

By: Representative Rushing

To: Judiciary B

## HOUSE BILL NO. 558

1 AN ACT TO AMEND SECTION 41-29-501, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DEFINITION OF DIRECTOR TO INCLUDE THE HEAD OF ANY  
3 STATE OR LOCAL LAW ENFORCEMENT AGENCY; TO AMEND SECTION 41-29-505,  
4 MISSISSIPPI CODE OF 1972, TO EXPAND THE PURPOSES OF WIRETAPPING TO  
5 INCLUDE HUMAN TRAFFICKING AND COMMERCIAL SEXUAL EXPLOITATION OF  
6 CHILDREN; TO AMEND SECTIONS 41-29-507, 41-29-509, 41-29-513,  
7 41-29-527 AND 41-29-536, MISSISSIPPI CODE OF 1972, WHICH REGULATE  
8 WIRETAPPING PROCEDURES, TO CONFORM TO THE PRECEDING SECTIONS; TO  
9 BRING FORWARD SECTIONS 41-29-529, 41-29-531, 41-29-533, 41-29-535,  
10 41-29-519, 41-29-521, 41-29-523, 41-29-525, 41-29-517, 41-29-515  
11 AND 41-29-511, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR  
12 WIRETAPPING PROCEDURES, FOR PURPOSES OF AMENDMENT; AND FOR RELATED  
13 PURPOSES.

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

15 **SECTION 1.** Section 41-29-501, Mississippi Code of 1972, is  
16 amended as follows:

17 41-29-501. As used in this article, the following terms  
18 shall have the meaning ascribed to them herein unless the context  
19 requires otherwise:

20 (a) "Aggrieved person" means a person who was a party  
21 to an intercepted wire, oral or other communication or a person  
22 against whom the interception was directed.



23 (b) "Communication common carrier" has the meaning  
24 given the term "common carrier" by 47 USCS 153(h) and shall also  
25 mean a provider of communication services.

26 (c) "Contents," when used with respect to a wire, oral  
27 or other communication, includes any information concerning the  
28 identity of the parties to the communication or the existence,  
29 substance, purport or meaning of that communication.

30 (d) "Covert entry" means any entry into or onto  
31 premises which if made without a court order allowing such an  
32 entry under this article would be a violation of criminal law.

33 (e) "Director" means the \* \* \* director, executive  
34 director, commissioner, sheriff, police chief and includes any  
35 person who is responsible for managing a state or local law  
36 enforcement agency.

37 (f) "Electronic, mechanical or other device" means a  
38 device or apparatus primarily designed or used for the  
39 nonconsensual interception of wire, oral or other communications.

40 (g) "Intercept" means the aural or other acquisition of  
41 the contents of a wire, oral or other communication through the  
42 use of an electronic, mechanical or other device.

43 (h) "Investigative or law enforcement officer" means an  
44 officer of this state or of a political subdivision of this state  
45 who is empowered by law to conduct investigations of, or to make  
46 arrests for, offenses enumerated in Section 41-29-505, an attorney  
47 authorized by law to prosecute or participate in the prosecution



of such offenses, or a federal law enforcement officer designated by the director.

(i) "Judge of competent jurisdiction" means a justice of the Supreme Court or a circuit court judge.

(j) "Oral communication" means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying that expectation.

(k) "Other communication" means any transfer of an electronic or other signal, including fax signals, computer generated signals, other similar signals, or any scrambled or encrypted signal transferred via wire, radio, electromagnetic, photoelectric or photooptical system from one party to another in which the involved parties may reasonably expect the communication to be private.

(l) "Prosecutor" means a district attorney with jurisdiction in the county in which the facility or place where the communication to be intercepted is located or a legal assistant to the district attorney if designated in writing by the district attorney on a case-by-case basis.

(m) "Residence" means a structure or the portion of a structure used as a person's home or fixed place of habitation to which the person indicates an intent to return after any temporary absence.



(n) "Wire communication" means a communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception furnished or operated by a person engaged as a common carrier in providing or operating the facilities for the transmission of communications and includes cordless telephones, voice pagers, cellular telephones, any mobile telephone, or any communication conducted through the facilities of a provider of communication services.

