

By: Representatives Horan, McLean

To: Judiciary B

HOUSE BILL NO. 1004

1 AN ACT TO AMEND SECTIONS 45-33-23 AND 45-33-25, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE DEFINITIONS FOR THE PROVISIONS OF LAW
3 THAT REGULATE SEX OFFENDER REGISTRY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 45-33-23, Mississippi Code of 1972, is
6 amended as follows:

7 45-33-23. For the purposes of this chapter, the following
8 words shall have the meanings ascribed herein unless the context
9 clearly requires otherwise:

10 (a) "Conviction" means that, regarding the person's
11 offense, there has been a determination or judgment of guilt as a
12 result of a trial or the entry of a plea of guilty or nolo
13 contendere regardless of whether adjudication is withheld.

14 "Conviction of similar offenses" includes, but is not limited to,
15 a conviction by a federal or military tribunal, including a
16 court-martial conducted by the Armed Forces of the United States,
17 a conviction for an offense committed on an Indian Reservation or
18 other federal property, a conviction in any state of the United



19 States, the District of Columbia, the Commonwealth of Puerto Rico,
20 Guam, American Samoa, the Northern Marianna Islands or the United
21 States Virgin Islands, and a conviction in a foreign country if
22 the foreign country's judicial system is such that it satisfies
23 minimum due process set forth in the guidelines under Section
24 111(5) (B) Public Law 109-248.

25 (b) "Department" means the Mississippi Department of
26 Public Safety unless otherwise specified.

27 (c) "Jurisdiction" means any court or locality
28 including any state court, federal court, military court, Indian
29 tribunal or foreign court, the fifty (50) states, the District of
30 Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa,
31 the Northern Marianna Islands or the United States Virgin Islands,
32 and Indian tribes that elect to function as registration
33 jurisdictions under Title 1, SORNA Section 127 of the Adam Walsh
34 Child Safety Act.

35 (d) "Permanent residence" means a place where the
36 person abides, lodges, or resides for a period of fourteen (14) or
37 more * * * aggregate days.

38 (e) "Registration" means providing information to the
39 appropriate agency within the timeframe specified as required by
40 this chapter.

41 (f) "Registration duties" means obtaining the
42 registration information required on the form specified by the
43 department as well as the photograph, fingerprints and biological



44 sample of the registrant. Biological samples are to be forwarded
45 to the Mississippi Forensics Laboratory pursuant to Section
46 45-33-37; the photograph, fingerprints and other registration
47 information are to be forwarded to the Department of Public Safety
48 immediately.

49 (g) "Responsible agency" is defined as the person or
50 government entity whose duty it is to obtain information from a
51 criminal sex offender upon conviction and to transmit that
52 information to the Mississippi Department of Public Safety.

53 (i) For a criminal sex offender being released
54 from the custody of the Department of Corrections, the responsible
55 agency is the Department of Corrections.

56 (ii) For a criminal sex offender being released
57 from a county jail, the responsible agency is the sheriff of that
58 county.

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

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

64 (v) For a criminal sex offender who is being
65 placed on probation, including conditional discharge or
66 unconditional discharge, without any sentence of incarceration,
67 the responsible agency is the sentencing court.



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

73 (vii) For a criminal sex offender who is being
74 released from a jurisdiction outside this state or who has a prior
75 conviction in another jurisdiction and who is to reside, work or
76 attend school in this state, the responsible agency is both the
77 sheriff of the proposed county of residence and the department.

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

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

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

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

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



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

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

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

100 (viii) Section 97-5-33 relating to the
101 exploitation of children;

102 (ix) Section 97-5-41 relating to the carnal
103 knowledge of a stepchild, adopted child or child of a cohabiting
104 partner;

105 (x) Section 97-29-3 relating to sexual intercourse
106 between teacher and student;

107 (xi) Section 97-29-59 relating to unnatural
108 intercourse;

109 (xii) Section 43-47-18 relating to sexual abuse of
110 a vulnerable person;

111 (xiii) Section 97-3-54.1(1)(c) relating to
112 procuring sexual servitude of a minor and Section 97-3-54.3
113 relating to aiding, abetting or conspiring to violate Section
114 97-3-54.1(1)(c);

115 (xiv) Section 97-29-61(2) relating to voyeurism
116 when the victim is a child under sixteen (16) years of age;



