

By: Senator(s) Tollison

To: Judiciary, Division B

SENATE BILL NO. 2290

1 AN ACT TO AMEND SECTION 41-29-701, MISSISSIPPI CODE OF 1972,
2 TO REVISE VENUE FOR APPLICATION TO THE CIRCUIT COURT FOR
3 INSTALLATION OF A PEN REGISTER UNDER THE UNIFORM CONTROLLED
4 SUBSTANCES ACT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-29-701, Mississippi Code of 1972, is
7 amended as follows:

8 41-29-701. (1) As used in this section, the following words
9 and phrases shall have the meanings ascribed to them herein unless
10 the context clearly requires otherwise:

11 (a) "Pen register" means a mechanical or electronic
12 device that attaches to a telephone line and is capable of
13 recording outgoing numbers dialed from that line and date, time
14 and duration of any incoming communication to that line.

15 (b) "Trap and trace device" means a device which
16 captures the incoming electronic or other signals which identifies
17 the originating number of an instrument or device from which a
18 wire or other communication was transmitted.

19 (c) "Caller ID" means a service offered by a provider
20 of communications services which identifies either or both of the
21 originating number or the subscriber of such number of an
22 instrument or device from which a wire or other communication was
23 transmitted.

24 (2) (a) Attorneys for the Bureau of Narcotics, upon their
25 own motion, may file an application with the circuit court * * *
26 for the installation and use of a pen register, trap and trace
27 device or caller ID to obtain information material to an ongoing
28 investigation of a felony violation of the Uniform Controlled

29 Substances Law. Venue under this section shall be in the circuit
30 court district of any of the following: (i) the county of
31 residence of the subscriber, (ii) the county of residence of the
32 user, (iii) the county in which the billing address is located, or
33 (iv) the county in which the crime is allegedly being committed.

34 (b) The application shall be made in writing under oath
35 and shall include the name of the subscriber, the telephone number
36 or numbers, and the location of the telephone instrument or
37 instruments upon which the pen register will be utilized. The
38 application shall also set forth facts which the court shall
39 consider in determining that probable cause exists that the
40 installation and utilization of the pen register, trap and trace
41 device or caller ID will be material to an ongoing investigation
42 of a felony violation of the Uniform Controlled Substances Law.

43 (c) Upon consideration of the application and a
44 determination that probable cause exists, the circuit court judge
45 may order the installation and utilization of the pen register,
46 trap and trace device or caller ID, and in the order the circuit
47 court judge shall direct a communications common carrier, as
48 defined by 47 USCS 153(h), to furnish all information, facilities
49 and technical assistance necessary to facilitate the installation
50 and utilization of the pen register, trap and trace device or
51 caller ID unobtrusively and with a minimum of interference to the
52 services provided by the carrier. The carrier is entitled to
53 compensation at the prevailing rates for the facilities and
54 assistance provided to the Bureau of Narcotics.

55 (d) An order for the installation and utilization of a
56 pen register, trap and trace device or caller ID is valid for not
57 more than thirty (30) days from the date the order is granted
58 unless, prior to the expiration of the order, an attorney for the
59 Bureau of Narcotics applies for and obtains from the court an
60 extension of the order. The period of extension may not exceed
61 thirty (30) days for each extension granted.

62 (e) The circuit court shall seal an application and
63 order for the installation and utilization of a pen register, trap
64 and trace device or caller ID granted under this section. The
65 contents of an application or order may not be disclosed except in
66 the course of a judicial proceeding and an unauthorized disclosure
67 is punishable as contempt of court.

68 (3) On or before January 5 of each year, the Director of the
69 Bureau of Narcotics shall submit a report to the Mississippi
70 Administrative Office of Courts detailing the number of
71 applications for pen registers sought and the number of orders for
72 the installation and utilization of pen registers, trap and trace
73 devices or caller ID granted during the preceding calendar year.

74 **SECTION 2.** This act shall take effect and be in force from
75 and after July 1, 2007.