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To: Judiciary B; Corrections

HOUSE BILL NO. 1221

1 AN ACT TO CREATE NEW SECTION 47-5-1017, MISSISSIPPI CODE OF
2 1972, TO PROVIDE FOR ELECTRONIC MONITORING OF SEX OFFENDERS UPON
3 WHOM A SPLIT SENTENCE IS IMPOSED; TO CREATE NEW SECTION 47-5-1019,
4 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PUNISHMENT FOR TAMPERING
5 WITH AN ELECTRONIC MONITORING DEVICE; TO CREATE NEW SECTION
6 47-7-32, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF
7 CORRECTIONS TO STUDY INSTANCES OF SEX OFFENDERS WHO ARE
8 SUBSEQUENTLY ARRESTED; TO AMEND SECTION 47-7-33, MISSISSIPPI CODE
9 OF 1972, TO REQUIRE ELECTRONIC MONITORING OF CERTAIN PAROLEES AND
10 PROBATIONERS; TO AMEND SECTION 47-7-34, MISSISSIPPI CODE OF 1972,
11 TO CONFORM TO SPLIT SENTENCING; TO AMEND SECTION 47-7-35,
12 MISSISSIPPI CODE OF 1972, TO MANDATE ELECTRONIC MONITORING UNDER
13 CERTAIN CIRCUMSTANCES; TO AMEND SECTION 99-19-84, MISSISSIPPI CODE
14 OF 1972, TO AUTHORIZE A SPLIT SENTENCE FOR SEX OFFENDERS; TO
15 CREATE NEW SECTION 99-19-205, MISSISSIPPI CODE OF 1972, TO MANDATE
16 ELECTRONIC SUPERVISION FOR CERTAIN SEX OFFENDERS UPON EXPIRATION
17 OF ANY TERM OF INCARCERATION; TO REQUIRE THE DEPARTMENT OF PUBLIC
18 SAFETY TO STUDY THE SEX OFFENDER REGISTRY SYSTEM AND THE PEER
19 COMMITTEE TO PERIODICALLY REVIEW THE SYSTEM; TO AMEND SECTION
20 45-33-31, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF
21 PUBLIC SAFETY TO DEVELOP AND IMPLEMENT A VERIFICATION SYSTEM FOR
22 THE REGISTRATION INFORMATION GIVEN BY SEX OFFENDERS; TO AMEND
23 SECTION 45-33-49, MISSISSIPPI CODE OF 1972, TO REQUIRE SHARING OF
24 INFORMATION BETWEEN LAW ENFORCEMENT AGENCIES; TO AMEND SECTION
25 97-5-23, MISSISSIPPI CODE OF 1972, TO IMPOSE A MORE SEVERE PENALTY
26 FOR FONDLING WHEN THE VICTIM IS BELOW A CERTAIN AGE; TO AMEND
27 SECTION 99-19-101, MISSISSIPPI CODE OF 1972, TO SPECIFY THAT
28 CERTAIN SEX OFFENSES ARE AN AGGRAVATING CIRCUMSTANCE IN SENTENCING
29 FOR A CAPITAL OFFENSE; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** The following shall be codified as Section
32 47-5-1017, Mississippi Code of 1972:

33 47-5-1017. The department shall electronically monitor an
34 offender upon whom a split sentence is imposed pursuant to Section
35 99-19-84. The department, in carrying out a court order to
36 electronically monitor an offender, must use a system that
37 actively monitors and identifies the offender's location and
38 timely reports or records the offender's presence near or within a
39 crime scene or in prohibited areas or the offender's departure
40 from specified geographic limitations.

41 **SECTION 2.** The following shall be codified as Section
42 47-5-1019, Mississippi Code of 1972:

43 47-5-1019. A person who intentionally alters, tampers with,
44 damages or destroys any electronic monitoring equipment, unless
45 the person is the owner of the equipment or an agent of the owner
46 performing ordinary maintenance and repairs, commits a felony
47 punishable by imprisonment not to exceed five (5) years in the
48 custody of the Department of Corrections.

49 **SECTION 3.** The following shall be codified as Section
50 47-7-32, Mississippi Code of 1972:

51 47-7-32. (1) The Department of Corrections shall review the
52 circumstances related to any offender placed on supervision who is
53 subject to registration as a sex offender under Title 45, Chapter
54 33, who is subsequently arrested.