**SECTION 2.** Section 41-29-505, Mississippi Code of 1972, is amended as follows:

41-29-505. A judge of competent jurisdiction in the circuit court district of the location where the interception of wire, oral or other communications is sought, or a circuit court district contiguous to such circuit court district, may issue an order authorizing interception of wire, oral or other communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of a felony under the Uniform Controlled Substances Law or the provisions of law regulating human trafficking or commercial sexual exploitation of children.

**SECTION 3.** Section 41-29-507, Mississippi Code of 1972, is amended as follows:



96           41-29-507.   (1)   \* \* \* Any law enforcement agency of the  
97   state or political subdivision of the state \* \* \* is authorized by  
98   this article to own, possess, install, operate or monitor an  
99   electronic, mechanical or other device.   \* \* \*

100           (2)   \* \* \* Each law enforcement agency shall designate, in  
101   writing, the \* \* \* officers of that agency who are responsible for  
102   the possession, installation, operation and monitoring of  
103   electronic, mechanical or other devices for the \* \* \* agency.

104           **SECTION 4.**   Section 41-29-509, Mississippi Code of 1972, is  
105   amended as follows:

106           41-29-509.   Prior to submitting a request for an order  
107   authorizing interception of wire, oral or other communications to  
108   a prosecutor, the \* \* \* head of the law enforcement agency shall  
109   receive a written affidavit from one or more \* \* \* officers within  
110   the agency setting forth the information required by Section  
111   41-29-513(1).   The \* \* \* head of the law enforcement agency shall  
112   submit all information required by Section 41-29-513(1) to the  
113   prosecutor.   Upon receipt of the request \* \* \*, the prosecutor  
114   shall be authorized to submit an application to a court of  
115   competent jurisdiction requesting the court to issue an order  
116   authorizing interception of wire, oral or other communications as  
117   provided in Section 41-29-515.

118           **SECTION 5.**   Section 41-29-513, Mississippi Code of 1972, is  
119   amended as follows:



120           41-29-513. (1) To be valid, an application for an order  
121 authorizing the interception of a wire, oral or other  
122 communication must be made in writing under oath to a judge of  
123 competent jurisdiction in the circuit court district of the  
124 location where the interception of wire, oral or other  
125 communications is sought, or a circuit court district contiguous  
126 to such circuit court district, and must state the applicant's  
127 authority to make the application. An applicant must include the  
128 following information in the application:

129           (a) A statement that the application has been requested  
130 by the \* \* \* head of the law enforcement agency and the identity  
131 of the prosecutor making the application;

132           (b) A full and complete statement of the facts and  
133 circumstances relied on by the applicant to justify his belief  
134 that an order should be issued including:

135                   (i) Details about the particular offense that has  
136 been, is being, or is about to be committed;

137                   (ii) A particular description of the nature and  
138 location of the facilities from which or the place where the  
139 communication is to be intercepted;

140                   (iii) A particular description of the type of  
141 communication sought to be intercepted; and

142                   (iv) The identity of the person, if known,  
143 committing the offense and whose communications are to be  
144 intercepted;



145 (c) A full and complete statement as to whether or not  
146 other investigative procedures have been tried and failed or why  
147 they reasonably appear to be unlikely to succeed or to be too  
148 dangerous if tried;

149 (d) A statement of the period of time for which the  
150 interception is required to be maintained and, if the nature of  
151 the investigation is such that the authorization for interception  
152 should not automatically terminate when the described type of  
153 communication is first obtained, a particular description of the  
154 facts establishing probable cause to believe that additional  
155 communications of the same type will occur after the described  
156 type of communication is obtained;

157 (e) A statement whether a covert entry will be  
158 necessary to properly and safely install the wiretapping or  
159 electronic surveillance or eavesdropping equipment and, if a  
160 covert entry is requested, a statement as to why such an entry is  
161 necessary and proper under the facts of the particular  
162 investigation, including a full and complete statement as to  
163 whether other investigative techniques have been tried and have  
164 failed or why they reasonably appear to be unlikely to succeed or  
165 to be too dangerous if tried or are not feasible under the  
166 circumstances or exigencies of time;

167 (f) A full and complete statement of the facts  
168 concerning all applications known to the prosecutor making the  
169 application that have been previously made to a judge for



170 authorization to intercept wire, oral or other communications  
171 involving any of the persons, facilities or places specified in  
172 the application and of the action taken by the judge on each  
173 application; and

174 (g) If the application is for the extension of an  
175 order, a statement setting forth the results already obtained from  
176 the interception or a reasonable explanation of the failure to  
177 obtain results.

