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To: Judiciary, Division A; Corrections

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2527

1 AN ACT TO CREATE THE SEX OFFENDER TASK FORCE AND SPECIFY THE
2 DUTIES THEREOF; TO AMEND SECTION 45-33-25, MISSISSIPPI CODE OF
3 1972, TO REQUIRE ADDITIONAL INFORMATION FROM SEX OFFENDERS WHO ARE
4 REQUIRED TO REGISTER; TO AMEND SECTION 45-33-33, MISSISSIPPI CODE
5 OF 1972, TO CREATE THE CRIME OF CONSPIRING WITH A SEX OFFENDER TO
6 ELUDE REGISTRATION AND OF PROVIDING FALSE REGISTRATION
7 INFORMATION; TO AMEND SECTION 45-33-47, MISSISSIPPI CODE OF 1972,
8 TO REQUIRE SHOWINGS OF FACT WHEN PETITIONING THE CIRCUIT COURT FOR
9 RELIEF FROM THE DUTY TO REGISTER AND TO EXPAND LIST OF OFFENDERS
10 SUBJECT TO LIFETIME REGISTRATION; TO AMEND SECTION 47-7-35,
11 MISSISSIPPI CODE OF 1972, TO MANDATE ELECTRONIC MONITORING UNDER
12 CERTAIN CIRCUMSTANCES; TO AMEND SECTION 47-7-37, MISSISSIPPI CODE
13 OF 1972, TO ENACT CERTAIN RESTRICTIONS ON THE IMPOSITION OF BAIL
14 FOR PERSONS WHO ARE REQUIRED TO REGISTER AS SEX OFFENDERS; AND FOR
15 RELATED PURPOSES.

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

17 **SECTION 1.** (1) The Sex Offender Task Force is hereby
18 created. The purpose of the Sex Offender Task Force shall be to
19 study and report to the Legislature on the feasibility, benefits
20 and cost of geositional monitoring for sex offenders who are
21 released upon expiration of sentence.

22 (2) The conference shall consist of the following members:
23 the Commissioner of the Department of Corrections or his designee;
24 the Commissioner of the Department of Public Safety or his
25 designee; the Director of the Administrative Office of Courts; the
26 Director of the Department of Finance and Administration or his
27 designee; the Director of the Legislative Budget Office or his
28 designee; the Attorney General or his designee; a member of the
29 Governor's staff appointed by the Governor who shall preside over
30 meetings of the conference and exercise the authority to call
31 meetings.

32 (3) The Sex Offender Task Force shall study the factors
33 relating to sex offenders as required in subsection (1) and make a

34 report of its findings to the Legislature. The Department of
35 Corrections, Department of Finance and Administration,
36 Administrative Office of Courts, Department of Public Safety,
37 Office of the Attorney General and the various district attorneys
38 shall provide information deemed necessary for the study. The
39 final report shall be filed with the Clerk of the House and the
40 Secretary of the Senate no later than November 1, 2006, at which
41 time the Task Force shall be dissolved.

42 **SECTION 2.** Section 45-33-25, Mississippi Code of 1972, is
43 amended as follows:

44 45-33-25. (1) Any person residing in this state who has
45 been convicted of any sex offense or attempted sex offense or who
46 has been acquitted by reason of insanity for any sex offense or
47 attempted sex offense or twice adjudicated delinquent for any sex
48 offense or attempted sex offense shall register with the
49 Mississippi Department of Public Safety. Registration shall not
50 be required for an offense that is not a registrable sex offense.
51 The department shall provide the initial registration information
52 as well as every change of address to the sheriff of the county of
53 the residence address of the registrant through either written
54 notice, electronic or telephone transmissions, or online access to
55 registration information. Further, the department shall provide
56 this information to the Federal Bureau of Investigation.
57 Additionally, upon notification by the registrant that he intends
58 to reside outside the State of Mississippi, the department shall
59 notify the appropriate state law enforcement agency of any state
60 to which a registrant is moving or has moved.