55 (2) The department shall provide a statistical data summary
56 from these reviews to the Joint Committee on Performance
57 Evaluation and Expenditure Review which shall analyze this data
58 and file a written report with the Secretary of the Senate and the
59 Clerk of the House of Representatives by November 1, 2007. The
60 report must include, at a minimum, any identified systemic
61 deficiencies in managing high-risk offenders on supervision; any
62 patterns of noncompliance by probation and parole officers; and
63 recommendations for improving the department's supervision of
64 offenders.

65 **SECTION 4.** Section 47-7-33, Mississippi Code of 1972, is
66 amended as follows:

67 47-7-33. (1) When it appears to the satisfaction of any
68 circuit court or county court in the State of Mississippi having
69 original jurisdiction over criminal actions, or to the judge
70 thereof, that the ends of justice and the best interest of the
71 public, as well as the defendant, will be served thereby, such
72 court, in termtime or in vacation, shall have the power, after
73 conviction or a plea of guilty, except in a case where a death

74 sentence or life imprisonment is the maximum penalty which may be
75 imposed or where the defendant has been convicted of a felony on a
76 previous occasion in any court or courts of the United States and
77 of any state or territories thereof, to suspend the imposition or
78 execution of sentence, and place the defendant on probation as
79 herein provided, except that the court shall not suspend the
80 execution of a sentence of imprisonment after the defendant shall
81 have begun to serve such sentence. In placing any defendant on
82 probation, the court, or judge, shall direct that such defendant
83 be under the supervision of the Department of Corrections.

84 (2) When any circuit or county court places an offender on
85 probation, the court shall give notice to the Mississippi
86 Department of Corrections within fifteen (15) days of the court's
87 decision to place the offender on probation. Notice shall be
88 delivered to the central office of the Mississippi Department of
89 Corrections and to the regional office of the department which
90 will be providing supervision to the offender on probation.

91 (3) When any circuit court or county court places a person
92 on probation in accordance with the provisions of this section and
93 that person is ordered to make any payments to his family, if any
94 member of his family whom he is ordered to support is receiving
95 public assistance through the State Department of Public Welfare,
96 the court shall order him to make such payments to the county
97 welfare officer of the county rendering public assistance to his
98 family, for the sole use and benefit of said family.

99 (4) If probation or parole is revoked by the court and the
100 offender is designated as a sex offender for unlawful sexual
101 activity involving a victim under sixteen (16) years of age and
102 the offender is eighteen (18) years of age or older, and if the
103 court imposes a subsequent term of supervision following the
104 revocation of supervision, the court must order electronic
105 monitoring as a condition of any subsequent term of probation or
106 parole.

107 **SECTION 5.** Section 47-7-34, Mississippi Code of 1972, is
108 amended as follows:

109 47-7-34. (1) When a court imposes a sentence upon a
110 conviction for any felony committed after June 30, 1995, the
111 court, in addition to any other punishment imposed if the other
112 punishment includes a term of incarceration in a state or local
113 correctional facility, may impose a term of post-release
114 supervision. However, the total number of years of incarceration
115 plus the total number of years of post-release supervision shall
116 not exceed the maximum sentence authorized to be imposed by law
117 for the felony committed. The defendant shall be placed under
118 post-release supervision upon release from the term of
119 incarceration. The period of supervision shall be established by
120 the court.

121 (2) The period of post-release supervision shall be
122 conducted in the same manner as a like period of supervised
123 probation, including a requirement that the defendant shall abide
124 by any terms and conditions as the court may establish. Failure
125 to successfully abide by the terms and conditions shall be grounds
126 to terminate the period of post-release supervision and to
127 recommit the defendant to the correctional facility from which he
128 was previously released. Procedures for termination and
129 recommitment shall be conducted in the same manner as procedures
130 for the revocation of probation and imposition of a suspended
131 sentence.

132 (3) Post-release supervision programs shall be operated
133 through the probation and parole unit of the Division of Community
134 Corrections of the department. The maximum amount of time that
135 the Mississippi Department of Corrections may supervise an
136 offender on the post-release supervision program is five (5)
137 years.