178 (2) The judge may, in an ex parte in camera hearing, require  
179 additional testimony or documentary evidence in support of the  
180 application, and such testimony or documentary evidence shall be  
181 preserved as part of the application.

182 **SECTION 6.** Section 41-29-527, Mississippi Code of 1972, is  
183 amended as follows:

184 41-29-527. (1) Within thirty (30) days after the date an  
185 order or the last extension, if any, expires or after the denial  
186 of an order, the issuing or denying judge shall report to the  
187 Administrative Office of the United States Courts:

188 (a) The fact that an order or extension was applied  
189 for;

190 (b) The kind of order or extension applied for;

191 (c) The fact that the order or extension was granted as  
192 applied for, was modified or was denied;

193 (d) The period of interceptions authorized by the order  
194 and the number and duration of any extensions of the order;





(e) The offense specified in the order or application or extension;

(f) The identity of the officer making the request and the prosecutor making the application; and

(g) The nature of the facilities from which or the place where communications were to be intercepted.

(2) In January of each year each prosecutor shall report to the Administrative Office of the United States Courts the following information for the preceding calendar year:

(a) The information required by subsection (1) of this section with respect to each application for an order or extension made;

(b) A general description of the interceptions made under each order or extension, including the approximate nature and frequency of incriminating communications intercepted, the approximate nature and frequency of order communications intercepted, the approximate number of persons whose communications were intercepted, and the approximate nature, amount and cost of the manpower and other resources used in the interceptions;

(c) The number of arrests resulting from interceptions made under each order or extension and the offenses for which arrests were made;

(d) The number of trials resulting from interceptions;



219 (e) The number of motions to suppress made with respect  
220 to interceptions and the number granted or denied;

221 (f) The number of convictions resulting from  
222 interceptions, the offenses for which the convictions were  
223 obtained, and a general assessment of the importance of the  
224 interceptions; and

225 (g) The information required by paragraphs (b) through  
226 (f) of this subsection with respect to orders or extensions  
227 obtained.

228 (3) Any judge or prosecutor required to file a report with  
229 the Administrative Office of the United States Courts shall  
230 forward a copy of such report to the director. On or before  
231 January 5 of each year the director shall submit to the  
232 Mississippi Administrative Office of Courts a report of all  
233 intercepts, as defined in this subsection and as required by  
234 federal law which relates to statistical data only, conducted  
235 pursuant to this article and terminated during the preceding  
236 calendar year. Such report shall include:

237 (a) The report of judges and prosecuting attorneys  
238 forwarded to the director as required by this section;

239 (b) The number of \* \* \* law enforcement personnel  
240 authorized to possess, install or operate electronic, mechanical  
241 or other devices;



(c) The number \* \* \* law enforcement personnel who participated or engaged in the seizure of intercepts pursuant to this article during the preceding calendar year; and

(d) The total cost to the \* \* \* any state funded law enforcement agency or political subdivision of the state for all activities and procedures relating to the seizure of intercepts during the preceding calendar year, including costs of equipment, manpower and expenses incurred as compensation for use of facilities or technical assistance provided by the bureau.

**SECTION 7.** Section 41-29-536, Mississippi Code of 1972, is amended as follows:

41-29-536. (1) Attorneys for \* \* \* the requesting law enforcement agency may file a motion with a circuit court judge of the circuit court district in which the subscriber, instrument or other device exists, for communication records which will be material to an ongoing investigation of a felony violation of the Uniform Controlled Substances Law or the provisions of law regulating human trafficking or commercial sexual exploitation of children.

(2) The motion shall be made in writing, under oath, and shall include the name of the subscriber, the number or numbers, and the location of the instrument or other device, if known and applicable. The motion shall be accompanied by an affidavit from an agent of the \* \* \* the law enforcement agency which sets forth facts which the court shall consider in determining that probable



cause exists to believe that the information sought will be material to an ongoing felony violation of the Uniform Controlled Substances Law.

