

By: Representatives Bell (65th), Karriem

To: Judiciary B

HOUSE BILL NO. 655

1 AN ACT TO REQUIRE LAW ENFORCEMENT OFFICERS TO OBTAIN WRITTEN
2 CONSENT FROM A PERSON BEFORE SUBJECTING SUCH PERSON TO A VOLUNTARY
3 SEARCH; TO PROVIDE THAT THIS SECTION ONLY APPLIES TO VOLUNTARY
4 SEARCHES WHERE THERE IS NO LEGAL BASIS FOR A SEARCH; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** The Mississippi Legislature finds that this act
8 is necessary for the immediate preservation of the peace, health
9 and safety of the public.

10 **SECTION 2.** (1) Prior to conducting a voluntary search of a
11 person who is not under arrest, the person's effects or a vehicle,
12 a law enforcement officer shall comply with the following:

13 (a) A law enforcement officer may conduct a voluntary
14 search only after articulating the following factors to, and
15 subsequently receiving consent from, the person subject to the
16 search or the person with the apparent or actual authority to
17 provide permission to search the vehicle or effects:

18 (i) The person is being asked to voluntarily
19 consent to a search;



20 (ii) The person has the right to refuse the
21 request to search; and

22 (iii) The person may withdraw such voluntary
23 consent at any time during the search.

24 (b) After providing to the person the advisement
25 required in subsection (1)(a) of this section, a law enforcement
26 officer may conduct the requested search only if the person
27 subject to the search voluntarily provides written consent.
28 Knowing and voluntary written consent must be evidenced by a form
29 signed by the individual against whom enforcement is sought. The
30 form must contain the following information:

31 (i) A statement of the factors set forth in
32 subsection (1)(a) of this section;

33 (ii) The individual's name;

34 (iii) The date and time of the stop and search;

35 (iv) The make and model of the vehicle searched,
36 if applicable; and

37 (v) The name of each officer conducting the stop
38 and search.

39 (2) A law enforcement officer providing the advisement
40 required in subsection (1) of this section does not need to
41 provide a specific recitation of the advisement, substantial
42 compliance with the substance of the factors is sufficient to
43 comply with the requirement.



44 (3) This section shall not apply to a search conducted in
45 accordance with Section 99-3-7, a valid search incident to or
46 subsequent to a lawful arrest or to a search for which there is a
47 basis provided for by law other than voluntary consent. This
48 shall include, but is not limited to, a search in a correctional
49 facility or on correctional facility property, custody facility,
50 juvenile correctional facility operated by or under contract with
51 the Department of Human Services, any mental health institute or
52 facility, a community corrections facility or a jail, or a search
53 of a person subject to probation or parole by a community
54 supervision or parole officer when the person has consented to
55 search as a term and condition of any probation or parole.

56 (4) For the purpose of this section, "law enforcement
57 officer" has the same meaning as provided in Section 45-6-3.

58 **SECTION 3.** This act shall take effect and be in force from
59 and after July 1, 2018.