138 (4) The provisions of this section shall not affect the
139 ability of a court to impose a split sentence pursuant to Section
140 99-19-84.

141 **SECTION 6.** Section 99-19-84, Mississippi Code of 1972, is
142 amended as follows:

143 99-19-84. (1) Whenever probation is a part of a sentence
144 prescribed for an offense for which registration as a sex offender
145 is required under Title 45, Chapter 33, the court may include as a
146 condition of probation that the sex offender be placed on
147 electronic monitoring. The Department of Corrections shall
148 promulgate rules and regulations for the implementation of
149 electronic monitoring of sex offenders on probation.

150 (2) Whenever punishment by imprisonment for a misdemeanor or
151 a felony, except for a capital felony, is prescribed for an
152 offense for which registration as a sex offender is required under
153 Title 45, Chapter 33, the court, in its discretion at the time of
154 sentencing, may impose a split sentence whereby the defendant is
155 to be placed on electronic monitoring following release from
156 incarceration for any term of years or for life.

157 **SECTION 7.** The following shall be codified as Section
158 99-19-205, Mississippi Code of 1972:

159 99-19-205. Any person who is convicted of a sex offense on
160 or after July 1, 2006, and who is sentenced to any state or local
161 correctional facility, placed on probation, given a suspended
162 sentence or other disposition, and the unlawful activity involved
163 a victim who was under sixteen (16) years of age and the offender
164 was eighteen (18) years of age or older, or the offender is
165 subject to lifetime registration under Section 45-33-47(2), shall
166 be sentenced by the court to mandatory electronic monitoring for
167 life subsequent to the offender's release from incarceration.

168 **SECTION 8.** (1) The Department of Public Safety shall
169 examine the collection and dissemination of offender information
170 within the criminal justice system and community and recommend

171 strategies and actions that may be implemented to enhance
172 coordination and cooperation among the various entities within the
173 criminal justice system with a common goal of public safety. The
174 department shall study:

175 (a) The collection and dissemination of offender
176 information, including criminal history and any other pertinent
177 matters, to the court, the prosecuting attorney and defense
178 counsel at first appearance hearings.

179 (b) The collection and dissemination of offender
180 information, including criminal history and any other pertinent
181 matters, to the court, the prosecuting attorney and defense
182 counsel at all court appearances subsequent to first appearance.

183 (c) The collection and dissemination of offender
184 information, including criminal history and any other pertinent
185 matters, to county probation officers or officials.

186 (d) Any other subject that the department deems
187 relevant to the collection and dissemination of offender
188 information within the criminal justice system and community.

189 (2) The department shall submit its findings and
190 recommendations to the Governor, the President of the Senate, and
191 the Speaker of the House of Representatives by November 1, 2007.
192 The final report shall be filed with the Governor, the President
193 of the Senate, and the Speaker of the House of Representatives.
194 In addition to the findings and recommendations included in the
195 final report, the report must include a draft of proposed rules
196 and proposed legislation for any recommendations requiring
197 proposed rules and proposed legislation.

198 (3) Each state agency shall fully cooperate with the task
199 force in the performance of its duties.

200 **SECTION 9.** The Joint Committee on Performance Evaluation and
201 Expenditure Review, every three (3) years, shall perform a study
202 of the effectiveness of Mississippi's sex offender registration
203 process and community and public notification provisions. As part

204 of determining the effectiveness of the registration process, PEER
205 shall examine the current practices of: the Department of
206 Corrections, county probation offices, clerk of courts, court
207 administrators, county jails and booking facilities, Department of
208 Children and Family Services, judges, district attorneys' offices,
209 Department of Public Safety, and local law enforcement agencies as
210 they relate to: sharing of offender information regarding
211 registered sex offenders for purposes of fulfilling the
212 requirements set forth in the registration laws; ensuring the most
213 accurate, current and comprehensive information is provided in a
214 timely manner to the registry; ensuring the effective supervision
215 and subsequent monitoring of sex offenders; and ensuring informed
216 decisions are made at each point of the criminal justice and
217 registration process. In addition to determining the
218 effectiveness of the registration process, the report shall focus
219 on the question of whether the notification provisions in statute
220 are sufficient to apprise communities of the presence of sex
221 offenders. The report shall examine how local law enforcement
222 agencies collect and disseminate information in an effort to
223 notify the public and communities of the presence of sex
224 offenders. If the report finds deficiencies in the registration
225 process, the notification provisions, or both, the report shall
226 provide options for correcting those deficiencies and shall
227 include the projected cost of implementing those options. In
228 conducting the study, PEER shall consult with interested entities
229 that may offer experiences and perspectives unique to this area of
230 research. The report shall be submitted to the President of the
231 Senate and the Speaker of the House of Representatives.

