

By: Senator(s) Ross, Browning, Burton, Carmichael, Chaney, Clarke, Cuevas, Davis, Dearing, Doxey, Flowers, Gordon, Hewes, Hyde-Smith, King, Kirby, Lee (35th), Lee (47th), Little, Mettetal, Moffatt, Morgan, Nunnelee, Pickering, Robertson, White, Wilemon, Jackson (15th)

To: Judiciary, Division A; Corrections

SENATE BILL NO. 2527  
(As Passed the Senate)

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 public or private educational  
98 institution, including any secondary school, trade or professional  
99 institution or institution of higher education at which the

100 offender is employed, carries on a vocation (with or without  
101 compensation) or is enrolled as a student, and the registrant's  
102 status; \* \* \*

103 (u) Copy of conviction or sentencing order for the sex  
104 offense for which registration is required; and

105 (v) Any other information deemed necessary.

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

110 (4) Any person required to register under this chapter who  
111 holds or applies for a driver's license, commercial driver's  
112 license, intermediate license, temporary driving permit or state  
113 identification card shall at the time of registering as a sex  
114 offender obtain a license, permit or identification card, if  
115 eligible, bearing an endorsement that the individual is a  
116 registered sex offender.

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

119 45-33-33. (1) (a) The failure of an offender to personally  
120 appear at a Department of Public Safety Driver's License Station  
121 or to provide any registration or other information, including,  
122 but not limited to, initial registration, reregistration or change  
123 of address information, or required notification to a volunteer  
124 organization, as required by this chapter, is a violation of the  
125 law. Additionally, forgery of information or submission of  
126 information under false pretenses is also a violation of the law.

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

128 (i) Knowingly harbors, or knowingly attempts to  
129 harbor, or knowingly assists another person in harboring or  
130 attempting to harbor a sex offender who is in violation of this  
131 chapter; or

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

136                   (iii) Provides information to a law enforcement  
137 agency regarding a sex offender which the person knows to be  
138 false.

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

144           (3) Whenever it appears that an offender has failed to  
145 comply with the duty to register or reregister, the department  
146 shall promptly notify the sheriff of the county of the last known  
147 address of the offender. Upon notification, the sheriff shall  
148 attempt to locate the offender at his last known address.

149           (a) If the sheriff locates the offender, he shall  
150 enforce the provisions of this chapter. The sheriff shall then  
151 notify the department with the current information regarding the  
152 offender.

153           (b) If the sheriff is unable to locate the offender,  
154 the sheriff shall promptly notify the department and initiate a  
155 criminal prosecution against the offender for the failure to  
156 register or reregister. The sheriff shall make the appropriate  
157 transactions into the Federal Bureau of Investigation's  
158 wanted-person database.

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

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

164           (6) A person required to register under this chapter who  
165 commits any act or omission in violation of this chapter may be  
166 prosecuted for the act or omission in the county in which the act  
167 or omission was committed, the county of the last registered  
168 address of the sex offender, the county in which the conviction  
169 occurred for the offense or offenses that meet the criteria  
170 requiring the person to register, or in the county in which he was  
171 designated a sex offender.

172           (7) The Commissioner of Public Safety or his authorized  
173 agent shall suspend the driver's license or driving privilege of  
174 any offender failing to comply with the duty to report, register  
175 or reregister.

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

178           45-33-47. (1) A sex offender with a duty to register under  
179 Section 45-33-25 shall only be relieved of the duty under  
180 subsection (2) of this section.

181           (2) A person having a duty to register under Section  
182 45-33-25 may petition the circuit court of the sentencing  
183 jurisdiction, or for a person whose duty to register arose in  
184 another jurisdiction, the county in which the registrant resides,  
185 to be relieved of that duty under the following conditions:

186           (a) The offender has maintained his registration in  
187 Mississippi for not less than ten (10) years from the most recent  
188 date of occurrence of at least one (1) of the following: release  
189 from prison, placement on parole, supervised release or probation.  
190 Incarceration for any offense will restart the ten-year minimum  
191 registration requirement. Registration in any other jurisdiction  
192 or state does not reduce the ten-year time requirement for  
193 maintaining registration in Mississippi.

