

## House Amendments to Senate Bill No. 2527

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

30           **SECTION 1.** The following shall be codified as Section  
31 99-19-84, Mississippi Code of 1972:

32           99-19-84. (1) Any person who has, before the passage of  
33 this act, committed a sex offense or attempted sex offense as  
34 defined in Section 45-33-23, and is convicted thereof may be  
35 placed on electronic monitoring upon release from incarceration  
36 for the entire length of his or her parole, probation,  
37 post-release supervision, or other form of supervision by the  
38 Department of Corrections.

39           (2) Any person who commits a sex offense or attempted sex  
40 offense as defined in Section 45-33-23, on or after the effective  
41 date of this act and is convicted thereof may be placed on  
42 electronic monitoring upon release from incarceration for the  
43 entire length of his or her probation, post-release supervision,  
44 or other form of supervision by the Department of Corrections.

45           (3) Any person convicted on or after January 1, 2000, of  
46 receiving pornography through the Internet and whose sentence  
47 included house arrest followed by probation with no incarceration  
48 in a state or federal prison shall be required to report as a  
49 sexual offender to the proper authorities for a period not to  
50 exceed the terms of such house arrest and probation. This  
51 subsection shall apply only to first-time offenders.

52           (4) Any person who commits a sex offense or attempted sex  
53 offense as defined in Section 45-33-23, on or after the effective  
54 date of this act and is convicted thereof, and the unlawful  
55 activity involved a victim who was under sixteen (16) years of age

56 and the offender was eighteen (18) years of age or older shall be  
57 placed on electronic monitoring for a period to be determined by  
58 the sentencing court at the time of sentencing, or at the time of  
59 probation, or by the parole board if electronic monitoring  
60 conditions were not mandated during sentencing.

61 (5) Any person who is placed on electronic monitoring, as  
62 prescribed in this section, will be subject to random drug testing  
63 to detect the presence of sexual enhancement drugs. Such random  
64 testing shall occur for the entire duration that the offender is  
65 on electronic monitoring. The offender shall pay the costs of the  
66 testing and such testing shall be administered by the department.

67 (6) Any person convicted of a misdemeanor in another state  
68 but does not classify as a reportable sex offense in that state  
69 shall not be considered as a sex offender in this state based on  
70 the conviction of the foreign state.

71 **SECTION 2.** The following shall be codified as Section  
72 47-5-1017, Mississippi Code of 1972:

73 47-5-1017. The Department of Corrections is authorized to  
74 electronically monitor an offender sentenced pursuant to Section  
75 99-19-84. The department, when electronically monitoring a sex  
76 offender, must use a system that monitors and identifies the  
77 offender's location and timely reports or records the offender's  
78 presence near or within prohibited areas or the offender's  
79 departure from specified geographic limitations. The department  
80 shall promulgate rules that prescribe reasonable guidelines under  
81 which electronic monitoring shall be carried out pursuant to  
82 Section 99-19-84.

83 **SECTION 3.** The following shall be codified as Section  
84 47-5-1019, Mississippi Code of 1972:

85 47-5-1019. A person who intentionally alters, tampers with,  
86 damages or destroys any electronic monitoring equipment utilized  
87 pursuant to Section 99-19-84, unless the person is the owner of  
88 the equipment or an agent of the owner performing ordinary  
89 maintenance and repairs, commits a felony punishable by

90 imprisonment not to exceed five (5) years in the custody of the  
91 Department of Corrections.

92 **SECTION 4.** The following shall be codified as Section  
93 47-5-1020, Mississippi Code of 1972:

94 47-5-1020. Sex offenders who are electronically monitored by  
95 the department, pursuant to Section 99-19-84, shall pay fees as  
96 directed by the department. Program fees shall not be less than  
97 Seventy-five Dollars (\$75.00) per month except in cases of extreme  
98 financial hardship as determined by the department.

99 **SECTION 5.** It shall be unlawful to knowingly house a person  
100 convicted of a sex crime in any home where children are present  
101 and where such arrangement has not been approved by the sheriff of  
102 the county. Any person who violates the provisions of this act  
103 shall be guilty of a misdemeanor and, upon conviction, be fined  
104 One Thousand Dollars (\$1,000.00), and shall forfeit any TANF  
105 benefits for three (3) months. The Department of Human Services  
106 shall determine whether any children affected by violation of this  
107 section shall be placed in another home or in foster care.