(3) Upon consideration of the motion and the determination that probable cause exists, the circuit court judge may order a communications common carrier as defined by 47 USCS 153(h) or a provider of communication services to provide the \* \* \* law enforcement agency with communication billing records, call records, subscriber information, or other communication record information. The communications common carrier or the provider of communication services shall be entitled to compensation at the prevailing rates from the \* \* \* the law enforcement agency.

(4) The circuit court judge shall seal each order issued pursuant to this section. The contents of a motion, affidavit and order may not be disclosed except in the course of a judicial proceeding. Any unauthorized disclosure of a sealed order, motion or affidavit shall be punishable as contempt of court.

**SECTION 8.** Section 41-29-529, Mississippi Code of 1972, is brought forward as follows:

41-29-529. (1) A person whose wire, oral or other communication is intercepted, disclosed or used in violation of this article shall have a civil cause of action against any person who intercepts, discloses or uses or procures another person to intercept, disclose or use the communication, and is entitled to recover from the person:



(a) Actual damages but not less than liquidated damages computed at a rate of One Hundred Dollars (\$100.00) a day for each day of violation or One Thousand Dollars (\$1,000.00), whichever is higher;

(b) Punitive damages; and

(c) A reasonable attorney's fee and other litigation costs reasonably incurred.

(2) A good faith reliance on a court order is a complete defense to any civil or criminal action brought under this article.

**SECTION 9.** Section 41-29-531, Mississippi Code of 1972, is brought forward as follows:

41-29-531. This article shall not apply to:

(a) An operator of a switchboard, or an officer, employee or agent of a communication common carrier whose facilities are used in the transmission of a wire communication, intercepts a communication, or who discloses or uses an intercepted communication in the normal course of employment while engaged in an activity that is a necessary incident to the rendition of service or to the protection of the rights or property of the carrier of the communication;

(b) An officer, employee or agent of a communication common carrier who employs or uses any equipment or device which may be attached to any telephonic equipment of any subscriber which permits the interception and recording of any telephonic



communications solely for the purposes of business service  
improvements;

(c) An officer, employee or agent of a communication  
common carrier who provides information, facilities or technical  
assistance to an investigative or law enforcement officer who is  
authorized as provided by this article to intercept a wire, oral  
or other communication;

(d) A person acting under color of law who intercepts a  
wire, oral or other communication if the person is a party to the  
communication, or if one (1) of the parties to the communication  
has given prior consent to the interception; or

(e) A person not acting under color of law who  
intercepts a wire, oral or other communication if the person is a  
party to the communication, or if one (1) of the parties to the  
communication has given prior consent to the interception unless  
the communication is intercepted for the purpose of committing any  
criminal or tortious act in violation of the Constitution or laws  
of the United States or of this state, or for the purpose of  
committing any other injurious act.

**SECTION 10.** Section 41-29-533, Mississippi Code of 1972, is  
brought forward as follows:

41-29-533. (1) Any person who knowingly and intentionally  
possesses, installs, operates or monitors an electronic,  
mechanical or other device in violation of this article shall be  
guilty of a misdemeanor and, upon conviction thereof, shall be



342 sentenced to not more than one (1) year in the county jail or  
343 fined not more than Ten Thousand Dollars (\$10,000.00), or both.

344 (2) Any person who violates the provisions of Section  
345 41-29-511 shall be guilty of a felony and, upon conviction  
346 thereof, shall be sentenced to not more than five (5) years in the  
347 State Penitentiary and fined not more than Ten Thousand Dollars  
348 (\$10,000.00).

349 **SECTION 11.** Section 41-29-535, Mississippi Code of 1972, is  
350 brought forward as follows:

351 41-29-535. This article shall not apply to a person who is a  
352 subscriber to a telephone operated by a communication common  
353 carrier and who intercepts a communication on a telephone to which  
354 he subscribes. This article shall not apply to persons who are  
355 members of the household of the subscriber who intercept  
356 communications on a telephone in the home of the subscriber.

357 **SECTION 12.** Section 41-29-519, Mississippi Code of 1972, is  
358 brought forward as follows:

359 41-29-519. The judge shall seal each application made and  
360 order granted under this article. Custody of the applications and  
361 orders shall be wherever the judge directs. An application or  
362 order may be disclosed only upon a showing of good cause before a  
363 judge of competent jurisdiction, and may not be destroyed until at  
364 least ten (10) years after the date it is sealed. An application  
365 or order may be destroyed only by order of the judge of competent



jurisdiction for the administrative judicial district in which it was made or granted.