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

197 (i) Section 97-3-65 relating to rape;  
198 (ii) Section 97-3-71 relating to rape and assault  
199 with intent to ravish;  
200 (iii) Section 97-3-95 relating to sexual battery;  
201 (iv) Subsection (1) or (2) of Section 97-5-33  
202 relating to the exploitation of children;  
203 (v) Section 97-5-41 relating to the carnal  
204 knowledge of a stepchild, adopted child or child of a cohabiting  
205 partner; or  
206 (vi) Any conviction for violation of a similar law  
207 of another jurisdiction or designation as a sexual predator in  
208 another jurisdiction.  
209 (c) An offender who has two (2) separate convictions  
210 for any of the offenses described in Section 45-33-23 is subject  
211 to lifetime registration and shall not be eligible to petition to  
212 be relieved of the duty to register as long as at least one (1) of  
213 the convictions was entered on or after July 1, 1995.  
214 (d) An offender, twenty-one (21) years of age or older,  
215 who is convicted of any sex offense where the victim was fourteen  
216 (14) years of age or younger shall be subject to lifetime  
217 registration and shall not be \* \* \* relieved of the duty to  
218 register.  
219 (e) An offender twice adjudicated delinquent in a youth  
220 court for the crime of rape pursuant to Section 96-3-65 or sexual  
221 battery pursuant to Section 97-3-95 is subject to lifetime  
222 registration and shall not be eligible to petition to be relieved  
223 of the duty to register.  
224 (f) Registration following arrest or arraignment for  
225 failure to register is not a defense and does not relieve the sex  
226 offender of criminal liability for failure to register.  
227 (g) The department shall continue to list in the  
228 registry the name and registration information of all registrants  
229 who no longer work, reside or attend school in this state even

230 after the registrant moves to another jurisdiction and registers  
231 in the new jurisdiction as required by law. The registry shall  
232 note that the registrant moved out of state.

233 (3) In determining whether to release an offender from the  
234 obligation to register, the court shall consider the nature of the  
235 registrable offense committed and the criminal and relevant  
236 noncriminal behavior of the petitioner both before and after  
237 conviction. The court may relieve the offender of the duty to  
238 register only if the petitioner shows, by clear and convincing  
239 evidence, that the registrant properly maintained his registration  
240 as required by law and that future registration of the petitioner  
241 will not serve the purposes of this chapter and the court is  
242 otherwise satisfied that the petitioner is not a current or  
243 potential threat to public safety. The district attorney in the  
244 circuit in which the petition is filed must be given notice of the  
245 petition at least three (3) weeks before the hearing on the  
246 matter. The district attorney may present evidence in opposition  
247 to the requested relief or may otherwise demonstrate the reasons  
248 why the petition should be denied. If the court denies the  
249 petition, the court may set a future date at which the sex  
250 offender may again petition the court for relief, subject to the  
251 standards set forth in this section.

252 (4) The offender will be required to continue registration  
253 for any sex offense conviction unless the conviction is set aside  
254 in any post-conviction proceeding, the offender receives a  
255 pardon, \* \* \* the charge is dismissed or the offender has received  
256 a court order pursuant to this section relieving him of the duty  
257 to register. Upon submission of the appropriate documentation to  
258 the department of one (1) of these occurrences, registration  
259 duties will be discontinued.

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



262           47-7-35. (1) The courts referred to in Section 47-7-33 or  
263 47-7-34 shall determine the terms and conditions of probation or  
264 post-release supervision and may alter or modify, at any time  
265 during the period of probation or post-release supervision the  
266 conditions and may include among them the following or any other:

267           That the, offender shall:

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

270           (b) Avoid injurious or vicious habits;

271           (c) Avoid persons or places of disreputable or harmful  
272 character;

273           (d) Report to the probation and parole officer as  
274 directed;

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

277           (f) Work faithfully at suitable employment so far as  
278 possible;

279           (g) Remain within a specified area;

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

281           (i) Support his dependents;

282           (j) Submit, as provided in Section 47-5-601, to any  
283 type of breath, saliva or urine chemical analysis test, the  
284 purpose of which is to detect the possible presence of alcohol or  
285 a substance prohibited or controlled by any law of the State of  
286 Mississippi or the United States.

287           (2) When any court places a defendant on misdemeanor  
288 probation, the court must cause to be conducted a search of the  
289 probationer's name or other identifying information against the  
290 registration information regarding sex offenders maintained under  
291 Title 45, Chapter 33. The search may be conducted using the  
292 Internet site maintained by the Department of Public Safety Sex  
293 Offender Registry.