108 **SECTION 6.** Section 45-33-25, Mississippi Code of 1972, is  
109 amended as follows:

110 45-33-25. (1) Any person residing in this state who has  
111 been convicted of any sex offense or attempted sex offense or who  
112 has been acquitted by reason of insanity for any sex offense or  
113 attempted sex offense or twice adjudicated delinquent for any sex  
114 offense or attempted sex offense shall register with the  
115 Mississippi Department of Public Safety. Registration shall not  
116 be required for an offense that is not a registrable sex offense.  
117 The department shall provide the initial registration information  
118 as well as every change of address to the sheriff of the county of  
119 the residence address of the registrant through either written  
120 notice, electronic or telephone transmissions, or online access to  
121 registration information. Further, the department shall provide  
122 this information to the Federal Bureau of Investigation.  
123 Additionally, upon notification by the registrant that he intends  
124 to reside outside the State of Mississippi, the department shall

125 notify the appropriate state law enforcement agency of any state  
126 to which a registrant is moving or has moved.

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

129 (a) Name, including a former name which has been  
130 legally changed;

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

133 (c) Date and place of employment;

134 (d) Crime for which convicted;

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

137 (f) Aliases used;

138 (g) Social security number;

139 (h) Date and place of birth;

140 (i) Age, race, sex, height, weight, and hair and eye  
141 colors;

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

144 (k) Identifying factors;

145 (l) Anticipated future residence;

146 (m) If the registrant's residence is a motor vehicle,  
147 trailer, mobile home or manufactured home, the registrant shall  
148 also provide vehicle identification number, license tag number,  
149 registration number and a description, including color scheme, of  
150 the motor vehicle, trailer, mobile home or manufactured home; if  
151 the registrant's place of residence is a vessel or houseboat, the  
152 registrant shall also provide the hull identification number,  
153 manufacturer's serial number, name of the vessel or houseboat,  
154 registration number and a description, including color scheme, of  
155 the vessel or houseboat;

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

157 (o) Offense history;

158 (p) Photograph;

159 (q) Fingerprints;

160           (r) Documentation of any treatment received for any  
161 mental abnormality or personality disorder of the person;  
162           (s) Biological sample;  
163           (t) Name of any public or private educational  
164 institution, including any secondary school, trade or professional  
165 institution or institution of higher education at which the  
166 offender is employed, carries on a vocation (with or without  
167 compensation) or is enrolled as a student, and the registrant's  
168 status; \* \* \*  
169           (u) Copy of conviction or sentencing order for the sex  
170 offense for which registration is required; and  
171           (v) Any other information deemed necessary.

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

176           (4) No person who is a registered sex offender may live  
177 within one thousand five hundred (1,500) feet of a school or day  
178 care center.

179           **SECTION 7.** Section 45-33-33, Mississippi Code of 1972, is  
180 amended as follows:

181           45-33-33. (1) (a) The failure of an offender to personally  
182 appear at a Department of Public Safety Driver's License Station  
183 or to provide any registration or other information, including,  
184 but not limited to, initial registration, reregistration or change  
185 of address information, or required notification to a volunteer  
186 organization, as required by this chapter, is a violation of the  
187 law. Additionally, forgery of information or submission of  
188 information under false pretenses is also a violation of the law.

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

190                   (i) Knowingly harbors, or knowingly attempts to  
191 harbor, or knowingly assists another person in harboring or  
192 attempting to harbor a sex offender who is in violation of this  
193 chapter; or

194                    (ii) Knowingly assists a sex offender in eluding a  
195 law enforcement agency that is seeking to find the sex offender to  
196 question the sex offender about, or to arrest the sex offender  
197 for, noncompliance with the requirements of this chapter; or  
198                    (iii) Provides information to a law enforcement  
199 agency regarding a sex offender which the person knows to be  
200 false.

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

206            (3) Whenever it appears that an offender has failed to  
207 comply with the duty to register or reregister, the department  
208 shall promptly notify the sheriff of the county of the last known  
209 address of the offender. Upon notification, the sheriff shall  
210 attempt to locate the offender at his last known address.

211            (a) If the sheriff locates the offender, he shall  
212 enforce the provisions of this chapter. The sheriff shall then  
213 notify the department with the current information regarding the  
214 offender.