**SECTION 13.** Section 41-29-521, Mississippi Code of 1972, is brought forward as follows:

41-29-521. A violation of Section 41-29-517 or 41-29-519 shall be punished as contempt of court.

**SECTION 14.** Section 41-29-523, Mississippi Code of 1972, is brought forward as follows:

41-29-523. (1) Within a reasonable time but not later than ninety (90) days after the date an application for an order is denied or after the date an order or the last extension, if any, expires, the judge who granted or denied the application shall cause to be served upon the persons named in the order or the application and any other parties to intercepted communications deemed appropriate by the issuing judge, if any, an inventory, which shall include notice:

(a) Of the entry of the order or the application;

(b) Of the date of the entry and the period of authorized interception or the date of denial of the application; and

(c) That during the authorized period wire, oral or other communications were or were not intercepted.

(2) The judge, upon motion, may, in his discretion, make available for inspection to any person or persons whose oral communications have been intercepted, or their counsel, any





portion of an intercepted communication, application or order that the judge determines is in the interest of justice to disclose to that person.

(3) Upon an ex parte showing of good cause to the judge, the serving of the inventory required by this section may be postponed, but in no event may any evidence derived from an order under this article be disclosed in any trial until after such inventory has been served.

**SECTION 15.** Section 41-29-525, Mississippi Code of 1972, is brought forward as follows:

41-29-525. (1) The contents of an intercepted wire, oral or other communication or evidence derived from the communication may not be received in evidence or otherwise disclosed in a trial, hearing or other proceeding in a federal or state court unless each party has been furnished with a copy of the court order and application under which the interception was authorized or approved not less than ten (10) days before the date of the trial, hearing or other proceeding. The ten-day period may be waived by the judge if he finds that it is not possible to furnish the party with the information ten (10) days before the trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving the information.

(2) An aggrieved person charged with an offense in a trial, hearing or proceeding in or before a court, department, officer, agency, regulatory body, or other authority of the United States



or of this state or a political subdivision of this state, may move to suppress the contents of an intercepted wire, oral or other communication or evidence derived from the communication on the ground that:

(a) The communication was unlawfully intercepted;

(b) The order authorizing the interception is insufficient on its face; or

(c) The interception was not made in conformity with the order.

(3) The motion to suppress shall be made before the trial, hearing or proceeding unless there was no opportunity to make the motion before the trial, hearing or proceeding, or the person was not aware of the grounds of the motion before the trial, hearing or proceeding. The hearing on the motion shall be held in camera upon the written request of the aggrieved person. If the motion is granted, the contents of the intercepted wire, oral or other communication and evidence derived from the communication shall be treated as inadmissible evidence. The judge, on the filing of the motion by the aggrieved person, shall make available to the aggrieved person or his counsel for inspection any portion of the intercepted communication or evidence derived from the communication that the judge determines is in the interest of justice to make available.

(4) Any circuit judge of this state, upon hearing a pretrial motion regarding conversations intercepted by wire pursuant to



this article, or who otherwise becomes informed that there exists  
on such intercepted wire, oral or other communication  
identification of a specific individual who is not a party or  
suspect to the subject of interception:

(a) Shall give notice and an opportunity to be heard on  
the matter of suppression of references to that person if  
identification is sufficient so as to give notice; or

(b) Shall suppress references to that person if  
identification is sufficient to potentially cause embarrassment or  
harm which outweighs the probative value, if any, of the mention  
of such person, but insufficient to require the notice provided  
for in paragraph (a) of this subsection.

**SECTION 16.** Section 41-29-517, Mississippi Code of 1972, is  
brought forward as follows:

41-29-517. (1) The contents of a wire, oral or other  
communication intercepted by means authorized by this article  
shall be recorded on tape, wire or other comparable device. The  
recording of the contents of a wire, oral or other communication  
under this subsection shall be done in a way that protects the  
recording from editing or other alterations.

