

By: Senator(s) Doty, Hill

To: Judiciary, Division B

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2532

1 AN ACT TO AMEND SECTION 45-33-59, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE EMPLOYER NOTIFICATION TO CERTAIN PARENTS OR GUARDIANS  
3 OF CHILDREN UNDER THE AGE OF 18 WHO COME IN CONTACT WITH AN  
4 EMPLOYEE WHO IS REQUIRED TO REGISTER AS A SEX OFFENDER; TO AMEND  
5 SECTION 45-33-32, MISSISSIPPI CODE OF 1972, TO CONFORM THE  
6 REQUIREMENTS FOR VOLUNTEERS; TO AMEND SECTION 45-33-23,  
7 MISSISSIPPI CODE OF 1972, TO ADD A DEFINITION UNDER THE SEX  
8 OFFENDER REGISTRATION ACT IN ORDER TO REQUIRE HOMELESS OR  
9 TRANSIENT RESIDENTS TO PROVIDE A SPECIFIC DESCRIPTION OF WHERE  
10 THAT OFFENDER HABITUALLY LIVES; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 45-33-59, Mississippi Code of 1972, is  
13 amended as follows:

14 45-33-59. (1) (a) Any person convicted of a sex offense  
15 who is employed in any position, or who contracts with a person to  
16 provide personal services, where the \* \* \* employee or \* \* \*  
17 contractor will \* \* \* have direct, private and unsupervised  
18 contact with \* \* \* minors under the age of eighteen (18) shall  
19 notify in writing the employer or the person with whom the person  
20 has contracted or is employed of his sex offender status.

21 (b) The employer shall make a reasonable attempt to  
22 notify the parents or guardians of any minors under the age of



23 eighteen (18) with whom the employee or contractor will have  
24 direct, private and unsupervised contact of the offender's  
25 criminal record.

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

28 (3) An employer acting in good faith in making notification  
29 to parents or guardians under this section, or who fails in good  
30 faith to make notification, shall not be liable in any civil or  
31 criminal action as a result of the notification or failure to  
32 notify.

33 (4) This section does not authorize the employment of a  
34 person for a position for which employment of a sex offender is  
35 prohibited by any law.

36 (5) This section does not apply to an employer whose  
37 employees have only incidental contact with children because  
38 children may be present in the workplace without any formal  
39 agreement; casual or incidental contact does not trigger the duty  
40 to inform.

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

43 45-33-32. (1) A person convicted of a sex offense who  
44 volunteers for an organization in which volunteers have direct,  
45 private and unsupervised contact with minors under the age of  
46 eighteen (18) shall notify the organization of the person's  
47 conviction at the time of volunteering. Such notification must be



in writing to the organization. Any organization which accepts volunteers must notify volunteers of this disclosure requirement upon application of the volunteer to serve or prior to acceptance of any of the volunteer's service, whichever occurs first.

(2) If the organization, after notification by the offender as provided in subsection (1), accepts the offender as a volunteer, the organization \* \* \* shall make reasonable attempts to notify the parents or guardians of any minors under the age of eighteen (18) involved in the organization of the offender's criminal record.

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

(4) Any person previously registered as a sex offender and who has a continuing obligation to be registered as a sex offender shall be notified of the person's duty under this section with the first reregistration form to be sent to the person after July 1, 2004.

(5) If the registered sex offender is currently volunteering for such an organization, the sex offender must resign or notify the organization immediately upon receipt of notice or be subject to the penalties of this chapter.

(6) An organization acting in good faith in making the notification to parents or guardians under this section, or who fails in good faith to make such notification, shall not be liable



72 in any civil or criminal action as a result of the notification or  
73 failure to notify.

74 **SECTION 3.** Section 45-33-23, Mississippi Code of 1972, is  
75 amended as follows:

76 45-33-23. For the purposes of this chapter, the following  
77 words shall have the meanings ascribed herein unless the context  
78 clearly requires otherwise:

79 (a) "Conviction" means that, regarding the person's  
80 offense, there has been a determination or judgment of guilt as a  
81 result of a trial or the entry of a plea of guilty or nolo  
82 contendere regardless of whether adjudication is withheld.  
83 "Conviction of similar offenses" includes, but is not limited to,  
84 a conviction by a federal or military tribunal, including a  
85 court-martial conducted by the Armed Forces of the United States,  
86 a conviction for an offense committed on an Indian Reservation or  
87 other federal property, a conviction in any state of the United  
88 States, the District of Columbia, the Commonwealth of Puerto Rico,  
89 Guam, American Samoa, the Northern Marianna Islands or the United  
90 States Virgin Islands, and a conviction in a foreign country if  
91 the foreign country's judicial system is such that it satisfies  
92 minimum due process set forth in the guidelines under Section  
93 111(5) (B) Public Law 109-248.

94 (b) "Department" means the Mississippi Department of  
95 Public Safety unless otherwise specified.



96                   (c) "Jurisdiction" means any court or locality  
97 including any state court, federal court, military court, Indian  
98 tribunal or foreign court, the fifty (50) states, the District of  
99 Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa,  
100 the Northern Marianna Islands or the United States Virgin Islands,  
101 and Indian tribes that elect to function as registration  
102 jurisdictions under Title 1, SORNA Section 127 of the Adam Walsh  
103 Child Safety Act.