232 **SECTION 10.** Section 45-33-31, Mississippi Code of 1972, is
233 amended as follows:

234 45-33-31. (1) All registrants are required to personally
235 appear at a Department of Public Safety Driver's License Station
236 to reregister every ninety (90) days. Reregistration includes the

237 submission of current information to the department and the
238 verification of registration information, including the street
239 address and telephone number of the registrant; name, street
240 address and telephone number of the registrant's employment along
241 with any other registration information that may need to be
242 verified and the payment of any required fees. A person who fails
243 to reregister as required by this section commits a violation of
244 this chapter.

245 (2) The department shall implement a system for verifying
246 the addresses of registrants. The system must be consistent with
247 the provisions of the federal Jacob Wetterling Act, as amended,
248 and any other federal standards applicable to such verification or
249 required to be met as a condition for the receipt of federal funds
250 by the state. County and local law enforcement agencies, in
251 conjunction with the department, shall verify the addresses of
252 registrants who are not under the care, custody, control or
253 supervision of the Department of Corrections.

254 **SECTION 11.** Section 45-33-49, Mississippi Code of 1972, is
255 amended as follows:

256 45-33-49. (1) Records maintained pursuant to this chapter
257 shall be open to law enforcement agencies which shall be
258 authorized to release relevant and necessary information regarding
259 sex offenders to the public.

260 (2) The identity of a victim of an offense that requires
261 registration under this chapter shall not be released.

262 (3) A sheriff shall maintain records for registrants of the
263 county and shall make available to any person upon request the
264 name, address, place of employment, crime for which convicted,
265 date and place of conviction of any registrant, and any other
266 information deemed necessary for the protection of the public.
267 The sheriffs shall be responsible for verifying their respective
268 registries annually against the department's records to ensure
269 current information is available at both levels.

270 (4) Upon written request, the department may also provide to
271 any person the name, address, photograph, if available, date of
272 photograph, place of employment, crime for which convicted, date
273 and place of conviction of any registrant, hair, eye color,
274 height, race, sex and date of birth of any registrant, and any
275 other information deemed necessary for the protection of the
276 public. Additionally, the department may utilize an Internet
277 website or other electronic means to release the information.

278 (5) The Department of Education, the Mississippi Private
279 School Association and the Department of Health shall notify all
280 schools and licensed day care centers annually regarding the
281 availability upon request of this information.

282 (6) Nothing in this section shall be construed to prevent
283 law enforcement officers from notifying members of the public
284 exposed to danger of any circumstances or individuals that pose a
285 danger under circumstances that are not enumerated in this
286 section.

287 (7) Nothing in this chapter shall be construed to prevent
288 law enforcement officers from providing community notification of
289 any circumstances or individuals that pose or could pose a danger
290 under circumstances that are not enumerated in this chapter.

291 (8) The Department of Public Safety shall share sex offender
292 information with local law enforcement agencies in an effort to
293 ensure that sex offenders who fail to respond to address
294 verification attempts or who otherwise abscond from registration
295 are located in a timely manner. The department shall use
296 analytical resources to assist local law enforcement agencies to
297 determine the potential whereabouts of any sex offender who fails
298 to respond to address verification attempts or who otherwise
299 absconds from registration. The department shall review and
300 analyze all available information concerning any such offender who
301 fails to respond to address verification attempts or who otherwise
302 absconds from registration and provide the information to local

303 law enforcement agencies in order to assist the agencies in
304 locating and apprehending the sex offender.

305 (9) The department shall provide, through a toll-free
306 telephone number, public access to registration information
307 regarding sex offenders and may provide other information reported
308 to the department which is not exempt from public disclosure.

