

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2413

1 AN ACT TO AMEND SECTION 41-29-501, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF PROSECUTOR UNDER THE WIRETAPPING LAW;
3 AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 41-29-501, Mississippi Code of 1972, is
6 amended as follows:

7 41-29-501. As used in this article, the following terms
8 shall have the meaning ascribed to them herein unless the context
9 requires otherwise:

10 (a) "Aggrieved person" means a person who was a party
11 to an intercepted wire, oral or other communication or a person
12 against whom the interception was directed.

13 (b) "Communication common carrier" has the meaning
14 given the term "common carrier" by 47 USCS 153(h) and shall also
15 mean a provider of communication services.

16 (c) "Contents," when used with respect to a wire, oral
17 or other communication, includes any information concerning the
18 identity of the parties to the communication or the existence,
19 substance, purport or meaning of that communication.

20 (d) "Covert entry" means any entry into or onto
21 premises which if made without a court order allowing such an
22 entry under this article would be a violation of criminal law.

23 (e) "Director" means the Director of the Bureau of
24 Narcotics or, if the director is absent or unable to serve, the
25 Assistant Director of the Bureau of Narcotics.

26 (f) "Electronic, mechanical or other device" means a
27 device or apparatus primarily designed or used for the
28 nonconsensual interception of wire, oral or other communications.

29 (g) "Intercept" means the aural or other acquisition of
30 the contents of a wire, oral or other communication through the
31 use of an electronic, mechanical or other device.

32 (h) "Investigative or law enforcement officer" means an
33 officer of this state or of a political subdivision of this state
34 who is empowered by law to conduct investigations of, or to make
35 arrests for, offenses enumerated in Section 41-29-505, an attorney
36 authorized by law to prosecute or participate in the prosecution
37 of such offenses, or a federal law enforcement officer designated
38 by the director.

39 (i) "Judge of competent jurisdiction" means a justice
40 of the Supreme Court or a circuit court judge.

41 (j) "Oral communication" means an oral communication
42 uttered by a person exhibiting an expectation that the
43 communication is not subject to interception under circumstances
44 justifying that expectation.

45 (k) "Other communication" means any transfer of an
46 electronic or other signal, including fax signals, computer
47 generated signals, other similar signals, or any scrambled or
48 encrypted signal transferred via wire, radio, electromagnetic,
49 photoelectric or photooptical system from one party to another in
50 which the involved parties may reasonably expect the communication
51 to be private.

52 (l) "Prosecutor" means the district attorney, or, when
53 designated in writing by the district attorney on a case-by-case
54 basis, a legal assistant to the district attorney, of the county
55 in which the facility or place where the communication to be
56 intercepted is located or, at the discretion of the director, in
57 an adjoining county.

58 (m) "Residence" means a structure or the portion of a
59 structure used as a person's home or fixed place of habitation to
60 which the person indicates an intent to return after any temporary
61 absence.

62 (n) "Wire communication" means a communication made in
63 whole or in part through the use of facilities for the
64 transmission of communications by the aid of wire, cable or other
65 like connection between the point of origin and the point of
66 reception furnished or operated by a person engaged as a common
67 carrier in providing or operating the facilities for the
68 transmission of communications and includes cordless telephones,
69 voice pagers, cellular telephones, any mobile telephone, or any
70 communication conducted through the facilities of a provider of
71 communication services.

72 **SECTION 2.** This act shall take effect and be in force from
73 and after July 1, 2006.