104                   (d) "Permanent residence" means a place where the  
105 person abides, lodges, or resides for a period of fourteen (14) or  
106 more consecutive days.

107                   (e) "Registration" means providing information to the  
108 appropriate agency within the timeframe specified as required by  
109 this chapter.

110                   (f) "Registration duties" means obtaining the  
111 registration information required on the form specified by the  
112 department as well as the photograph, fingerprints and biological  
113 sample of the registrant. Biological samples are to be forwarded  
114 to the Mississippi Forensics Laboratory pursuant to Section  
115 45-33-37; the photograph, fingerprints and other registration  
116 information are to be forwarded to the Department of Public Safety  
117 immediately.

118                   (g) "Responsible agency" is defined as the person or  
119 government entity whose duty it is to obtain information from a



120 criminal sex offender upon conviction and to transmit that  
121 information to the Mississippi Department of Public Safety.

122 (i) For a criminal sex offender being released  
123 from the custody of the Department of Corrections, the responsible  
124 agency is the Department of Corrections.

125 (ii) For a criminal sex offender being released  
126 from a county jail, the responsible agency is the sheriff of that  
127 county.

128 (iii) For a criminal sex offender being released  
129 from a municipal jail, the responsible agency is the police  
130 department of that municipality.

131 (iv) For a sex offender in the custody of the  
132 youth court, the responsible agency is the youth court.

133 (v) For a criminal sex offender who is being  
134 placed on probation, including conditional discharge or  
135 unconditional discharge, without any sentence of incarceration,  
136 the responsible agency is the sentencing court.

137 (vi) For an offender who has been committed to a  
138 mental institution following an acquittal by reason of insanity,  
139 the responsible agency is the facility from which the offender is  
140 released. Specifically, the director of the facility shall notify  
141 the Department of Public Safety before the offender's release.

142 (vii) For a criminal sex offender who is being  
143 released from a jurisdiction outside this state or who has a prior  
144 conviction in another jurisdiction and who is to reside, work or



attend school in this state, the responsible agency is both the sheriff of the proposed county of residence and the department.

(h) "Sex offense" or "registrable offense" means any of the following offenses:

(i) Section 97-3-53 relating to kidnapping, if the victim was below the age of eighteen (18);

(ii) Section 97-3-65 relating to rape; however, conviction or adjudication under Section 97-3-65(1)(a) when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;

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

(iv) Section 97-3-95 relating to sexual battery; however, conviction or adjudication under Section 97-3-95(1)(c) when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;

(v) Section 97-5-5 relating to enticing a child for concealment, prostitution or marriage;

(vi) Section 97-5-23 relating to the touching of a child, mentally defective or incapacitated person or physically helpless person for lustful purposes;

(vii) Section 97-5-27 relating to the dissemination of sexually oriented material to children;



169                   (viii) Section 97-5-33 relating to the  
170 exploitation of children;  
171                   (ix) Section 97-5-41 relating to the carnal  
172 knowledge of a stepchild, adopted child or child of a cohabiting  
173 partner;  
174                   (x) Section 97-29-3 relating to sexual intercourse  
175 between teacher and student;  
176                   (xi) Section 97-29-59 relating to unnatural  
177 intercourse;  
178                   (xii) Section 43-47-18 relating to sexual abuse of  
179 a vulnerable person;  
180                   (xiii) Section 97-3-54.1(1)(c) relating to  
181 procuring sexual servitude of a minor and Section 97-3-54.3  
182 relating to aiding, abetting or conspiring to violate Section  
183 97-3-54.1(1)(c);  
184                   (xiv) Section 97-29-61(2) relating to voyeurism  
185 when the victim is a child under sixteen (16) years of age;  
186                   (xv) Section 97-29-63 relating to filming another  
187 without permission where there is an expectation of privacy;  
188                   (xvi) Section 97-29-45(1)(a) relating to obscene  
189 electronic communication;  
190                   (xvii) Section 97-3-104 relating to the crime of  
191 sexual activity between law enforcement, correctional or custodial  
192 personnel and prisoners;





(xviii) Section 97-5-39(1)(e) relating to contributing to the neglect or delinquency of a child, felonious abuse or battery of a child, if the victim was sexually abused;

(xix) Section 97-29-51 relating to procuring or promoting prostitution when the victim is a child under eighteen (18) years of age;

(xx) Section 97-1-7 relating to attempt to commit any of the offenses referenced in this paragraph (h);

(xxi) Any other offense resulting in a conviction in another jurisdiction which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere;

(xxii) Any offense resulting in a conviction in another jurisdiction for which registration is required in the jurisdiction where the conviction was had;

(xxiii) Any conviction of conspiracy to commit, accessory to commission, or attempt to commit any offense listed in this section;

(xxiv) Capital murder when one (1) of the above-described offenses is the underlying crime.

(i) "Temporary residence" is defined as any place where the person abides, lodges, or resides for a period of seven (7) or more consecutive days which is not the person's permanent residence.



217           (j) "Address" means the actual physical street address  
218 of a person's permanent or temporary residence. For a person who  
219 is homeless but is subject to registration under this chapter, the  
220 address information must provide a specific description of where  
221 the person habitually lives; the term "homeless" or similar  
222 description does not constitute an address within the  
223 contemplation of this chapter.

224           **SECTION 4.** This act shall take effect and be in force from  
225 and after July 1, 2019.