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

63 (a) Name, including a former name which has been
64 legally changed;

65 (b) Street address of any permanent residence and of
66 any current temporary residence within state or out of state;

- 67 (c) Date and place of employment;
- 68 (d) Crime for which convicted;
- 69 (e) Date and place of conviction, adjudication or
70 acquittal by reason of insanity;
- 71 (f) Aliases used;
- 72 (g) Social security number;
- 73 (h) Date and place of birth;
- 74 (i) Age, race, sex, height, weight, and hair and eye
75 colors;
- 76 (j) A brief description of the offense or offenses for
77 which the registration is required;
- 78 (k) Identifying factors;
- 79 (l) Anticipated future residence;
- 80 (m) If the registrant's residence is a motor vehicle,
81 trailer, mobile home or manufactured home, the registrant shall
82 also provide vehicle identification number, license tag number,
83 registration number and a description, including color scheme, of
84 the motor vehicle, trailer, mobile home or manufactured home; if
85 the registrant's place of residence is a vessel or houseboat, the
86 registrant shall also provide the hull identification number,
87 manufacturer's serial number, name of the vessel or houseboat,
88 registration number and a description, including color scheme, of
89 the vessel or houseboat;
- 90 (n) Vehicle make, model, color and license tag number;
- 91 (o) Offense history;
- 92 (p) Photograph;
- 93 (q) Fingerprints;
- 94 (r) Documentation of any treatment received for any
95 mental abnormality or personality disorder of the person;
- 96 (s) Biological sample;
- 97 (t) Name of any institution of higher learning,
98 including each campus attended at which the offender is employed,

99 carries on a vocation (with or without compensation) or is
100 enrolled as a student, and the registrant's status; and

101 (u) Any other information deemed necessary.

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

106 **SECTION 3.** Section 45-33-33, Mississippi Code of 1972, is
107 amended as follows:

108 45-33-33. (1) (a) The failure of an offender to personally
109 appear at a Department of Public Safety Driver's License Station
110 or to provide any registration or other information, including,
111 but not limited to, initial registration, reregistration or change
112 of address information, or required notification to a volunteer
113 organization, as required by this chapter, is a violation of the
114 law. Additionally, forgery of information or submission of
115 information under false pretenses is also a violation of the law.

116 (b) A person commits a violation of this chapter who:

117 (i) Knowingly harbors, or knowingly attempts to
118 harbor, or knowingly assists another person in harboring or
119 attempting to harbor a sex offender who is in violation of this
120 chapter; or

121 (ii) Knowingly assists a sex offender in eluding a
122 law enforcement agency that is seeking to find the sex offender to
123 question the sex offender about, or to arrest the sex offender
124 for, noncompliance with the requirements of this chapter; or

125 (iii) Provides information to a law enforcement
126 agency regarding a sex offender which the person knows to be
127 false.

128 (2) Unless otherwise specified, a violation of this chapter
129 shall be considered a felony and shall be punishable by a fine not
130 more than Five Thousand Dollars (\$5,000.00) or imprisonment in the

131 State Penitentiary for not more than five (5) years, or both fine
132 and imprisonment.

133 (3) Whenever it appears that an offender has failed to
134 comply with the duty to register or reregister, the department
135 shall promptly notify the sheriff of the county of the last known
136 address of the offender. Upon notification, the sheriff shall
137 attempt to locate the offender at his last known address.

138 (a) If the sheriff locates the offender, he shall
139 enforce the provisions of this chapter. The sheriff shall then
140 notify the department with the current information regarding the
141 offender.

142 (b) If the sheriff is unable to locate the offender,
143 the sheriff shall promptly notify the department and initiate a
144 criminal prosecution against the offender for the failure to
145 register or reregister. The sheriff shall make the appropriate
146 transactions into the Federal Bureau of Investigation's
147 wanted-person database.

148 (4) A first violation of this chapter may result in the
149 arrest of the offender. Upon any second or subsequent violation
150 of this chapter, the offender shall be arrested for the violation.

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

153 (6) A person required to register under this chapter who
154 commits any act or omission in violation of this chapter may be
155 prosecuted for the act or omission in the county in which the act
156 or omission was committed, the county of the last registered
157 address of the sex offender, the county in which the conviction
158 occurred for the offense or offenses that meet the criteria
159 requiring the person to register, or in the county in which he was
160 designated a sex offender.

161 (7) The Commissioner of Public Safety or his authorized
162 agent shall suspend the driver's license of any offender failing
163 to comply with the duty to report, register or reregister.

164 **SECTION 4.** Section 45-33-47, Mississippi Code of 1972, is
165 amended as follows:

166 45-33-47. (1) A sex offender with a duty to register under
167 Section 45-33-25 shall only be relieved of the duty under
168 subsection (2) of this section.