(2) Immediately on the expiration of the period of the order  
and all extensions, if any, the recordings shall be made available  
to the judge issuing the order and sealed under his directions.  
Custody of the recordings shall be wherever the judge orders. The  
recordings may not be destroyed until at least ten (10) years



after the date of expiration of the order and the last extension, if any. A recording may be destroyed only by order of the judge of competent jurisdiction who authorized the interception, or his successor.

(3) Duplicate recordings may be made for use or disclosure pursuant to subsections (1) and (2) of Section 41-29-511 for investigations.

(4) The presence of the seal required by subsection (2) of this section, or a satisfactory explanation of its absence, shall be a prerequisite for the use or disclosure of the contents of a wire, oral or other communication or evidence derived from the communication under subsection (3) of Section 49-29-511.

**SECTION 17.** Section 41-29-515, Mississippi Code of 1972, is brought forward as follows:

41-29-515. (1) Upon receipt of an application, the judge may enter an ex parte order, as requested or as modified, authorizing interception of wire, oral or other communications if the judge determines from the evidence submitted by the applicant that:

(a) There is probable cause to believe that a person is committing, has committed, or is about to commit a particular offense enumerated in Section 41-29-505;

(b) There is probable cause to believe that particular communications concerning that offense will be obtained through the interception;



491           (c) Normal investigative procedures have been tried and  
492 have failed or reasonably appear to be unlikely to succeed or to  
493 be too dangerous if tried;

494           (d) There is probable cause to believe that the  
495 facilities from which or the place where the wire, oral or other  
496 communications are to be intercepted are being used or are about  
497 to be used in connection with the commission of an offense or are  
498 leased to, listed in the name of, or commonly used by the person;  
499 and

500           (e) A covert entry is or is not necessary to properly  
501 and safely install the electronic, mechanical or other device.

502           (2) Each order authorizing the interception of a wire or  
503 oral communication shall specify:

504           (a) The identity of the person, if known, whose  
505 communications are to be intercepted;

506           (b) The nature and location of the communications  
507 facilities as to which or the place where authority to intercept  
508 is granted;

509           (c) A particular description of the type of  
510 communication sought to be intercepted and a statement of the  
511 particular offense to which it relates;

512           (d) A statement setting forth the identity of the  
513 prosecutor and stating that the director has requested the  
514 prosecutor to apply for the order authorizing the interception;



515           (e) The time during which the interception is  
516 authorized, including a statement of whether or not the  
517 interception will automatically terminate when the described  
518 communication is first obtained; and

519           (f) Whether or not a covert entry is necessary to  
520 properly and safely install wiretapping, electronic surveillance  
521 or eavesdropping equipment.

522           (3) The order authorizing the interception of a wire, oral  
523 or other communication shall, upon request of the applicant,  
524 direct that a communication common carrier, landlord, custodian or  
525 other person furnish the applicant all information, facilities and  
526 technical assistance necessary to accomplish the interception  
527 unobtrusively and with a minimum of interference with the services  
528 that the carrier, landlord, custodian or other person is providing  
529 the person whose communications are to be intercepted. Any  
530 communication common carrier, landlord, custodian or other person  
531 furnishing facilities or technical assistance is entitled to  
532 compensation by the applicant for the facilities or assistance at  
533 the prevailing rates.

534           (4) An order entered pursuant to this section may not  
535 authorize the interception of a wire, oral or other communication  
536 for longer than is necessary to achieve the objective of the  
537 authorization, and in no event may it authorize interception for  
538 more than thirty (30) days. The issuing judge may grant  
539 extensions of an order, but only upon application for an extension



made in accordance with Section 41-29-513 and the court making the findings required by subsection (1) of this section. The period of extension may not be longer than the authorizing judge deems necessary to achieve the purposes for which it is granted, and in no event may the extension be for more than thirty (30) days. To be valid, each order and extension of an order shall provide that the authorization to intercept be executed as soon as practicable, be conducted in a way that minimizes the interception of communications not otherwise subject to interception under this article, and terminate on obtaining the authorized objective or within thirty (30) days, whichever occurs sooner.

(5) An order entered pursuant to this section may not authorize a covert entry into a residence solely for the purpose of intercepting a wire communication.