215            (b) If the sheriff is unable to locate the offender,  
216 the sheriff shall promptly notify the department and initiate a  
217 criminal prosecution against the offender for the failure to  
218 register or reregister. The sheriff shall make the appropriate  
219 transactions into the Federal Bureau of Investigation's  
220 wanted-person database.

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

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

226            (6) A person required to register under this chapter who  
227 commits any act or omission in violation of this chapter may be  
228 prosecuted for the act or omission in the county in which the act

229 or omission was committed, the county of the last registered  
230 address of the sex offender, the county in which the conviction  
231 occurred for the offense or offenses that meet the criteria  
232 requiring the person to register, or in the county in which he was  
233 designated a sex offender.

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

238 **SECTION 8.** Section 45-33-47, Mississippi Code of 1972, is  
239 amended as follows:

240 45-33-47. (1) A sex offender with a duty to register under  
241 Section 45-33-25 shall only be relieved of the duty under  
242 subsection (2) of this section.

243 (2) A person having a duty to register under Section  
244 45-33-25 may petition the circuit court of the sentencing  
245 jurisdiction, or for a person whose duty to register arose in  
246 another jurisdiction, the county in which the registrant resides,  
247 to be relieved of that duty under the following conditions:

248 (a) The offender has maintained his registration in  
249 Mississippi for not less than ten (10) years from the most recent  
250 date of occurrence of at least one (1) of the following: release  
251 from prison, placement on parole, supervised release or probation.  
252 Incarceration for any offense will restart the ten-year minimum  
253 registration requirement. Registration in any other jurisdiction  
254 or state does not reduce the ten-year time requirement for  
255 maintaining registration in Mississippi.

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

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

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

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

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

265 (v) Section 97-5-41 relating to the carnal  
266 knowledge of a stepchild, adopted child or child of a cohabiting  
267 partner; or

268 (vi) Any conviction for violation of a similar law  
269 of another jurisdiction or designation as a sexual predator in  
270 another jurisdiction.

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

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

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

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

289 (g) The department shall continue to list in the  
290 registry the name and registration information of all registrants  
291 who no longer work, reside or attend school in this state even  
292 after the registrant moves to another jurisdiction and registers  
293 in the new jurisdiction as required by law. The registry shall  
294 note that the registrant moved out of state.

295 (3) In determining whether to release an offender from the  
296 obligation to register, the court shall consider the nature of the  
297 registrable offense committed and the criminal and relevant



298 noncriminal behavior of the petitioner both before and after  
299 conviction. The court may relieve the offender of the duty to  
300 register only if the petitioner shows, by clear and convincing  
301 evidence, that the registrant properly maintained his registration  
302 as required by law and that future registration of the petitioner  
303 will not serve the purposes of this chapter and the court is  
304 otherwise satisfied that the petitioner is not a current or  
305 potential threat to public safety. The district attorney in the  
306 circuit in which the petition is filed must be given notice of the  
307 petition at least three (3) weeks before the hearing on the  
308 matter. The district attorney may present evidence in opposition  
309 to the requested relief or may otherwise demonstrate the reasons  
310 why the petition should be denied. If the court denies the  
311 petition, the court may set a future date at which the sex  
312 offender may again petition the court for relief, subject to the  
313 standards set forth in this section.

314 (4) The offender will be required to continue registration  
315 for any sex offense conviction unless the conviction is set aside  
316 in any post-conviction proceeding, the offender receives a  
317 pardon, \* \* \* the charge is dismissed or the offender has received  
318 a court order pursuant to this section relieving him of the duty  
319 to register. Upon submission of the appropriate documentation to  
320 the department of one (1) of these occurrences, registration  
321 duties will be discontinued.

322 **SECTION 9.** Section 47-7-35, Mississippi Code of 1972, is  
323 amended as follows:

324 47-7-35. (1) The courts referred to in Section 47-7-33 or  
325 47-7-34 shall determine the terms and conditions of probation or  
326 post-release supervision and may alter or modify, at any time  
327 during the period of probation or post-release supervision the  
328 conditions and may include among them the following or any other:

329 That the, offender shall:

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

332 (b) Avoid injurious or vicious habits;

333           (c) Avoid persons or places of disreputable or harmful  
334 character;  
335           (d) Report to the probation and parole officer as  
336 directed;  
337           (e) Permit the probation and parole officer to visit  
338 him at home or elsewhere;  
339           (f) Work faithfully at suitable employment so far as  
340 possible;  
341           (g) Remain within a specified area;  
342           (h) Pay his fine in one (1) or several sums;  
343           (i) Support his dependents;  
344           (j) Submit, as provided in Section 47-5-601, to any  
345 type of breath, saliva or urine chemical analysis test, the  
346 purpose of which is to detect the possible presence of alcohol or  
347 a substance prohibited or controlled by any law of the State of  
348 Mississippi or the United States.