169 (2) A person having a duty to register under Section
170 45-33-25 may petition the circuit court of the sentencing
171 jurisdiction, or for a person whose duty to register arose in
172 another jurisdiction, the county in which the registrant resides,
173 to be relieved of that duty under the following conditions:

174 (a) The offender has maintained his registration in
175 Mississippi for not less than ten (10) years from the most recent
176 date of occurrence of at least one (1) of the following: release
177 from prison, placement on parole, supervised release or probation.
178 Incarceration for any offense will restart the ten-year minimum
179 registration requirement. Registration in any other jurisdiction
180 or state does not reduce the ten-year time requirement for
181 maintaining registration in Mississippi.

182 (b) If the offender has been convicted of one (1) of
183 the following offenses, the offender is subject to lifetime
184 registration and shall not be relieved of the duty to register:

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

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

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

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

191 (v) Section 97-5-41 relating to the carnal
192 knowledge of a stepchild, adopted child or child of a cohabiting
193 partner; or

194 (vi) Any conviction for violation of a similar law
195 of another jurisdiction or designation as a sexual predator in
196 another jurisdiction.

197 (c) An offender who has two (2) separate convictions
198 for any of the offenses described in Section 45-33-23 is subject
199 to lifetime registration and shall not be eligible to petition to
200 be relieved of the duty to register as long as at least one (1) of
201 the convictions was entered on or after July 1, 1995.

202 (d) An offender, twenty-one (21) years of age or older,
203 who is convicted of any sex offense where the victim was fourteen
204 (14) years of age or younger shall be subject to lifetime
205 registration and shall not be * * * relieved of the duty to
206 register.

207 (e) An offender twice adjudicated delinquent in a youth
208 court for the crime of rape pursuant to Section 96-3-65 or sexual
209 battery pursuant to Section 97-3-95 is subject to lifetime
210 registration and shall not be eligible to petition to be relieved
211 of the duty to register.

212 (f) Registration following arrest or arraignment for
213 failure to register is not a defense and does not relieve the sex
214 offender of criminal liability for failure to register.

215 (3) In determining whether to release an offender from the
216 obligation to register, the court shall consider the nature of the
217 registrable offense committed and the criminal and relevant
218 noncriminal behavior of the petitioner both before and after
219 conviction. The court may relieve the offender of the duty to
220 register only if the petitioner shows, by clear and convincing
221 evidence, that the registrant properly maintained his registration
222 as required by law and that future registration of the petitioner
223 will not serve the purposes of this chapter and the court is
224 otherwise satisfied that the petitioner is not a current or
225 potential threat to public safety. The district attorney in the
226 circuit in which the petition is filed must be given notice of the
227 petition at least three (3) weeks before the hearing on the
228 matter. The district attorney may present evidence in opposition
229 to the requested relief or may otherwise demonstrate the reasons

230 why the petition should be denied. If the court denies the
231 petition, the court may set a future date at which the sex
232 offender may again petition the court for relief, subject to the
233 standards set forth in this section.

234 (4) The offender will be required to continue registration
235 for any sex offense conviction unless the conviction is set aside
236 in any post-conviction proceeding, the offender receives a
237 pardon, * * * the charge is dismissed or the offender has received
238 a court order pursuant to this section relieving him of the duty
239 to register. Upon submission of the appropriate documentation to
240 the department of one (1) of these occurrences, registration
241 duties will be discontinued.

242 **SECTION 5.** Section 47-7-35, Mississippi Code of 1972, is
243 amended as follows:

244 47-7-35. (1) The courts referred to in Section 47-7-33 or
245 47-7-34 shall determine the terms and conditions of probation or
246 post-release supervision and may alter or modify, at any time
247 during the period of probation or post-release supervision the
248 conditions and may include among them the following or any other:

249 That the, offender shall:

250 (a) Commit no offense against the laws of this or any
251 other state of the United States, or of the United States;

252 (b) Avoid injurious or vicious habits;

253 (c) Avoid persons or places of disreputable or harmful
254 character;

255 (d) Report to the probation and parole officer as
256 directed;

257 (e) Permit the probation and parole officer to visit
258 him at home or elsewhere;

259 (f) Work faithfully at suitable employment so far as
260 possible;

261 (g) Remain within a specified area;

262 (h) Pay his fine in one (1) or several sums;

263 (i) Support his dependents;
264 (j) Submit, as provided in Section 47-5-601, to any
265 type of breath, saliva or urine chemical analysis test, the
266 purpose of which is to detect the possible presence of alcohol or
267 a substance prohibited or controlled by any law of the State of
268 Mississippi or the United States.

269 (2) When any court places a defendant on misdemeanor
270 probation, the court must cause to be conducted a search of the
271 probationer's name or other identifying information against the
272 registration information regarding sex offenders maintained under
273 Title 45, Chapter 33. The search may be conducted using the
274 Internet site maintained by the Department of Public Safety Sex
275 Offender Registry.

