

By: Senator(s) Williamson

To: Judiciary

SENATE BILL NO. 2992

1 AN ACT TO CREATE THE OFFENSE OF SEXUAL MISCONDUCT; TO AMEND
2 SECTION 45-33-23, MISSISSIPPI CODE OF 1972, TO REQUIRE
3 REGISTRATION AS A SEX OFFENDER UPON A SECOND OR SUBSEQUENT
4 CONVICTION OF SEXUAL MISCONDUCT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** (1) No person shall commit sexual misconduct
7 upon any other person.

8 (a) "Sexual misconduct" means the intentional touching
9 or feeling of the body or private parts of any person in a lewd
10 and lascivious manner without the consent of that person or, in
11 the case of a mentally defective, mentally incapacitated or
12 physically helpless person, with or without the person's consent.

13 (b) "Intentional touching or feeling of the body or
14 private parts" means the direct or indirect touching, fondling or
15 manipulating by any part of the defendant's body or by an object
16 of a male's or female's genital area, anus, groin, inner thigh or
17 buttocks, or a female's breast.

18 (2) Upon conviction for sexual misconduct, the defendant
19 shall be sentenced to imprisonment for not more than five (5)
20 years in the custody of the Department of Corrections or a fine of
21 not more than Five Thousand Dollars (\$5,000.00), or both.

22 **SECTION 2.** Section 45-33-23, Mississippi Code of 1972, is
23 amended as follows:

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

27 (a) "Conviction" shall mean that, regarding the
28 person's offense, there has been a determination or judgment of



29 guilt as a result of a trial or the entry of a plea of guilty or
30 nolo contendere regardless of whether adjudication is withheld.
31 "Conviction of similar offenses" includes, but is not limited to,
32 a conviction by a federal or military tribunal, including a court
33 martial conducted by the Armed Forces of the United States, a
34 conviction for an offense committed on an Indian Reservation or
35 other federal property, and a conviction in any state of the
36 United States.

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

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

42 (d) "Registration" means providing information to the
43 appropriate agency within the timeframe specified as required by
44 this chapter.

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

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

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



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

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

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

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

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

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

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

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

85 (ii) Section 97-3-65 relating to rape; however,
86 conviction or adjudication under Section 97-3-65(1)(a) on or after
87 July 1, 1998, when the offender was eighteen (18) years of age or
88 younger at the time of the alleged offense, shall not be a
89 registrable sex offense;

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



92 (iv) Section 97-3-95 relating to sexual battery;
93 however, conviction or adjudication under Section 97-3-95(1)(c) on
94 or after July 1, 1998, when the offender was eighteen (18) years
95 of age or younger at the time of the alleged offense, shall not be
96 a registrable sex offense;

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

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

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

103 (viii) Section 97-5-33 relating to the
104 exploitation of children;

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

108 (x) Section 97-29-59 relating to unnatural
109 intercourse;

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

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

114 (xiii) A second or subsequent conviction under
115 Section 1 of Senate Bill No. 2992, 2002 Regular Session, relating
116 to sexual misconduct;

117 (xiv) Any other offense resulting in a conviction
118 in another jurisdiction, whether state, federal or military,
119 which, if committed in this state, would be deemed to be such a
120 crime without regard to its designation elsewhere;

121 (xv) Any offense resulting in a conviction in
122 another jurisdiction, whether state, federal or military, for
123 which registration is required in the jurisdiction where the
124 conviction was had.



125 (h) "Temporary residence" is defined as a place where
126 the person abides, lodges, or resides for a period of fourteen
127 (14) or more days in the aggregate during any calendar year and
128 which is not the person's permanent address; for a person whose
129 permanent residence is not in this state, the place where the
130 person is employed, practices a vocation, or is enrolled as a
131 student for any period of time in the state; or a place where a
132 person routinely abides, lodges or resides for a period of four
133 (4) or more consecutive or nonconsecutive days in any month and
134 which is not the person's permanent residence.

135 (i) "Department" unless otherwise specified is defined
136 as the Mississippi Department of Public Safety.

137 **SECTION 3.** This act shall take effect and be in force from
138 and after July 1, 2002.