349           (2) When any court places a defendant on misdemeanor  
350 probation, the court must cause to be conducted a search of the  
351 probationer's name or other identifying information against the  
352 registration information regarding sex offenders maintained under  
353 Title 45, Chapter 33. The search may be conducted using the  
354 Internet site maintained by the Department of Public Safety Sex  
355 Offender Registry.

356           **SECTION 10.** Section 47-7-37, Mississippi Code of 1972, is  
357 amended as follows:

358           47-7-37. The period of probation shall be fixed by the  
359 court, and may at any time be extended or terminated by the court,  
360 or judge in vacation. Such period with any extension thereof  
361 shall not exceed five (5) years, except that in cases of desertion  
362 and/or failure to support minor children, the period of probation  
363 may be fixed and/or extended by the court for so long as the duty  
364 to support such minor children exists.

365           At any time during the period of probation the court, or  
366 judge in vacation, may issue a warrant for violating any of the  
367 conditions of probation or suspension of sentence and cause the

368 probationer to be arrested. Any probation and parole officer may  
369 arrest a probationer without a warrant, or may deputize any other  
370 officer with power of arrest to do so by giving him a written  
371 statement setting forth that the probationer has, in the judgment  
372 of the probation and parole officer, violated the conditions of  
373 probation. Such written statement delivered with the probationer  
374 by the arresting officer to the official in charge of a county  
375 jail or other place of detention shall be sufficient warrant for  
376 the detention of the probationer.

377 If a probationer or offender is subject to registration as a  
378 sex offender, the court must make a finding that the probationer  
379 or offender is not a danger to the public prior to release with or  
380 without bail. In determining the danger posed by the release of  
381 the offender or probationer, the court may consider the nature and  
382 circumstances of the violation and any new offenses charged; the  
383 offender or probationer's past and present conduct, including  
384 convictions of crimes and any record of arrests without conviction  
385 for crimes involving violence or sex crimes; any other evidence of  
386 allegations of unlawful sexual conduct or the use of violence by  
387 the offender or probationer; the offender or probationer's family  
388 ties, length of residence in the community, employment history and  
389 mental condition; the offender or probationer's history and  
390 conduct during the probation or other supervised release and any  
391 other previous supervisions, including disciplinary records of  
392 previous incarcerations; the likelihood that the offender or  
393 probationer will engage again in a criminal course of conduct; the  
394 weight of the evidence against the offender or probationer; and  
395 any other facts the court considers relevant.

396 The probation and parole officer after making an arrest shall  
397 present to the detaining authorities a similar statement of the  
398 circumstances of violation. The probation and parole officer  
399 shall at once notify the court of the arrest and detention of the  
400 probationer and shall submit a report in writing showing in what  
401 manner the probationer has violated the conditions of probation.  
402 Thereupon, or upon an arrest by warrant as herein provided, the

403 court, in termtime or vacation, shall cause the probationer to be  
404 brought before it and may continue or revoke all or any part of  
405 the probation or the suspension of sentence, and may cause the  
406 sentence imposed to be executed or may impose any part of the  
407 sentence which might have been imposed at the time of conviction.

408 If the probationer is arrested in a circuit court district in  
409 the State of Mississippi other than that in which he was  
410 convicted, the probation and parole officer, upon the written  
411 request of the sentencing judge, shall furnish to the circuit  
412 court or the county court of the county in which the arrest is  
413 made, or to the judge of such court, a report concerning the  
414 probationer, and such court or the judge in vacation shall have  
415 authority, after a hearing, to continue or revoke all or any part  
416 of probation or all or any part of the suspension of sentence, and  
417 may in case of revocation proceed to deal with the case as if  
418 there had been no probation. In such case, the clerk of the court  
419 in which the order of revocation is issued shall forward a  
420 transcript of such order to the clerk of the court of original  
421 jurisdiction, and the clerk of that court shall proceed as if the  
422 order of revocation had been issued by the court of original  
423 jurisdiction. Upon the revocation of probation or suspension of  
424 sentence of any offender, such offender shall be placed in the  
425 legal custody of the State Department of Corrections and shall be  
426 subject to the requirements thereof.

