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To: Judiciary, Division A; Corrections

SENATE BILL NO. 2527  
(As Sent to Governor)

1 AN ACT TO CREATE SECTION 99-19-84, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE ELECTRONIC MONITORING OF SEX OFFENDERS PLACED ON  
3 PROBATION; TO AMEND SECTION 45-33-25, MISSISSIPPI CODE OF 1972, TO  
4 REQUIRE ADDITIONAL INFORMATION FROM SEX OFFENDERS WHO ARE REQUIRED  
5 TO REGISTER; TO PROHIBIT REGISTERED SEX OFFENDERS FROM LIVING  
6 WITHIN 1,500 FEET OF A SCHOOL OR DAY CARE CENTER; TO AMEND SECTION  
7 45-33-33, MISSISSIPPI CODE OF 1972, TO CREATE THE CRIME OF  
8 CONSPIRING WITH A SEX OFFENDER TO ELUDE REGISTRATION AND OF  
9 PROVIDING FALSE REGISTRATION INFORMATION; TO AMEND SECTION  
10 45-33-47, MISSISSIPPI CODE OF 1972, TO REQUIRE SHOWINGS OF FACT  
11 WHEN PETITIONING THE CIRCUIT COURT FOR RELIEF FROM THE DUTY TO  
12 REGISTER AND TO EXPAND LIST OF OFFENDERS SUBJECT TO LIFETIME  
13 REGISTRATION; TO AMEND SECTION 47-7-35, MISSISSIPPI CODE OF 1972,  
14 TO REQUIRE A SEX OFFENDER REGISTRY CHECK BEFORE PLACING AN  
15 OFFENDER ON PROBATION; TO AMEND SECTION 47-7-37, MISSISSIPPI CODE  
16 OF 1972, TO ENACT CERTAIN RESTRICTIONS ON THE IMPOSITION OF BAIL  
17 FOR PERSONS WHO ARE REQUIRED TO REGISTER AS SEX OFFENDERS; TO  
18 REQUIRE SEX OFFENDERS EMPLOYED IN POSITIONS OF CLOSE CONTACT WITH  
19 CHILDREN TO NOTIFY THEIR EMPLOYER OF THEIR SEX OFFENDER STATUS;  
20 AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** The following shall be codified as Section  
23 99-19-84, Mississippi Code of 1972:

24 99-19-84. Whenever probation is a part of a sentence  
25 prescribed for an offense for which registration as a sex offender  
26 is required under Title 45, Chapter 33, the court may include as a  
27 condition of probation that the sex offender be placed on  
28 electronic monitoring. The Department of Corrections shall  
29 promulgate rules and regulations for the implementation of  
30 electronic monitoring of sex offenders on probation.

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

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

37 offense or attempted sex offense shall register with the  
38 Mississippi Department of Public Safety. Registration shall not  
39 be required for an offense that is not a registrable sex offense.  
40 The department shall provide the initial registration information  
41 as well as every change of address to the sheriff of the county of  
42 the residence address of the registrant through either written  
43 notice, electronic or telephone transmissions, or online access to  
44 registration information. Further, the department shall provide  
45 this information to the Federal Bureau of Investigation.  
46 Additionally, upon notification by the registrant that he intends  
47 to reside outside the State of Mississippi, the department shall  
48 notify the appropriate state law enforcement agency of any state  
49 to which a registrant is moving or has moved.

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

52 (a) Name, including a former name which has been  
53 legally changed;

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

56 (c) Date and place of employment;

57 (d) Crime for which convicted;

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

60 (f) Aliases used;

61 (g) Social security number;

62 (h) Date and place of birth;

63 (i) Age, race, sex, height, weight, and hair and eye  
64 colors;

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

67 (k) Identifying factors;

68 (l) Anticipated future residence;

69           (m) If the registrant's residence is a motor vehicle,  
70 trailer, mobile home or manufactured home, the registrant shall  
71 also provide vehicle identification number, license tag number,  
72 registration number and a description, including color scheme, of  
73 the motor vehicle, trailer, mobile home or manufactured home; if  
74 the registrant's place of residence is a vessel or houseboat, the  
75 registrant shall also provide the hull identification number,  
76 manufacturer's serial number, name of the vessel or houseboat,  
77 registration number and a description, including color scheme, of  
78 the vessel or houseboat;

79           (n) Vehicle make, model, color and license tag number;

80           (o) Offense history;

81           (p) Photograph;

82           (q) Fingerprints;

83           (r) Documentation of any treatment received for any  
84 mental abnormality or personality disorder of the person;

85           (s) Biological sample;

86           (t) Name of any public or private educational  
87 institution, including any secondary school, trade or professional  
88 institution or institution of higher education at which the  
89 offender is employed, carries on a vocation (with or without  
90 compensation) or is enrolled as a student, and the registrant's  
91 status; \* \* \*

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

94           (v) Any other information deemed necessary.

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

99           (4) (a) A person required to register under this chapter  
100 shall not reside within one thousand five hundred (1,500) feet of

101 the real property comprising a public or nonpublic elementary or  
102 secondary school or a child care facility.