309 **SECTION 12.** Section 97-5-23, Mississippi Code of 1972, is
310 amended as follows:

311 97-5-23. (1) Any person above the age of eighteen (18)
312 years, who, for the purpose of gratifying his or her lust, or
313 indulging his or her depraved licentious sexual desires, shall
314 handle, touch or rub with hands or any part of his or her body or
315 any member thereof, any child under the age of sixteen (16) years,
316 with or without the child's consent, or a mentally defective,
317 mentally incapacitated or physically helpless person as defined in
318 Section 97-3-97, shall be guilty of a felony and, upon conviction
319 thereof, shall be as follows: If the victim is over the age of
320 twelve (12) years but under the age of sixteen (16) years, the
321 offender shall be fined in a sum not less than One Thousand
322 Dollars (\$1,000.00) nor more than Five Thousand Dollars
323 (\$5,000.00), or be committed to the custody of the State
324 Department of Corrections not less than two (2) years nor more
325 than fifteen (15) years, or be punished by both such fine and
326 imprisonment, at the discretion of the court; if the victim is
327 under the age of twelve (12), the offender shall be committed to
328 the custody of the State Department of Corrections for life
329 without possibility of probation or parole.

330 (2) Any person above the age of eighteen (18) years, who,
331 for the purpose of gratifying his or her lust, or indulging his or
332 her depraved licentious sexual desires, shall handle, touch or rub
333 with hands or any part of his or her body or any member thereof,
334 any child younger than himself or herself who is at least sixteen
335 (16) years of age but under the age of eighteen (18) years who is

336 not such person's spouse, with or without the child's consent,
337 when the person occupies a position of trust or authority over the
338 child shall be guilty of a felony and, upon conviction thereof,
339 shall be fined in a sum not less than One Thousand Dollars
340 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be
341 committed to the custody of the State Department of Corrections
342 not less than two (2) years nor more than fifteen (15) years, or
343 be punished by both such fine and imprisonment, at the discretion
344 of the court. A person in a position of trust or authority over a
345 child includes without limitation a child's teacher, counselor,
346 physician, psychiatrist, psychologist, minister, priest, physical
347 therapist, chiropractor, legal guardian, parent, stepparent, aunt,
348 uncle, scout leader or coach.

349 (3) Upon a second conviction for an offense under this
350 section when the offense is subject to imprisonment of less than
351 life in prison without parole, the person so convicted shall be
352 punished by commitment to the State Department of Corrections for
353 a term not to exceed thirty (30) years, which sentence shall be
354 neither suspended nor reduced.

355 **SECTION 13.** Section 99-19-101, Mississippi Code of 1972, is
356 amended as follows:

357 99-19-101. (1) Upon conviction or adjudication of guilt of
358 a defendant of capital murder or other capital offense, the court
359 shall conduct a separate sentencing proceeding to determine
360 whether the defendant should be sentenced to death, life
361 imprisonment without eligibility for parole, or life imprisonment.
362 The proceeding shall be conducted by the trial judge before the
363 trial jury as soon as practicable. If, through impossibility or
364 inability, the trial jury is unable to reconvene for a hearing on
365 the issue of penalty, having determined the guilt of the accused,
366 the trial judge may summon a jury to determine the issue of the
367 imposition of the penalty. If the trial jury has been waived, or
368 if the defendant pleaded guilty, the sentencing proceeding shall

369 be conducted before a jury impaneled for that purpose or may be
370 conducted before the trial judge sitting without a jury if both
371 the State of Mississippi and the defendant agree thereto in
372 writing. In the proceeding, evidence may be presented as to any
373 matter that the court deems relevant to sentence, and shall
374 include matters relating to any of the aggravating or mitigating
375 circumstances. However, this subsection shall not be construed to
376 authorize the introduction of any evidence secured in violation of
377 the Constitution of the United States or of the State of
378 Mississippi. The state and the defendant and/or his counsel shall
379 be permitted to present arguments for or against the sentence of
380 death.

381 (2) After hearing all the evidence, the jury shall
382 deliberate on the following matters:

383 (a) Whether sufficient factors exist as enumerated in
384 subsection (7) of this section;

385 (b) Whether sufficient aggravating circumstances exist
386 as enumerated in subsection (5) of this section;

387 (c) Whether sufficient mitigating circumstances exist
388 as enumerated in subsection (6) of this section, which outweigh
389 the aggravating circumstances found to exist; and

390 (d) Based on these considerations, whether the
391 defendant should be sentenced to life imprisonment, life
392 imprisonment without eligibility for parole, or death.