276 **SECTION 6.** Section 47-7-37, Mississippi Code of 1972, is
277 amended as follows:

278 47-7-37. The period of probation shall be fixed by the
279 court, and may at any time be extended or terminated by the court,
280 or judge in vacation. Such period with any extension thereof
281 shall not exceed five (5) years, except that in cases of desertion
282 and/or failure to support minor children, the period of probation
283 may be fixed and/or extended by the court for so long as the duty
284 to support such minor children exists.

285 At any time during the period of probation the court, or
286 judge in vacation, may issue a warrant for violating any of the
287 conditions of probation or suspension of sentence and cause the
288 probationer to be arrested. Any probation and parole officer may
289 arrest a probationer without a warrant, or may deputize any other
290 officer with power of arrest to do so by giving him a written
291 statement setting forth that the probationer has, in the judgment
292 of the probation and parole officer, violated the conditions of
293 probation. Such written statement delivered with the probationer
294 by the arresting officer to the official in charge of a county

295 jail or other place of detention shall be sufficient warrant for
296 the detention of the probationer.

297 If a probationer or offender is subject to registration as a
298 sex offender, the court must make a finding that the probationer
299 or offender is not a danger to the public prior to release with or
300 without bail. In determining the danger posed by the release of
301 the offender or probationer, the court may consider the nature and
302 circumstances of the violation and any new offenses charged; the
303 offender or probationer's past and present conduct, including
304 convictions of crimes and any record of arrests without conviction
305 for crimes involving violence or sex crimes; any other evidence of
306 allegations of unlawful sexual conduct or the use of violence by
307 the offender or probationer; the offender or probationer's family
308 ties, length of residence in the community, employment history and
309 mental condition; the offender or probationer's history and
310 conduct during the probation or other supervised release and any
311 other previous supervisions, including disciplinary records of
312 previous incarcerations; the likelihood that the offender or
313 probationer will engage again in a criminal course of conduct; the
314 weight of the evidence against the offender or probationer; and
315 any other facts the court considers relevant.

316 The probation and parole officer after making an arrest shall
317 present to the detaining authorities a similar statement of the
318 circumstances of violation. The probation and parole officer
319 shall at once notify the court of the arrest and detention of the
320 probationer and shall submit a report in writing showing in what
321 manner the probationer has violated the conditions of probation.
322 Thereupon, or upon an arrest by warrant as herein provided, the
323 court, in termtime or vacation, shall cause the probationer to be
324 brought before it and may continue or revoke all or any part of
325 the probation or the suspension of sentence, and may cause the
326 sentence imposed to be executed or may impose any part of the
327 sentence which might have been imposed at the time of conviction.

328 If the probationer is arrested in a circuit court district in
329 the State of Mississippi other than that in which he was
330 convicted, the probation and parole officer, upon the written
331 request of the sentencing judge, shall furnish to the circuit
332 court or the county court of the county in which the arrest is
333 made, or to the judge of such court, a report concerning the
334 probationer, and such court or the judge in vacation shall have
335 authority, after a hearing, to continue or revoke all or any part
336 of probation or all or any part of the suspension of sentence, and
337 may in case of revocation proceed to deal with the case as if
338 there had been no probation. In such case, the clerk of the court
339 in which the order of revocation is issued shall forward a
340 transcript of such order to the clerk of the court of original
341 jurisdiction, and the clerk of that court shall proceed as if the
342 order of revocation had been issued by the court of original
343 jurisdiction. Upon the revocation of probation or suspension of
344 sentence of any offender, such offender shall be placed in the
345 legal custody of the State Department of Corrections and shall be
346 subject to the requirements thereof.

347 Any probationer who removes himself from the State of
348 Mississippi without permission of the court placing him on
349 probation, or the court to which jurisdiction has been
350 transferred, shall be deemed and considered a fugitive from
351 justice and shall be subject to extradition as now provided by
352 law. No part of the time that one is on probation shall be
353 considered as any part of the time that he shall be sentenced to
354 serve.

355 The arresting officer, except when a probation and parole
356 officer, shall be allowed the same fees as now provided by law for
357 arrest on warrant, and such fees shall be taxed against the
358 probationer and paid as now provided by law.

359 The arrest, revocation and recommitment procedures of this
360 section also apply to persons who are serving a period of
361 post-release supervision imposed by the court.

362 **SECTION 7.** This act shall take effect and be in force from
363 and after July 1, 2006.