427 Any probationer who removes himself from the State of  
428 Mississippi without permission of the court placing him on  
429 probation, or the court to which jurisdiction has been  
430 transferred, shall be deemed and considered a fugitive from  
431 justice and shall be subject to extradition as now provided by  
432 law. No part of the time that one is on probation shall be  
433 considered as any part of the time that he shall be sentenced to  
434 serve.

435 The arresting officer, except when a probation and parole  
436 officer, shall be allowed the same fees as now provided by law for

437 arrest on warrant, and such fees shall be taxed against the  
438 probationer and paid as now provided by law.

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

442 **SECTION 11.** (1) Any person convicted of a sex offense is  
443 prohibited from employment when he or she would have close contact  
444 with children.

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

447 **SECTION 12.** Section 1 of this act shall be codified in  
448 Chapter 33, Title 45, Mississippi Code of 1972.

449 **SECTION 13.** With the exception of Section 1, paragraph (3),  
450 Sections 1 through 4 of this act shall take effect and be in force  
451 from and after July 1, 2007. Section 1, paragraph (3) shall  
452 become effective upon passage. Section 5 shall become effective  
453 July 1, 2006.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO CREATE SECTION 99-19-84, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE ELECTRONIC MONITORING OF SEX OFFENDERS ON PAROLE,  
3 PROBATION, POST-RELEASE SUPERVISION OR OTHER SUPERVISION; TO  
4 CREATE SECTION 47-5-1017, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
5 GUIDELINES REGARDING ELECTRONIC MONITORING; TO CREATE SECTION  
6 47-5-1019, MISSISSIPPI CODE OF 1972, TO PROHIBIT TAMPERING,  
7 DAMAGING, ALTERING OR DESTROYING ELECTRONIC MONITORING EQUIPMENT  
8 AND TO PROVIDE PENALTIES FOR VIOLATIONS; TO CREATE SECTION  
9 47-5-1020, MISSISSIPPI CODE OF 1972, TO REQUIRE THE PAYMENT OF  
10 FEES FOR ELECTRONIC MONITORING; TO PROHIBIT HOUSING SEX OFFENDERS  
11 WHERE CHILDREN ARE PRESENT UNLESS APPROVED BY THE SHERIFF; TO  
12 PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND SECTION 45-33-25,  
13 MISSISSIPPI CODE OF 1972, TO REQUIRE ADDITIONAL INFORMATION FROM  
14 SEX OFFENDERS WHO ARE REQUIRED TO REGISTER; TO PROHIBIT REGISTERED  
15 SEX OFFENDERS FROM LIVING WITHIN 1,500 FEET OF A SCHOOL OR DAY  
16 CARE CENTER; TO AMEND SECTION 45-33-33, MISSISSIPPI CODE OF 1972,  
17 TO CREATE THE CRIME OF CONSPIRING WITH A SEX OFFENDER TO ELUDE  
18 REGISTRATION AND OF PROVIDING FALSE REGISTRATION INFORMATION; TO  
19 AMEND SECTION 45-33-47, MISSISSIPPI CODE OF 1972, TO REQUIRE  
20 SHOWINGS OF FACT WHEN PETITIONING THE CIRCUIT COURT FOR RELIEF  
21 FROM THE DUTY TO REGISTER AND TO EXPAND LIST OF OFFENDERS SUBJECT  
22 TO LIFETIME REGISTRATION; TO AMEND SECTION 47-7-35, MISSISSIPPI  
23 CODE OF 1972, TO MANDATE ELECTRONIC MONITORING UNDER CERTAIN  
24 CIRCUMSTANCES; TO AMEND SECTION 47-7-37, MISSISSIPPI CODE OF 1972,  
25 TO ENACT CERTAIN RESTRICTIONS ON THE IMPOSITION OF BAIL FOR  
26 PERSONS WHO ARE REQUIRED TO REGISTER AS SEX OFFENDERS; TO PROHIBIT  
27 SEX OFFENDERS FROM BEING EMPLOYED IN JOBS WHICH REQUIRE CLOSE  
28 CONTACT WITH CHILDREN; AND FOR RELATED PURPOSES.

HR40\SB2527PH.J

Don Richardson  
Clerk of the House of Representatives