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

296           47-7-37. The period of probation shall be fixed by the  
297 court, and may at any time be extended or terminated by the court,  
298 or judge in vacation. Such period with any extension thereof  
299 shall not exceed five (5) years, except that in cases of desertion  
300 and/or failure to support minor children, the period of probation  
301 may be fixed and/or extended by the court for so long as the duty  
302 to support such minor children exists.

303           At any time during the period of probation the court, or  
304 judge in vacation, may issue a warrant for violating any of the  
305 conditions of probation or suspension of sentence and cause the  
306 probationer to be arrested. Any probation and parole officer may  
307 arrest a probationer without a warrant, or may deputize any other  
308 officer with power of arrest to do so by giving him a written  
309 statement setting forth that the probationer has, in the judgment  
310 of the probation and parole officer, violated the conditions of  
311 probation. Such written statement delivered with the probationer  
312 by the arresting officer to the official in charge of a county  
313 jail or other place of detention shall be sufficient warrant for  
314 the detention of the probationer.

315           If a probationer or offender is subject to registration as a  
316 sex offender, the court must make a finding that the probationer  
317 or offender is not a danger to the public prior to release with or  
318 without bail. In determining the danger posed by the release of  
319 the offender or probationer, the court may consider the nature and  
320 circumstances of the violation and any new offenses charged; the  
321 offender or probationer's past and present conduct, including  
322 convictions of crimes and any record of arrests without conviction  
323 for crimes involving violence or sex crimes; any other evidence of  
324 allegations of unlawful sexual conduct or the use of violence by  
325 the offender or probationer; the offender or probationer's family  
326 ties, length of residence in the community, employment history and

327 mental condition; the offender or probationer's history and  
328 conduct during the probation or other supervised release and any  
329 other previous supervisions, including disciplinary records of  
330 previous incarcerations; the likelihood that the offender or  
331 probationer will engage again in a criminal course of conduct; the  
332 weight of the evidence against the offender or probationer; and  
333 any other facts the court considers relevant.

334         The probation and parole officer after making an arrest shall  
335 present to the detaining authorities a similar statement of the  
336 circumstances of violation. The probation and parole officer  
337 shall at once notify the court of the arrest and detention of the  
338 probationer and shall submit a report in writing showing in what  
339 manner the probationer has violated the conditions of probation.  
340 Thereupon, or upon an arrest by warrant as herein provided, the  
341 court, in termtime or vacation, shall cause the probationer to be  
342 brought before it and may continue or revoke all or any part of  
343 the probation or the suspension of sentence, and may cause the  
344 sentence imposed to be executed or may impose any part of the  
345 sentence which might have been imposed at the time of conviction.

346         If the probationer is arrested in a circuit court district in  
347 the State of Mississippi other than that in which he was  
348 convicted, the probation and parole officer, upon the written  
349 request of the sentencing judge, shall furnish to the circuit  
350 court or the county court of the county in which the arrest is  
351 made, or to the judge of such court, a report concerning the  
352 probationer, and such court or the judge in vacation shall have  
353 authority, after a hearing, to continue or revoke all or any part  
354 of probation or all or any part of the suspension of sentence, and  
355 may in case of revocation proceed to deal with the case as if  
356 there had been no probation. In such case, the clerk of the court  
357 in which the order of revocation is issued shall forward a  
358 transcript of such order to the clerk of the court of original  
359 jurisdiction, and the clerk of that court shall proceed as if the

360 order of revocation had been issued by the court of original  
361 jurisdiction. Upon the revocation of probation or suspension of  
362 sentence of any offender, such offender shall be placed in the  
363 legal custody of the State Department of Corrections and shall be  
364 subject to the requirements thereof.

365 Any probationer who removes himself from the State of  
366 Mississippi without permission of the court placing him on  
367 probation, or the court to which jurisdiction has been  
368 transferred, shall be deemed and considered a fugitive from  
369 justice and shall be subject to extradition as now provided by  
370 law. No part of the time that one is on probation shall be  
371 considered as any part of the time that he shall be sentenced to  
372 serve.

373 The arresting officer, except when a probation and parole  
374 officer, shall be allowed the same fees as now provided by law for  
375 arrest on warrant, and such fees shall be taxed against the  
376 probationer and paid as now provided by law.

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

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