117 (xv) Section 97-29-63 relating to filming another
118 without permission where there is an expectation of privacy;

119 (xvi) Section 97-29-45(1)(a) relating to obscene
120 electronic communication;

121 (xvii) Section 97-3-104 relating to the crime of
122 sexual activity between law enforcement, correctional or custodial
123 personnel and prisoners;

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

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

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

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

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

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



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

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

148 (j) "Address" means the actual physical street address
149 of a person's permanent or temporary residence. For a person who
150 is homeless but is subject to registration under this chapter, the
151 address information must provide a specific description of where
152 the person habitually lives; the term "homeless" or similar
153 description does not constitute an address within the
154 contemplation of this chapter.

155 **SECTION 2.** Section 45-33-25, Mississippi Code of 1972, is
156 amended as follows:

157 45-33-25. (1) (a) Any person having a permanent or
158 temporary residence in this state or who is employed or attending
159 school in this state who has been convicted of a registrable
160 offense in this state or another jurisdiction or who has been
161 acquitted by reason of insanity of a registrable offense in this
162 state or another jurisdiction shall register with the responsible
163 agency and the Mississippi Department of Public Safety.
164 Registration shall not be required for an offense that is not a
165 registrable sex offense or for an offender who is under fourteen
166 (14) years of age. The department shall provide the initial



167 registration information as well as every change of name, change
168 of address, change of status at a school, or other change of
169 information as required by the department to the sheriff of the
170 county of the residence address of the registrant, the sheriff of
171 the county of the employment address, and the sheriff of the
172 county of the school address, if applicable, and any other
173 jurisdiction of the registrant through either written notice,
174 electronic or telephone transmissions, or online access to
175 registration information. Further, the department shall provide
176 this information to the Federal Bureau of Investigation.
177 Additionally, upon notification by the registrant that he intends
178 to reside outside the State of Mississippi, the department shall
179 notify the appropriate state law enforcement agency of any state
180 to which a registrant is moving or has moved.

181 (b) Any person having a permanent or temporary
182 residence or who is employed or attending school in this state who
183 has been adjudicated delinquent for a registrable sex offense
184 listed in this paragraph that involved use of force against the
185 victim shall register as a sex offender with the responsible
186 agency and shall personally appear at a facility designated by the
187 Mississippi Department of Public Safety, or in a manner of the
188 Department of Public Safety's choosing, including by electronic
189 means, within three (3) business days of registering with the
190 responsible agency:



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

193 (ii) Section 97-3-95 relating to sexual battery;

194 (iii) Section 97-3-65 relating to statutory rape;

195 or

196 (iv) Conspiracy to commit, accessory to the
197 commission of, or attempt to commit any offense listed in this
198 paragraph.

199 (2) Any person required to register under this chapter shall
200 submit the following information at the time of registration:

201 (a) Name, including a former name which has been
202 legally changed;

203 (b) Street address of all current permanent and
204 temporary residences within state or out of state at which the sex
205 offender resides or habitually lives, including dates of temporary
206 lodgings. There is a presumption that a registrant owes a duty of
207 updating registration information if * * * the registrant remains
208 away from a registered address for seven (7) or more * * *
209 aggregate days; * * *

210 * * *

211 (c) Date, place and address of employment, including as
212 a volunteer or unpaid intern or as a transient or day laborer;

213 (d) Crime for which charged, arrested or convicted;

214 (e) Date and place of conviction, adjudication or
215 acquittal by reason of insanity;



216 (f) Aliases used or nicknames, ethnic or tribal names
217 by which commonly known;

218 (g) Social security number and any purported social
219 security number or numbers;

220 (h) Date and place of birth and any purported date and
221 place of birth;

222 (i) Age, race, sex, height, weight, hair and eye
223 colors, and any other physical description or identifying factors;

224 (j) A brief description of the offense or offenses for
225 which the registration is required;

226 (k) Driver's license or state or other jurisdiction
227 identification card number, which license or card may be
228 electronically accessed by the Department of Public Safety;

229 (l) Anticipated future residence;

230 (m) If the registrant's residence is a motor vehicle,
231 trailer, mobile home or manufactured home, the registrant shall
232 also provide vehicle identification number, license tag number,
233 registration number and a description, including color scheme, of
234 the motor vehicle, trailer, mobile home or manufactured home; if
235 the registrant's place of residence is a vessel or houseboat, the
236 registrant shall also provide the hull identification number,
237 manufacturer's serial number, name of the vessel or houseboat,
238 registration number and a description, including color scheme, of
239 the vessel or houseboat, including permanent or frequent locations