(6) An order entered pursuant to this section may not authorize a covert entry into or onto a premises for the purpose of intercepting an oral or other communication unless:

(a) The judge, in addition to making the determinations required under subsection (1) of this section, determines that:

(i) (A) The premises into or onto which the covert entry is authorized or the person whose communications are to be obtained has been the subject of a pen register previously authorized in connection with the same investigation; (B) the premises into or onto which the covert entry is authorized or the person whose communications are to be obtained has been the



subject of an interception of wire communications previously authorized in connection with the same investigation; (C) that such procedures have failed; and (D) if the order is for the interception of other communications and requires covert entry, a court-ordered attempt to intercept the communications without using covert entry must have been made without success;

(ii) That the procedures enumerated in item (i) reasonably appear to be unlikely to succeed or to be too dangerous if tried or are not feasible under the circumstances or exigencies of time; and

(b) The order, in addition to the matters required to be specified under subsection (2) of this section, specifies that the covert entry is for the purpose of intercepting oral communications of two (2) or more persons and that there is probable cause to believe they are committing, have committed, or are about to commit a particular offense enumerated in Section 41-29-505.

(7) The judge of a court of competent jurisdiction may issue an order for the interception of wire, oral or other communications conducted within a vehicle, vessel, other mode of transportation or any location where a reasonable expectation of privacy might exist, provided the requirements of this section, where applicable, are met.

(8) Whenever an order authorizing interception is entered pursuant to this article, the order may require reports to the





590 judge who issued the order showing what progress has been made  
591 toward achievement of the authorized objective and the need for  
592 continued interception. Reports shall be made at any interval the  
593 judge requires.

594 (9) A judge who issues an order authorizing the interception  
595 of a wire, oral or other communication may not hear a criminal  
596 prosecution in which evidence derived from the interception may be  
597 used or in which the order may be an issue.

598 (10) An order issued pursuant to this section authorizing  
599 the interception of any cellular, portable, transportable or  
600 mobile telephone or communication instrument is valid throughout  
601 the State of Mississippi unless otherwise specified by the issuing  
602 judge.

603 **SECTION 18.** Section 41-29-511, Mississippi Code of 1972, is  
604 brought forward as follows:

605 41-29-511. (1) An investigative or law enforcement officer  
606 who, by any means authorized by this article, obtains knowledge of  
607 the contents of a wire, oral or other communication or evidence  
608 derived from such communication may disclose the contents or  
609 evidence to another investigative or law enforcement officer to  
610 the extent that the disclosure is appropriate to the proper  
611 performance of the official duties of the officer making or  
612 receiving the disclosure.

613 (2) An investigative or law enforcement officer who, by any  
614 means authorized by this article, obtains knowledge of the



615 contents of a wire, oral or other communication or evidence  
616 derived from such communication may use the contents or evidence  
617 to the extent the use is appropriate to the proper performance of  
618 his official duties.

619 (3) A person who receives, by any means authorized by this  
620 article, information concerning a wire, oral or other  
621 communication or evidence derived from a wire, oral or other  
622 communication intercepted in accordance with the provisions of  
623 this article may disclose the contents of such communication or  
624 the evidence derived from such wire, oral or other communication  
625 while giving testimony under oath in any proceeding held under the  
626 authority of the United States, of this state, or of a political  
627 subdivision of this state.

628 (4) An otherwise privileged wire, oral or other  
629 communication intercepted in accordance with, or in violation of,  
630 the provisions of this article does not lose its privileged  
631 character, and any evidence derived from such privileged  
632 communication against the party to the privileged communication  
633 shall be considered privileged also.

634 (5) When an investigative or law enforcement officer, while  
635 engaged in intercepting wire, oral or other communications in a  
636 manner authorized by this article, intercepts wire, oral or other  
637 communications relating to offenses other than those specified in  
638 the order of authorization, the contents of and evidence derived  
639 from the communication may be disclosed or used as provided by



640 subsections (1) and (2) of this section. Such contents and any  
641 evidence derived therefrom may be used under subsection (3) of  
642 this section when authorized by a judge of competent jurisdiction  
643 where the judge finds, upon subsequent application, that the  
644 contents were otherwise intercepted in accordance with the  
645 provisions of this article. The application shall be made as soon  
646 as practicable.

647       **SECTION 19.** This act shall take effect and be in force from  
648 and after July 1, 2021.