393 (3) For the jury to impose a sentence of death, it must
394 unanimously find in writing the following:

395 (a) That sufficient factors exist as enumerated in
396 subsection (7) of this section;

397 (b) That sufficient aggravating circumstances exist as
398 enumerated in subsection (5) of this section; and

399 (c) That there are insufficient mitigating
400 circumstances, as enumerated in subsection (6), to outweigh the
401 aggravating circumstances.

402 In each case in which the jury imposes the death sentence,
403 the determination of the jury shall be supported by specific
404 written findings of fact based upon the circumstances in
405 subsections (5) and (6) of this section and upon the records of
406 the trial and the sentencing proceedings. If, after the trial of
407 the penalty phase, the jury does not make the findings requiring
408 the death sentence or life imprisonment without eligibility for
409 parole, or is unable to reach a decision, the court shall impose a
410 sentence of life imprisonment.

411 (4) The judgment of conviction and sentence of death shall
412 be subject to automatic review by the Supreme Court of Mississippi
413 within sixty (60) days after certification by the sentencing court
414 of entire record, unless the time is extended for an additional
415 period by the Supreme Court for good cause shown. Such review by
416 the Supreme Court shall have priority over all other cases and
417 shall be heard in accordance with rules promulgated by the Supreme
418 Court.

419 (5) Aggravating circumstances shall be limited to the
420 following:

421 (a) The capital offense was committed by a person under
422 sentence of imprisonment.

423 (b) The defendant was previously convicted of another
424 capital offense or of a felony involving the use or threat of
425 violence to the person.

426 (c) The defendant knowingly created a great risk of
427 death to many persons.

428 (d) The capital offense was committed while the
429 defendant was engaged, or was an accomplice, in the commission of,
430 or an attempt to commit, or flight after committing or attempting
431 to commit, any robbery, rape, arson, burglary, kidnapping,
432 aircraft piracy, sexual battery, unnatural intercourse with any
433 child under the age of twelve (12), or nonconsensual unnatural
434 intercourse with mankind, or felonious abuse and/or battery of a

435 child in violation of subsection (2) of Section 97-5-39,
436 Mississippi Code of 1972, or the unlawful use or detonation of a
437 bomb or explosive device.

438 (e) The capital offense was committed for the purpose
439 of avoiding or preventing a lawful arrest or effecting an escape
440 from custody.

441 (f) The capital offense was committed for pecuniary
442 gain.

443 (g) The capital offense was committed to disrupt or
444 hinder the lawful exercise of any governmental function or the
445 enforcement of laws.

446 (h) The capital offense was especially heinous,
447 atrocious or cruel.

448 (i) The capital offense was committed by a person
449 previously convicted of one or more of the following offenses:

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

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

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

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

456 (v) Section 97-5-41 relating to the carnal
457 knowledge of a stepchild, adopted child or child of a cohabiting
458 partner; or

459 (vi) Any conviction for violation of a similar law
460 of another jurisdiction or designation as a sexual predator in
461 another jurisdiction.

462 (6) Mitigating circumstances shall be the following:

463 (a) The defendant has no significant history of prior
464 criminal activity.

465 (b) The offense was committed while the defendant was
466 under the influence of extreme mental or emotional disturbance.

467 (c) The victim was a participant in the defendant's
468 conduct or consented to the act.

469 (d) The defendant was an accomplice in the capital
470 offense committed by another person and his participation was
471 relatively minor.

472 (e) The defendant acted under extreme duress or under
473 the substantial domination of another person.

474 (f) The capacity of the defendant to appreciate the
475 criminality of his conduct or to conform his conduct to the
476 requirements of law was substantially impaired.

477 (g) The age of the defendant at the time of the crime.

478 (7) In order to return and impose a sentence of death the
479 jury must make a written finding of one or more of the following:

480 (a) The defendant actually killed;

481 (b) The defendant attempted to kill;

482 (c) The defendant intended that a killing take place;

483 (d) The defendant contemplated that lethal force would
484 be employed.

485 **SECTION 14.** This act shall take effect and be in force from
486 and after July 1, 2007.