240 where the motor vehicle, trailer, mobile home, manufactured home,
241 vessel or houseboat is kept;

242 (n) Vehicle make, model, color and license tag number
243 for all vehicles owned or operated by the sex offender, whether
244 for work or personal use, and the permanent or frequent locations
245 where a vehicle is kept;

246 (o) Offense history;

247 (p) Photograph;

248 (q) Fingerprints and palm prints;

249 (r) Documentation of any treatment received for any
250 mental abnormality or personality disorder of the person;

251 (s) Biological sample;

252 (t) Name of any public or private educational
253 institution, including any secondary school, trade or professional
254 institution or institution of higher education at which the
255 offender is employed, carries on a vocation (with or without
256 compensation) or is enrolled as a student, or will be enrolled as
257 a student, and the registrant's status;

258 (u) Copy of conviction or sentencing order for the sex
259 offense for which registration is required;

260 (v) The offender's parole, probation or supervised
261 release status and the existence of any outstanding arrest
262 warrants;

263 (w) Every online identity, screen name or username
264 used, registered or created by a registrant;



265 (x) Professional licensing information which authorizes
266 the registrant to engage in an occupation or carry out a trade or
267 occupation;

268 (y) Information from passport and immigration
269 documents;

270 (z) All telephone numbers, including, but not limited
271 to, permanent residence, temporary residence, cell phone and
272 employment phone numbers, whether landlines or cell phones; and

273 (aa) Any other information deemed necessary.

274 (3) For purposes of this chapter, a person is considered to
275 be residing in this state if he maintains a permanent or temporary
276 residence as defined in Section 45-33-23, including students,
277 temporary employees and military personnel on assignment.

278 (4) (a) A person required to register under this chapter
279 shall not reside within three thousand (3,000) feet of the real
280 property comprising a public or nonpublic elementary or secondary
281 school, a child care facility, a residential child-caring agency,
282 a children's group care home or any playground, ballpark or other
283 recreational facility utilized by persons under the age of
284 eighteen (18) years.

285 (b) A person residing within three thousand (3,000)
286 feet of the real property comprising a public or nonpublic
287 elementary or secondary school or a child care facility does not
288 commit a violation of this subsection if any of the following
289 apply:



290 (i) The person is serving a sentence at a jail,
291 prison, juvenile facility or other correctional institution or
292 facility.

293 (ii) The person is subject to an order of
294 commitment under Title 41, Mississippi Code of 1972.

295 (iii) The person established the subject residence
296 before July 1, 2006.

297 (iv) The school or child care facility is
298 established within three thousand (3,000) feet of the person's
299 residence subsequent to the date the person established residency.

300 (v) The person established the subject residence
301 between July 1, 2006, and January 1, 2014, in a location at least
302 one thousand five hundred (1,500) feet from the school or child
303 care facility.

304 (vi) The person is a minor or a ward under a
305 guardianship.

306 (c) A person residing within three thousand (3,000)
307 feet of the real property comprising a residential child-caring
308 agency, a children's group care home or any playground, ballpark
309 or other recreational facility utilized by persons under the age
310 of eighteen (18) years does not commit a violation of this
311 subsection if any of the following apply:

312 (i) The person established the subject residence
313 before July 1, 2008.



314 (ii) The residential child-caring agency,
315 children's group care home, playground, ballpark or other
316 recreational facility utilized by persons under the age of
317 eighteen (18) years is established within three thousand (3,000)
318 feet of the person's residence subsequent to the date the person
319 established residency.

320 (iii) The person established the subject residence
321 between July 1, 2008, and January 1, 2014, in a location at least
322 one thousand five hundred (1,500) feet from the residential
323 child-caring agency, children's group care home, playground,
324 ballpark or other recreational facility utilized by persons under
325 the age of eighteen (18) years.

326 (iv) Any of the conditions described in subsection
327 (4)(b)(i), (ii) or (vi) exist.

328 (5) The Department of Public Safety is required to obtain
329 the text of the law defining the offense or offenses for which the
330 registration is required.

331 **SECTION 3.** This act shall take effect and be in force from
332 and after July 1, 2024.

