to show mitigating circumstances which may exist
537 and allow the new hire to be employed at the school. The school
538 board may grant waivers for such mitigating circumstances, which
539 shall include, but not be limited to: (a) age at which the crime
540 was committed; (b) circumstances surrounding the crime; (c) length
541 of time since the conviction and criminal history since the
542 conviction; (d) work history; (e) current employment and character
543 references; (f) other evidence demonstrating the ability of the
544 person to perform the employment responsibilities competently and
545 that the person does not pose a threat to the health or safety of
546 the children at the school.

547 (4) No school district or school district employee shall be
548 held liable in any employment discrimination suit in which an
549 allegation of discrimination is made regarding an employment
550 decision authorized under this Section 37-9-17.

551 (5) Subsections (2) through (5) of this section shall be
552 repealed on June 30, 2002.

553 SECTION 12. Section 11 of this act shall take effect and be
554 in force from and after passage, and the remainder of this act
555 shall take effect and be in force from and after July 1, 2001.