103 (b) A person residing within one thousand five hundred  
104 (1,500) feet of the real property comprising a public or nonpublic  
105 elementary or secondary school or a child care facility does not  
106 commit a violation of this subsection if any of the following  
107 apply:

108 (i) The person is serving a sentence at a jail,  
109 prison, juvenile facility or other correctional institution or  
110 facility.

111 (ii) The person is subject to an order of  
112 commitment under Title 41, Mississippi Code of 1972.

113 (iii) The person established the subject residence  
114 prior to July 1, 2006, or the school or child care facility is  
115 located within one thousand five hundred (1,500) feet of the  
116 school or child care facility subsequent to the date the person  
117 established residency.

118 (iv) The person is a minor or a ward under a  
119 guardianship.

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

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

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

131 (i) Knowingly harbors, or knowingly attempts to  
132 harbor, or knowingly assists another person in harboring or

133 attempting to harbor a sex offender who is in violation of this  
134 chapter; or

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

139 (iii) Provides information to a law enforcement  
140 agency regarding a sex offender which the person knows to be  
141 false.

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

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

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

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

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

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

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

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

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

181 45-33-47. (1) A sex offender with a duty to register under  
182 Section 45-33-25 shall only be relieved of the duty under  
183 subsection (2) of this section.

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

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

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

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

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

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

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

206 (v) Section 97-5-41 relating to the carnal  
207 knowledge of a stepchild, adopted child or child of a cohabiting  
208 partner; or

209 (vi) Any conviction for violation of a similar law  
210 of another jurisdiction or designation as a sexual predator in  
211 another jurisdiction.

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

217 (d) An offender, twenty-one (21) years of age or older,  
218 who is convicted of any sex offense where the victim was fourteen  
219 (14) years of age or younger shall be subject to lifetime  
220 registration and shall not be \* \* \* relieved of the duty to  
221 register.

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

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

230           (g) The department shall continue to list in the  
231 registry the name and registration information of all registrants  
232 who no longer work, reside or attend school in this state even  
233 after the registrant moves to another jurisdiction and registers  
234 in the new jurisdiction as required by law. The registry shall  
235 note that the registrant moved out of state.

236           (3) In determining whether to release an offender from the  
237 obligation to register, the court shall consider the nature of the  
238 registrable offense committed and the criminal and relevant  
239 noncriminal behavior of the petitioner both before and after  
240 conviction. The court may relieve the offender of the duty to  
241 register only if the petitioner shows, by clear and convincing  
242 evidence, that the registrant properly maintained his registration  
243 as required by law and that future registration of the petitioner  
244 will not serve the purposes of this chapter and the court is  
245 otherwise satisfied that the petitioner is not a current or  
246 potential threat to public safety. The district attorney in the  
247 circuit in which the petition is filed must be given notice of the  
248 petition at least three (3) weeks before the hearing on the  
249 matter. The district attorney may present evidence in opposition  
250 to the requested relief or may otherwise demonstrate the reasons  
251 why the petition should be denied. If the court denies the  
252 petition, the petitioner may not again petition the court for  
253 relief until one (1) year has elapsed unless the court orders  
254 otherwise in its order of denial of relief.

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

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

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

270           That the, offender shall:

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

273           (b) Avoid injurious or vicious habits;

274           (c) Avoid persons or places of disreputable or harmful  
275 character;

276           (d) Report to the probation and parole officer as  
277 directed;

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

280           (f) Work faithfully at suitable employment so far as  
281 possible;

282           (g) Remain within a specified area;

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

284           (i) Support his dependents;

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

290           (2) When any court places a defendant on misdemeanor  
291 probation, the court must cause to be conducted a search of the  
292 probationer's name or other identifying information against the  
293 registration information regarding sex offenders maintained under  
294 Title 45, Chapter 33. The search may be conducted using the

295 Internet site maintained by the Department of Public Safety Sex  
296 Offender Registry.

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

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

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

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

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

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

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

361 transcript of such order to the clerk of the court of original  
362 jurisdiction, and the clerk of that court shall proceed as if the  
363 order of revocation had been issued by the court of original  
364 jurisdiction. Upon the revocation of probation or suspension of  
365 sentence of any offender, such offender shall be placed in the  
366 legal custody of the State Department of Corrections and shall be  
367 subject to the requirements thereof.

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

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

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

383 **SECTION 7.** (1) Any person convicted of a sex offense who is  
384 employed in any position, or who contracts with a person to  
385 provide personal services, where the employment position or  
386 personal services contract will bring the person into close  
387 regular contact with children shall notify the employer or the  
388 person with whom the person has contracted of his sex offender  
389 status.

390 (2) This section applies to all registered sex offenders  
391 regardless of the date of conviction.

392           **SECTION 8.** Section 1 of this act shall take effect and be in  
393 force from and after July 1, 2007, and the remainder of this act  
394 shall take effect and be in force from and after July 1, 2006.